

Slough Borough Council

Report To:	Cabinet
Date	3 June 2024
Subject:	New classrooms, land appropriation and car park extension for Arbour Vale School
Lead Member:	Cllr. Puja Bedi – Lead Member for Education and Children’s Services
Chief Officer:	Sue Butcher – Executive Director for People: Children
Contact Officer:	Neil Hoskinson – Associate Director of Education
Ward(s):	All
Key Decision:	YES
Exempt:	NO, except Appendix 3, which is exempt under paragraph 3 of Schedule 12A Local Government Act 1972, due to it containing financial information for a third party contractor.
Decision Subject To Call In:	NO due to timescales to enter into contract the Chair of the Corporate Improvement Scrutiny Committee has agreed that call-in can be waived.
Appendices:	Part I – Appendix 1 – New classrooms site and design plans Appendix 2 - Plan showing the area of land for disposal for new car park and car park layout Part II – Appendix 3 – Estimated cost plan for the 4-classroom block and further risk analysis

1. Summary and Recommendations

- 1.1 The report sets out the requirement for new SEND special school provision to accommodate up to 38, eleven-year-old Slough pupils from September 2024. The use of SEND capital grant to expand the school, will allow for more cost effective and appropriate provision to be made for pupils who have Educational Health and Care Plans [EHCPs] requiring ‘special’ school education. Arbour Vale School currently has no spare capacity to accommodate these pupils although the school is named as the parents’ preference.
- 1.2 Due to current parking pressures and the planned extra staff and pupils at the school it is necessary to increase parking for Arbour Vale School. This was considered by Cabinet in 2017, but not progressed. The need is greater with the increased size of the school and can be facilitated by land currently held in the HRA being leased on a long lease on standard academy lease terms.

- 1.3 The delivery aspects of the new classroom project presents considerable challenge and risk both in financial and programme terms, the report sets out the risks of proceeding or pausing and retendering.

Recommendations:

- 1.4 Cabinet is recommended to:
- a) Agree that the Council commissions the design and construction of a 4-classroom block at Arbour Vale School on its behalf to open 1st September 2024 or as soon thereafter as possible,
 - b) Agree that a budget of up to £1.70m be approved for the project to be funded via DfE capital grant for expansion of SEND provision,
 - c) Agree to waive the Council's internal Contract Procurement rules and approve the direct award for the construction contract to Lansdowne Green SIPS,
 - d) Delegate authority to the Executive Director of Education in consultation with the Monitoring Officer and Lead Member for Education and Children's Services, to finalise and enter into all necessary legal documents, for the timely delivery of the project,
 - e) Approve the disposal of 3,904m² of land as shown in Appendix 2 and being land adjacent to Arbour Vale School at nil value to the Orchard Hill College Academy Trust (OHCAT) on a standard academy lease,
 - f) Approve a budget of £2.4m for delivery of the construction of a car park on land to be leased, to be funded via DfE capital grant for expansion of SEND provision,
 - g) Delegate authority to the Executive Director of Regeneration, Housing and Environment, in consultation with the Monitoring Officer and Lead Member for Education and Children's Services, to award contract and enter into all necessary legal documents for the timely delivery of the car park project,
 - h) Approve an increase in the GF Capital Programme for 2024/25 of £4.805m comprising unspent Special School Expansion grant resources carried forward from 2023/24 (£1.504m) and additional grant funding allocated to SBC through the High Needs Provision Capital Allocation 2024/25 of £3.301m, to align the budget with the wider SEND expansion capital programme. Future allocations within the SEND expansion programme will be subject to appropriate governance.

Reason:

- 1.5 The Local Authority has a duty to ensure every resident pupil including those with SEND are offered a suitable school place to meet their needs. Place planning analysis shows there is a projected shortfall of SEND provision in Slough schools for the transfer of pupils in September 2024. Up to 38 pupils that require special school provision cannot be placed in a Slough school based on current capacity. Delivering additional capacity at Arbour Vale School

represents the best option for placing all of these pupils within a Slough school, keeps pupils local in their community and significantly reduces pressure on the High Needs Block and reduces transport costs for the Council.

- 1.6 If Slough Borough Council cannot educate these pupils in Slough, within their communities, they will have to be placed in facilities outside the Borough.
- 1.7 In order that a new car park can be provided for Arbour Vale School it is necessary to use the land outside the school gates. The land is held by the HRA for the purposes of housing. The land is surplus to housing requirements and disposal will reduce the maintenance costs for the land.
- 1.8 The proposals support the Council's duties in relation to school placement sufficiency and will assist the Council to meet its requirements under the Safety Valve Agreement, as well as keeping pupils local, providing the right support, in the right place at, critically, the right time in their transfer from primary to secondary education.

Commissioner Review

DLUCH Commissioner Review

- 1.9 *"The DLUHC Commissioners note the decision proposed is being treated as a matter of urgency, with the justification outlined and as such exempted from the call-in process.*

This should be used rarely and in exceptional circumstances.

Good governance requires quality and timely evidence, to inform decision-making processes that are transparent, accountable, and open to scrutiny by the public. The Council needs to ensure that effective procedures are in place and followed, and that members and officers at all levels comply with good public law decision making principles (reasonableness, proportionality, fairness, etc) and relevant internal policies and procedures.

To ensure compliance with the best value duty, further steps will need to be taken to finalise all associated financial, commercial, and legal due diligence associated to all parties, minimise risks exposure with an appropriate balance of risks and rewards, ensure the Council abide by the accounting regulations and that cross subsidy does not occur across ring-fenced funds. The outcome will need to be subsequently reported to an appropriate forum and evidenced retained to provide such information that may be reasonably requested by grant awarding bodies and other parties in scrutinising the decision."

DFE Commissioner Review

- 1.10 The DfE Commissioner supports this proposal.

2. Report

2.1 Strategic Priorities

2.1.1 Slough Corporate Plan 2023-27

Priority 1 - A borough for children and young people to thrive – these projects will support vulnerable young residents of Slough to secure a local school place able to meet their needs.

2.1.2 School Places Strategy 2023-27

The SEND section of the latest published strategy approved by the Cabinet on 17th April 2023 is out of date and was based on poor underlying data, it doesn't show the need for any significant growth in special school provision. This is incorrect, the Council's SEND team are working to update their forecasts and ensure that going forward the Strategy sets out the future demand for places and a capital programme to deliver the required places. This will be brought back to a future meeting of Cabinet.

2.2 In the meantime to create the extra capacity required for Slough SEND pupils for September 2024 it is proposed to expand Arbour Vale School, however this is a very challenging timescale. A project of this type might usually take SBC 12 months longer than was available. To have any chance of achieving the programme it will be necessary to agree to proceed without following the usual competitive procurement processes.

2.3 Arbour Vale School was designed and built for 240 pupils, the numbers on roll have increased over time and the school now has over 100 more pupils on roll plus the associated staff than was originally planned for. This has put pressure on the original car park given the high ratio of staff to pupils and the high numbers of pupils that require transport to school due to their SEND needs. The car park is required to increase safety on the site; bumps, scrapes and near misses have increased. It will also reduce congestion on the Farnham Road as cars back-up getting onto site at pick-up and drop-off times.

2.4 Arbour Vale is rated by Ofsted as a 'Good' Special School and is always oversubscribed. Arbour Vale School and OHCAT, its wider multi-academy trust, are working in partnership with SBC to ensure the best outcomes for Slough SEND pupils.

Options

2.5 SEND place planning indicates that a new school is required to meet projected demand for special school provision. New schools can only be delivered through the government's Special Free School programme as and when bids are invited via a new application 'wave'. Should a new wave open later this year it might still be 5 years before any new school would open. It will be necessary to add capacity to existing schools in the meantime.

- 2.6 Slough only has one school that can meet the needs of the extra pupils requiring a special school place for September 2024. Therefore, the options for creating new places were centred around Arbour Vale School.
- 2.7 The 2 areas of land close to Arbour Vale School that could accommodate a new car park are the area of land adjacent to the school and St Anthony's Field on the opposite side of the road (see Appendix 1). Discussions with Planners have indicated that the only acceptable option for a car park was to utilise the land outside the school gates and create a green wall along the highway edge in consideration of its green belt status. Planning approval for this option has been received.
- 2.8 Alternative options that have been considered for creating additional places include placing pupils in out of borough provision, delaying expansion of the school to undertake a full procurement process and/or identify alternative options for expansion. One alternative option considered was the use of surplus children's centre buildings to create off-site or satellite provision managed by Arbour Vale School. Discussions with the school have led to this option being discarded as the individual sites were too small, each site only contained one main classroom space. The school also considered that management of separate sites would increase the cost of educational provision and reduce pupils feeling part of the main school.
- 2.9 To deliver new classrooms for Arbour Vale there are 3 alternative options, a traditional build (block and brick), a temporary modular block or the offsite but permanent solution that is proposed here.

i. Delivering a traditional 'block and brick' solution for the 4-classroom block will lead to delays of an estimated 6-8 months. Delaying the classrooms for this period will mean that pupils cannot be placed at Arbour Vale School and alternative solutions will be required for the 38 pupils including placements out of borough if they can be found. Pupils cannot be placed elsewhere then return back to Arbour Vale at a later date, once placed elsewhere they would remain in their new placement for the rest of their school life.

ii. To allow a longer procurement or delivery timeline it would be necessary to rent temporary modular classrooms for the interim period. Officers held discussions with the school to consider a more temporary modular solution to allow a competitive procurement exercise to be run to provide a longer-term expansion option. However, despite several meetings, the school and OHCAT were not prepared to agree to this. There is also no evidence that this option will be more cost effective.

iii. A key aim of the project for the School was that the pupils located in the new classrooms felt part of the main school as much as possible and didn't have inferior accommodation. The solution designed for Arbour Vale is located adjacent to the main building and will feel like a permanent building.

Restarting the procurement exercise at this juncture would again necessitate a temporary solution to accommodate the delays. This is not an acceptable solution for the school as stated above.

2.10 For these reasons, alternative options are not recommended.

Background

2.11 The need for extra capacity started to be identified and plans prepared when the new People: Children administration arrived in March 2023. These young pupils were known to Slough as they were in local primary schools but no forward plan was made for them prior to March 2023. A SEND 0-25 Task and Finish Group of Headteachers was formed to identify capacity needs for Special School Education going forward in Slough. Their work formulated a capacity expansion programme which is still developing. In particular, they identified the shortfall of Year 7 places for the transfer in September 2024.

2.12 When it became evident that there was a requirement for additional special school capacity from September 2024 officers met with Arbour Vale School and their Trust, OHCAT to discuss options. Initially this centred around satellite provision and various ideas were explored including the possibility that the closed Children's Centres could be used by the school. However, having visited 3 sites the school considered the buildings to be too small and unsuitable as satellite facilities. Having discounted satellite provision, a new viable option emerged, a new classroom block on the existing school site. This proposal has since been developed into the project below and OHCAT has agreed to increase capacity at the school to 375 and this has been planned for through SBC's commissioning process.

Background for the car park

2.13 A comprehensive expansion programme for all types of SEND and PRU provision was agreed by Cabinet in 2017, this included a significant expansion of places at Arbour Vale School. For a number of reasons, the project to build a new large block at Arbour Vale stopped and started but never developed beyond the initial planning stages. In 2021, the lack of available grant funding and the council's difficult financial position brought a stop to the Council's capital works at the site.

2.14 Since 2017 capacity has been increased at the school by the addition of a single modular classroom funded by SBC in 2018 and the conversion of the residential unit on site to create new classrooms funded by the school. In this time there were no improvements or expansion to parking capacity.

2.15 As SBC has been allocated capital grant for expanding SEND provision this enabled the car park project to restart in 2023.

PFI

2.16 Arbour Vale School is on land leased to their Trust by SBC and the whole site is part of a Private Finance Initiative (PFI) contract whereby the building assets are owned (until expiry in 2035) by a PFI Contractor, QED (Slough) Ltd, and occupied by them under a non-exclusive licence. The PFI contract therefore means there is a third party involved in any decision making around the project, QED (Slough) Ltd. QED will need to be satisfied that any proposals do not

negatively affect their interests and their consent, as well as their lenders', will be required in order to proceed.

- 2.17 SBC has a good working relationship with QED and has experience of delivering previous modular developments on their Slough school sites. There have been three previous 'carve-outs' of land on Slough PFI sites, this project will be a fourth. A 'carve-out' is where the land occupied by the modular classrooms is removed from the PFI contract removing any obligations on the contract to maintain the building. This is the most expeditious route to secure the multiple consents required, restricting the principal issues for their consideration to being connections into the main school for e.g. drainage, power and security systems. QED and their lenders will require their own independent advice that the arrangements are satisfactory and do not increase their risk disproportionately.
- 2.18 QED, as well as the Council, OHCAT and the School will also need to be assured about the viability, safety and compliance of the delivery of the project in the context of multiple contracts occurring on the site at the same time, predominantly pre-planned maintenance works being undertaken by QED's subcontractors to enable them to discharge their PFI contract obligations.
- 2.19 A working group involving all the stakeholders has been set up and is being chaired by SBC's appointed consultant. On the group are SBC officers from various teams including SEND and Property, OHCAT, Headteacher, QED and Pinnacle, who are the school's PFI appointed FM contractor.

Land transfer

- 2.20 The 4-classroom block will be challenging to achieve without confirmation that the car park project is proceeding and this requires that the Council dispose of the land adjacent to the school via an academy lease. The car park project is required to support the 4-classroom block as another 38 pupils on roll at the site would increase staff parking and transport for pupils. As there is already a shortfall of parking causing health and safety concerns for the school a large increase in numbers will not be possible without the new car park.
- 2.21 The land will be leased to OHCAT and will become part of the school site, with the school becoming responsible for its maintenance. The Council will lead on construction of the car park, with the land being leased following construction.
- 2.22 The land is currently held in the HRA as it is linked to a housing estate south of the school site. The land is surplus to housing requirements and provides little to no benefit to the local housing estate. By disposing of it to OHCAT, the HRA will no longer need to meet the maintenance costs associated with the land. It is proposed to dispose of the land for nil value. The land has no useful development value, and disposal at nil value is deemed appropriate if it is considered that disposal will contribute to the promotion or improvement of the economic, social or environmental well-being of the area and the undervalue is £2m or less. The disposal via an academy lease will support social value by increasing SEND school provision and the under-value is significantly less than £2m.

Classroom Programme

- 2.23 Below is the programme that has been drafted, working backwards to achieve an opening date of 1st September 2024. This is a challenging programme and any delays will push the handover date back.

Date	Item
23 February 2024	Commence design
5 March 2024	Letter of Intent issued by SBC
17 April 2024	Submit planning application
19 April 2024	Finalise technical design
10 May 2024	Enter into PCSA and Minor Works contract with Lansdowne Green SIPS. Under officer delegation this means orders can be placed for long lead-in items and site preparation can start.
20 May 2024	Cabinet approval
31 May 2024	Enter contract and place order
June 2024	Target date for planning approval
1 September 2024	Building handover to the school

Car Park Programme

- 2.24 Given the special needs of many of the pupils on the site it has been requested by the school that as much of the noisy work goes ahead over the summer as possible. The work will also be very disruptive to movement in and out of the site for staff, pupils and the contractors, for this reason work is planned to go ahead over the summer.
- 2.25 Below is a draft programme to achieve a summer start for the project:

Date	Item
March 2024	Planning Approval
March 2024	Appoint QS to estimate costs
April 2024	Prepare the tender package
May 2024	Tender process started
May 2024	Cabinet approval
June 2024	Enter into Agreement to Lease to OHCAT
June 2024	Tenders received
End June 2024	Award contract
July 2024	Start on Site
October 2024	Enter into lease to OHCAT

Classroom Project Design & Delivery – current progress

- 2.26 An architectural firm, LRA – Retinue Ltd, has recently been procured by Haybrook College for their SBC funded new expansion project. The company specialises in offsite modular construction, giving significantly improved delivery times, good value, low carbon timber-based solutions. Due to the tight timescales and the fact that LRA were able to commit to delivery and had a proven track record of delivery of school expansions, LRA were appointed to carry out design works via a Letter of Intent (LoI) signed by the Council's s151 officer and dated 1st March 2024, their appointment has now been formalised.

This enabled LRA to immediately start work on a design aiming to submit a full planning application by end of April. A 4-classroom block has been designed and a planning application has been submitted.

- 2.27 LRA on behalf of the Council carried out soft market testing, they approached the offsite modular market to identify any potential partner who has the skills, knowledge, school delivery experience and manufacturing capacity to complete this project for the 1st September 2024.
- 2.28 To meet the fast-track programme, LRA and Castle Gate approached a sample of offsite companies, including those on national frameworks and were unable to identify any other contractor who was able to take on the project to the required timeframe. All approached contractors confirmed their order books were full meaning they were unable to take on a project within the required timescales.
- 2.29 Lansdowne Green SIPS (LG) Ltd based in East Sussex has been identified as the preferred construction partner with both the capacity and a real commitment to achieving the very challenging programme. This provider has been identified as a specialist in timber solution construction and LRA assessed that they have the capacity, experience and willingness to take on the project. They have agreed to work on an open book basis sharing all tendered costs with the LRA cost consultant to ensure best value.
- 2.30 Offsite construction is best suited to an early involvement delivery process as this allows the design to be tailored to suit the company's factory design requirements, reducing cost, wastage, and reduction in programme.
- 2.31 LG have been appointed under a Pre-Construction Services Agreement (PCSA) prior to entering a Design and Build contract with the Council, they have also been appointed under a Minor Works Contract. This decision was made under officer delegation due to it being under the key decision threshold and to meet the challenging timescale. This a mechanism to engage a design and build contractor on limited terms while a design is being developed and fully costed. This process ensures that the design and delivery risks still reside with the contractor, but the Council can control the design/costs to meet its needs. The PCSA and Minor Works will include both the required professional services (civil, structural, building services designs, construction planning etc) and the procurement of long-lead time building materials/items needed to meet the challenging programme.

Key Steps

- 2.32 The key actions to be undertaken are.

The classroom extension

- a) LRA – Retinue Ltd appointed on a multi-disciplinary basis to provide, architecture, lead designers and quantity surveying.
- b) Planning approval to be obtained. The application was submitted in April. Pre-application discussions were held with the Planning Department to ensure that the application has the optimum chance of approval.

- c) Detailed design and value for money (VfM) assessments to be undertaken by LRA in consultation with Lansdowne Green SIPS.
- d) Lansdowne Green SIPS to enter into a Pre -construction Services Agreement (PCSA) to provide construction management services and to enable long lead time items to be ordered. The PCSA will ensure the Council controls and owns the design.
- e) Lansdowne Green SIPS to enter into a Minor Works contract for enabling works to proceed to meet the programme. Hoarding erected and enabling works to start on site mid-May 2025.
- f) Following planning approval and VfM reports being completed, Lansdowne Green SIPS to enter into a JCT Design and Build contract prepared by the Council legal team.
- g) Council to appoint an independent Employer's Agent and Technical Advisor to support the Council in monitoring the Design and Build contract.
- h) LRA and its design team to be novated to Lansdowne Green SIPS to support in the delivery of the Design and Build contract.
- i) Construction work to commence following access agreement with school and PFI provider, with a target completion of 1st September.

Council and the School to have contingency plans in place for any delayed handover.

The carpark.

- a) Discharge planning conditions –develop a costed discharge plan.
- b) Complete the required site surveys to reduce construction pricing risk.
- c) Complete the design and specification for tendering.
- d) Value Engineering options to be considered.
- e) Agree the procurement plan and suitable form of construction contract.
- f) Tender construction works and finalise build contract.
- g) Construction work to commence before summer holidays, target completion October 2024.

Contingency Plans

2.33 Should members agree to proceed with LG for delivery of the classrooms there is still a risk that there will be delays to delivery or the possibility that the company simply cannot deliver for some reason and a new tender exercise is required. SEND officers are working on contingency plans. This is still being developed and considers the following scenarios:

- i) Slippage – the school would already have the children on their roll and would need to manage their education until the new classes are ready. This is a time limited scenario (weeks not months) as the school could not manage this for any sustained period.

- ii) A retendering exercise is required – this would mean an estimated delay to delivery of 3-4 months (longer if other changes are required). There would be considerable financial cost/risk from appeals and tribunals if pupils can no longer be placed at Arbour Vale School. Placements out of borough would be sought but at this late-stage places will be very limited and possibly a considerable distance from Slough. Statutory entitlement to education and safeguarding will be significant risks, if pupils need to be educated at home.
- iii) Deferral of the opening date to September 2025 – as above.

3. Implications of the Recommendations

3.1 Financial implications

- 3.1.1 SBC has been awarded capital grant funding by the DfE over the last 3 years to fund the expected increase in SEND provision requirements. A further £3.65m was allocated following the last Government Budget. In total £12.27m has been awarded for 2021/22 to 2024/25, of this £6.47m has either been committed or earmarked for other SEND projects. Of the income received £5.8m is unallocated and £4.1m is available for investment in Arbour Vale School.
- 3.1.2 The budget on the capital programme for SEND Special School Expansions for 2024/25 will need to be increased to reflect the recent increased allocation and to align the budget with projected expenditure at Arbour Vale School and other sites.
- 3.1.3 If places are unable to be found in Out of Area Special Schools, the average cost at an Independent Special School is £0.048m each per annum [£1.824m] as opposed to an average £0.028m each per annum [£1.064m] in Slough Special Schools. This would be for a period of 5 years or more. Saving to SBC SEND could be approximately £0.76m x 5 years = £3.8m. In addition, the transport provision for Out of Area Special Schools and Independent Special Schools will be higher and the cost falls to the General Fund. The incremental transport cost if 38 pupils are placed out of borough rather than at Arbour Vale would be £0.149m per annum using current average costs, or £0.149m x 5 years = £0.745m. Where the school offers sixth form provision pupils would likely remain for 7 years, further increasing costs.
- 3.1.4 Officers carried out an exercise in May to explore the possibility of finding places in Out of Area schools should this project not proceed. No places were available within an hour's travel of Slough at maintained schools or academies. This means the only option available would be places at Independent Special Schools (ISS). It is likely that costs at ISS with places available would be considerably higher than the £0.048m average figure used in the paragraph above.
- 3.1.5 The growth in capacity of Arbour Vale School has been anticipated and 375 places have been commissioned by SBC for 2024/25. This ensures that the long-term place funding for Arbour Vale School required for the higher numbers on roll is correctly planned for. A short-term funding agreement with Arbour Vale will need to be put in place until March 2025, after which funding will be aligned

with the current funding agreement. These costs are chargeable against the High Needs Block of the Dedicated Schools Grant and whilst adding to the pressures in that area still represents the most cost-effective provision than the alternatives.

3.1.6 Removing the area of land on which the new classroom block will sit from the PFI contract means that there will be no increase in the PFI 'unitary charge', the school will fund any costs relating to maintenance of the block once it is handed over.

3.1.7 Value for Money:

4-Classroom Block

3.1.7.1 As the contract is not being tendered, a true value for money assessment cannot be made in relation to the provision of the 4-Classroom Block. Other assessments have been carried out to sense-check the proposals.

3.1.7.2 The National School Delivery Benchmarking Report Nov 2023, based on projects delivered the year before, shows an average build cost per new special school place of £0.097m. This project will deliver 38 places at cost of £0.045m per place including PFI related costs, or £0.042m per place if these are excluded.

3.1.7.3 Whilst there was no formal tender arrangement, LG's cost plan to deliver the classrooms is just under £3,991 pm², a second quote from another supplier was higher than this figure (and they couldn't meet the programme). The cost per m² for a semi-permanent structure in the current climate where councils are facing significant increases in capital delivery costs is within an acceptable range.

3.1.7.4 A gateway review was held 01 May 2025 to test all aspects of the project to provide assurances that the project meets minimum requirements for the school/pupils. Officers and consultants were challenged to justify what has been included. No savings could be derived from this exercise and the conclusion was that the project should proceed as designed.

Car Park

3.1.7.5 The car park is expensive with a current cost estimate of £2.4m however this represents good value for money overall as it supports the past expansion of the school from 240 to c345 pupils. The previous investment by the LA has only been £0.3m for a single modular classroom for staff use, the school funded the conversion of the residential unit to classrooms using their own funding. Total spend to date of £2.7m to create 105 new special school places works out at only £0.026m per place where the current national average benchmarking rate for extensions is £0.097m per place.

3.1.7.6 Given the higher than expected cost of the car park it has been decided to take some time to review aspects of the project with a view to reducing the cost. This is not expected to require any amendments to the planning application and is more around reducing the contractor's risk perception when tendering. This

may add 8-12 weeks to delivery but is necessary given the potential savings that may be achievable.

3.2 Legal implications

- 3.2.1 The Council has a duty (s13-14 of the Education Act 1996) to promote high standards of education, provide fair access to education and a general duty to secure the sufficiency of school places. Specifically, it must consider the need to secure provision for children with SEND, including the duty to respond to parents' representations about school provision.
- 3.2.2 SBC is currently allocated capital on an annual basis for increasing SEND provision based on its projected basic need to meet demand. The funds are allocated for investment in all types of SEND provision (i.e. is not limited to maintained schools) and the key condition attached to the funding is that local consultation is required and that the consultation steps and allocations are reported back annually to the DfE.
- 3.2.3 The new classroom block will result in a reduction of playing field for the school. Playing fields are protected by legislation and even where it is converted to classroom accommodation requires permission of the Secretary of State. SBC will complete and submit the application form with assistance from the school. The loss is to be compensated by the leasing of the land to the school – some of which will remain green space.
- 3.2.4 PFI implications are outlined above. The intention to carve the required land from the contract is in line with past local projects where this has been tried and tested and represents the least contractual risk for the council.
- 3.2.5 The Public Contracts Regulations 2015 requires a competitive procurement process for goods and services and works over specified thresholds. As the modular classrooms are constructed off site, the lower threshold for good and services has been considered. The Council has not run a competitive procurement and is not calling off from an established framework. For this reason, it must rely on Regulation 32, which contains limited exemptions. In this case Regulation 32(2) is being relied upon, which provides an exemption where that works, supplies or services can be supplied only by a particular economic operator due to either competition being absent for technical reasons or protection of exclusive rights, including intellectual property rights. In these circumstances the Council is permitted to make a direct award where the services are required urgently and can only be supplied by a particular supplier because it is the only supplier with the expertise to do the work, produce the product or has the capacity to complete on the scale required. This exemption can only be relied upon when there is no reasonable alternative or substitute available and the contracting authority is not doing something which artificially narrows down the scope of the procurement. Whilst there is evidence that the modular classroom project can only be completed by September 2024 by working with the identified providers in this case, the Council needs to reflect on how it can avoid a recurrence in the future. This will include ensuring it regularly reviews its place planning projections and has early engagement with

procurement, finance and legal officers to identify a suitable competitive process to meet the desired aims.

- 3.2.6 The Council has specific powers and duties in relation to disposal of land. S.123 of the Local Government Act 1972 provides a general power of disposal where the Council can demonstrate it is achieving the best consideration that can reasonably be obtained. A long lease is a disposal for these purposes. Secretary of State consent is required to dispose of land at an under-value, however the Secretary of State has issued general consents for disposals of land at less than best consideration if it can be shown that the disposal will contribute to the promotion or improvement of the economic, social or environmental well-being of the local area and the under-value is no more than £2m. In a previous cabinet decision in 2017 there was reference to this land being appropriated from the HRA to the GF, however it appears that no formal decision was made by an officer in relation to this and the land continued to be accounted for in the HRA. The Council has a lack of records to show the rationale for the land being held in the HRA. As the land is currently shown as held in the HRA, it has been assumed that it is classed as housing land under the Housing Act 1985. Consent is required to dispose of housing land, however a general consent has been given to dispose of vacant land. It is proposed to dispose of the land on a standard academy lease to OHCAT to allow it to be used for educational purposes. Appropriate accounting adjustments will be made to account for the disposal. The Council has specific powers and duties in relation to disposal of land.
- 3.2.7 As the land is green space, a prudent decision has been taken to treat it as open space. A notice, specifying the land in question, and advertising the intention to dispose of the parcels of land was placed in a newspaper circulating in the area in which the land is situated for two consecutive weeks. No representations were received and the issue is resolved.
- 3.2.8 OHCAT, the Arbour Vale School trust, will require permission from the DfE to enter into a 125-year academy lease for the land to be leased to them. The DfE will want to be assured that they are not taking on a financial liability, for instance the car park project doesn't go ahead or is not completed satisfactorily. It may be necessary to enter into an Agreement for Lease until the project is complete.

3.3 Risk management implications

3.3.1

	Risks	Potential Impact	Mitigating Actions
1	Financial	Up to 38 SEND children may need to be placed in facilities outside the borough for 2024-25 at an additional cost of £0.909m per annum compared to placement at Arbour Vale School.	Adding 4 classrooms using capital grant at Arbour Vale School will reduce placements out of the borough (possibly to zero).

2	Financial	Insufficient funding available to deliver the car park project.	Sufficient capital grant has already been received from the DfE.
3	Financial	Lansdowne Green SIPS has financial difficulties or folds resulting in abortive costs.	SBC to pay invoices in a timely manner to avoid credit issues. PCSA approach minimises Council exposure. SBC will own items provided by that date (vesting). Staged payments. Open book accounting.
4	Sufficiency	Slough is facing a shortfall of up to 38 SEND places for 2024-25.	Providing a new 4-classroom block at Arbour Vale School will create sufficient capacity for all these pupils.
5	Planning	Planning approval for the classroom block not expected until June at the earliest, delaying the project	Liaise with planning to ensure the project complies with planning requirements. Long lead in items will need to be ordered before planning approval is obtained although this will entail the risk of abortive costs if the project is cancelled. Sport England has already given approval.
6	Planning	Insufficient parking for Arbour Vale staff and the planning application refused.	Proceed with the new car park that already has planning permission.
7	Delivery	PFI – Contract complexities could impact timescales and even derail the classroom project.	Footprint of the new classroom block will be ‘carved-out’ of the PFI contract. Representatives from QED and Pinnacle (FM contractor) are on the working party. PFI specialist consultants appointed by SBC to advise.
8	Delivery	Logistics – Potentially two other school projects will be proceeding on site at the same time as the construction of the classrooms and car park.	External project management has been appointed to manage and coordinate the projects. H&S risks will be addressed in accordance with statutory requirements and will be paramount at all times. A working party has been established involving the relevant parties.

9	Delivery	Utilities – Approval required from Thames Water to build over/near pipework.	Make contact early and apply for permission.
10	Delivery	Playing fields – Approval required from DfE to build on playing fields.	Application being prepared. Additional land being provided by SBC to replace lost space. Strong, basic need argument due to requirement for SEND places.
11	Budget	Costs for the classroom project increase	Consider all costs including PFI implications. Appoint a Quantity Surveyor (QS). Sufficient capital grant income is available to the Council. Consider the implications of the Biodiversity Net Gain (BNG) regulations.

3.4 Environmental implications

- 3.4.1 There are no known environmental implications arising from this report. However, construction of the classrooms and car park project will affect green space, this issue is addressed via conditions attached to the planning approval including the new Biodiversity Net Gain (BNG) regulations.

3.5 Equality implications

- 3.5.1 There are no specific identified equality implications from this report outside the benefit to pupils with disabilities aged between 2 and 19.

3.6 Procurement implications

- 3.6.1 To facilitate the required programme, alternative construction and procurement methods were considered. As advised above, a traditional masonry construction method had been assessed by the design team as undeliverable in the timescales.
- 3.6.2 Offsite construction is best suited to a procurement process that allows the design to be tailored to suit the company's factory design requirements, increasing efficiency by reducing wastage and redesigns. This is typically either via a two stage or single action procurement process. In this case single action procurement would be needed to meet the delivery programme.
- 3.6.3 The Council's appointed advisors, LRA and Castle Gate have made enquiries of a sample of providers, including those on national frameworks and have been unable to identify any alternative provider who could deliver this project within the timescales.
- 3.6.4 To manage the financial risks of this project, the Council has instructed LRA to appoint an independent quantity surveyor to undertake value for money reporting at key stages of the programme.

- 3.6.5 To mitigate the Council risks around design specification and quality of products under a fast-tracked Design and Build contract the Council are to enter into a Pre-Construction Services Agreement (PCSA) which will lead to a JCT Design and Build contract when the Council is happy to do so.
- 3.6.6 The car park construction project will be openly tendered via the SE Shared Services eSourcing Portal.
- 3.6.7 The proposed approach is not in line with the Council's Contract Procedure Rules, and Cabinet approval is required to grant a waiver of the Council's internal contract procurement rules. The project will be monitored via the Capital Board.

3.7 Property implications

- 3.7.1 There are no specific property implications for the Council resulting from the 4-classroom block. The school site is currently licenced to QED via a PFI contract and leased to OHCAT via a 125-year academy lease; when the site is handed back to SBC at the end of the PFI contract it will remain leased to OHCAT. Notwithstanding, that the property is let by the Council to the school under the terms of a 125 year lease the additional classrooms nevertheless constitute an improvement of the asset.
- 3.7.2 The land outside the school gates is held within the HRA portfolio and has limited development value which is reflected in its Red Book Valuation. The land is in the green belt however justification for development has been made on the exceptional grounds of basic need for SEND school places.

4. Background Papers

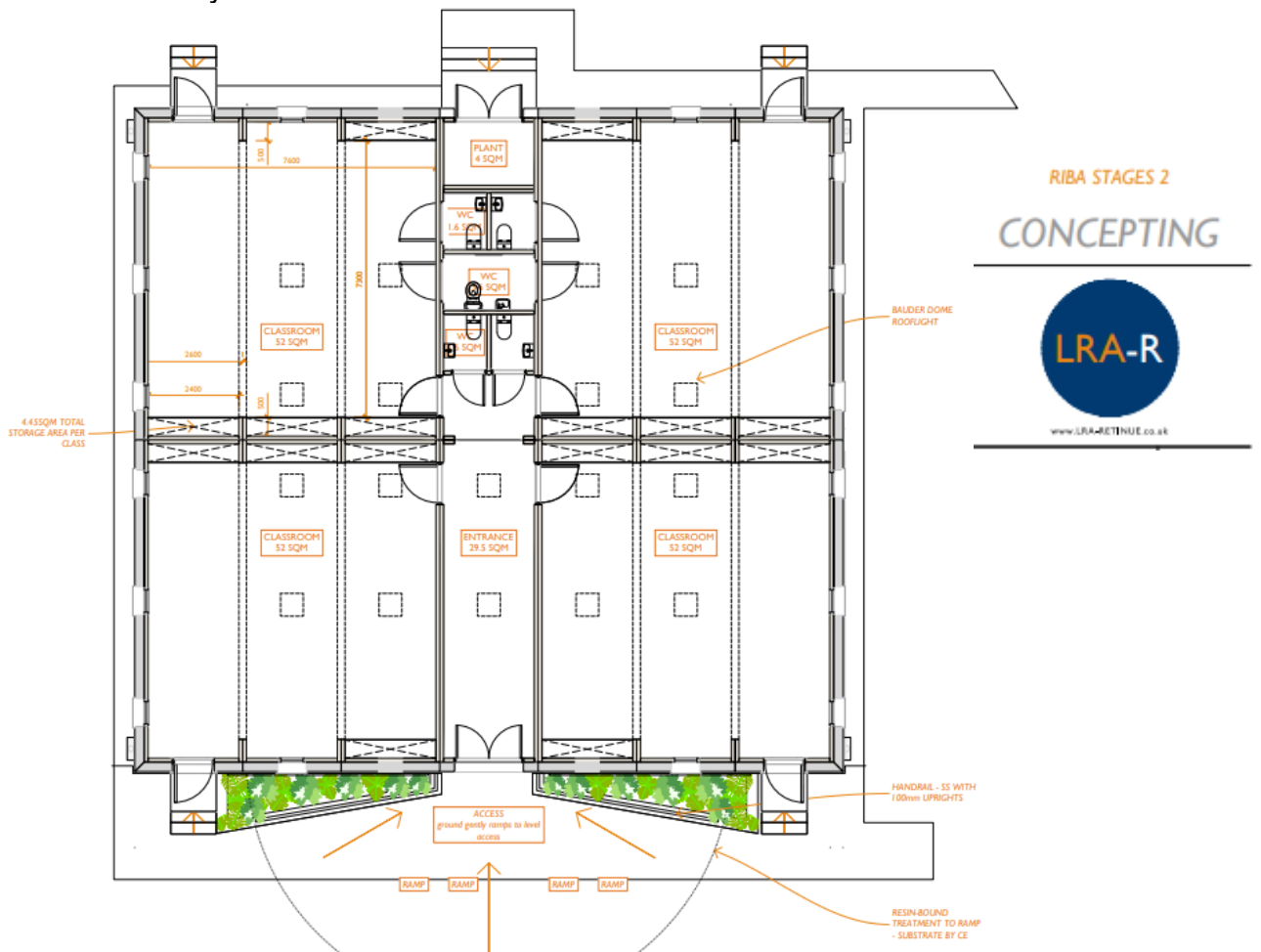
None

Appendix 1

Site Plan showing the proposed location of the 4-classroom block.



Current internal layout of the 4-classroom block



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Appendix 2

Map showing the registered ownership of the HRA site outside the school gate



Plan showing the car park with planning permission.

