

Meeting of the Cabinet – 11th January 2024

Supplementary Report of the Director of Finance and Legal

Medium Term Financial Strategy and Pens Meadow School

Purpose

1. To clarify advice in relation to paragraphs 4 and 15 of the Medium Term Financial Strategy (MTFS) report.

Recommendations

2. That Cabinet considers the advice in this report before making a decision on the recommendation in paragraph 4 of the MTFS report.

Background

3. Paragraph 4 of the MTFS report asks members to decide whether to override the spending controls that it approved in October so as to allow the project to replace the Pens Meadow School to proceed. Advice has been given to members privately. However, on reflection and in the interests of transparency, it is more appropriate that the advice should be made public.
4. The advice of the Director of Finance and Legal is that Cabinet should not override the spending controls in relation to this project or any other project that does not meet the criteria. The Council's financial viability is at serious risk and the Pens Meadow School new build should be deferred until such time as the finances are secure. For avoidance of doubt, the spending controls apply even where a budget has previously been approved.
5. Cabinet and Council in June and July of 2022 approved a capital budget of £15.6m to replace the Pens Meadow School on the basis

that this would be partly funded by capital receipts from sale of land with the remainder financed from borrowing. The current MTFS provides for the debt charges set out in the following table. If the project is deferred, then the associated revenue cost of debt charges will also be deferred.

	2024/25	2025/26	2026/27
	£'000	£'000	ongoing £'000
Pens Meadow School	360	620	1,030

6. Tenders have recently been received for the project and it should be noted that they are £548,000 higher than the budget. This could be met by taking funding from the High Needs Capital Allocation. However, this would take funding away from our Inclusion Strategy to build mainstream bases and inclusion hubs. It should also be noted that the boiler at the existing Pens Meadow School has already been repaired due to urgent problems at a cost of £90,000.
7. The Director of Children's Services has advised on the Pens Meadow School project from the perspective of the Council's Special Education Needs and Disability (SEND) strategy and the current financial pressures on the High Needs Block of the Dedicated Schools Grant (DSG). Pens Meadow school currently operates from two sites which creates operational challenges. Considerable housing building has occurred around the Ridgehill site which has added access issues. Analysis of Dudley's school estate in 2022 identified Pens Meadow as the highest scoring school in relation to building suitability issues. Capital bids were made to the DfE who did not deem the Pens Meadow site as bad as others nationally so funding was not allocated, leading to a Council decision to provide capital. The High Needs Block of the Designated Schools Grant is overspending due to growing demand for Education, Health and Care Plans (EHCPs) and increased complexity of need. A rebuilt Pens Meadow with additional capacity to meet these needs would be positive from an educational outcome perspective but there is insufficient evidence that this would provide a spend to save impact.
8. It should be noted that, while the MTFS report sets out a preliminary strategy for consultation prior to a final decision in March, any decision to override the spending controls for the Pens

Meadow School would have an immediate impact. Officers would let the contract and this would create a commitment to incur expenditure.

Finance

9. The MTFS report is a detailed technical document, but the key message is that next year's budget can only be balanced by transferring from earmarked reserves. That is a serious concern and there is a risk of triggering a formal report under Section 114 of the Local Government Finance Act 1988.

Law

10. The Council's budget setting process is governed by the Local Government Finance Acts, 1988, 1992, and 2012, and the Local Government Act 2003.

Risk Management

11. Risks are set out in the MTFS report. Any decision to incur additional expenditure increases the risk of triggering a report under Section 114 of the Local Government Finance Act 1988.

Equality Impact

12. Pens Meadow is a school for children with learning disabilities. Disability and age are protected characteristics under the Equality Act 2010. Pens Meadow meets the educational needs of children with disabilities and is rated as Good by Ofsted (January 2020). It should be noted that the advice in this report is to defer the project.

Human Resources / Organisational Development

13. There are no direct implications.

Commercial / Procurement

14. Tenders for the Pens Meadow School have been evaluated and a preferred bidder has been identified.

Environment / Climate Change

15. There are no direct implications.

Council Priorities and Projects

16. The aspirations of the Council Plan can only be delivered if the Council is financially sustainable.



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List of Background Papers

Cabinet Report – 11th January, 2024 (Medium Term Financial Strategy)