

Cabinet Meeting on Wednesday 20 October 2021

Branston Locks Primary - Proposed 2FE and Associated S106 Contributions (Wave School)



Cllr Jonathan Price, Cabinet Member for Education (and SEND) said,

"Staffordshire's school building programme has successfully secured new school places for thousands of school children over the past few years and ensured our school landscape can cope with the increased demand for places brought about by new housing developments.

"This latest primary school at Branston Road will be built on behalf of the Department for Education and will eventually be able to accommodate more than 400 pupils. This will ensure there are plenty of school places to cope with increasing demand in the years to come,

and parents will still have the opportunity to send their child to a good, local school."

Report Summary:

To approve the acquisition of land and the development of a 2-form entry primary school at Branston Road, Burton on Trent to be known as Branston Locks Primary School under the Department for Education's wave programme.

Recommendations

I recommend that Cabinet:

- a. Approves the completion of a Transfer of the school land at Branston Locks to Staffordshire County Council in accordance with the terms of the section 106 agreement dated the 14th April 2015 between Nurton Developments (Quintus) Limited (1) Staffordshire County Council (2) East Staffordshire Borough Council (3) Lloyds Bank PLC (4) ('the Section 106 Agreement');
- b. Approves the completion of a Capital Contribution Letter with the Secretary of State for Education or such other party as they shall so direct for the payment of £6,400,000 of the primary school contribution

received by Staffordshire County Council under the terms of the Section 106 Agreement;

- c. Approves the completion of an Agreement for Lease and Lease with the Secretary of State for Education or such other party as they shall so direct to enable the construction of the 2 form entry primary school and thereafter the use of the primary school for up to 125 years; and
- d. Delegates permission to the Assistant Director for Commercial and Assets to agree the final terms of the Transfer, Capital Contribution Letter, Agreement for Lease and Heads of Terms.



Local Members Interest
Julia Jessel (East Staffordshire – Needwood Forest)

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Recommendations of the Cabinet Member for Education (and SEND)

I recommend that Cabinet:

- a. Approves the completion of a Transfer of the school land at Branston Locks to Staffordshire County Council in accordance with the terms of the section 106 agreement dated the 14th April 2015 between Nurton Developments (Quintus) Limited (1) Staffordshire County Council (2) East Staffordshire Borough Council (3) Lloyds Bank PLC (4) ('the Section 106 Agreement');
- b. Approves the completion of a Capital Contribution Letter with the Secretary of State for Education or such other party as they shall so direct for the payment of £6,400,000 of the primary school contribution received by Staffordshire County Council under the terms of the Section 106 Agreement;
- c. Approves the completion of an Agreement for Lease and Lease with the Secretary of State for Education or such other party as they shall so direct to enable the construction of a 2 form entry primary school and thereafter the use of the primary school for up to 125 years; and
- d. Delegates permission to the Assistant Director for Commercial and Assets to agree the final terms of the Transfer, Capital Contribution Letter, Agreement for Lease and Heads of Terms.

Report of the Director for Corporate Services

Reasons for Recommendations:

2. To ensure the delivery of the 2-form entry primary school for September 2023 in accordance with the Department for Education wave programme.

Background:

3. On the 13th April 2016 officers reported to informal cabinet on the Department for Education's approach to the funding of new schools. This recommended the wave approach for the primary and secondary schools required in Burton on Trent.
4. There has been a delay in the delivery of the primary school in Burton on Trent and this is now scheduled to open in September 2023 rather than September 2017 as originally anticipated.
5. The Department for Education have now approved the development under their wave programme of a 2-form entry primary school at Branston Road, Burton on Trent to be known as Branston Locks Primary School, as shown edged in red on the plan annexed hereto at the Appendix ('the School Site').
6. Under the terms of the Section 106 Agreement dated the 14th April 2015 between Nurton Developments (Quintus) Limited ("the Developer") (1) Staffordshire County Council (2) East Staffordshire Borough Council (3) Lloyds Bank PLC (4) ('the Section 106 Agreement') Nurton Developments (Quintus) Limited ('the Developer') are required to transfer to Staffordshire County Council the School Site for the provision of a new primary school of at least 2 forms of entry (420 places).
7. The Section 106 Agreement also secures staged payments of £8,000,000 by the Developer ('the Section 106 Contribution') to mitigate the impact of the development of 2500 dwellings as a contribution to be paid towards the provision of at least (but not limited to) 420 primary school places and up to 105 places of additional offsite primary school provision. This is the equivalent to 2.5 form entry.
8. The approval under the wave process only permits the construction of a 2 form entry primary school so Staffordshire County Council propose to retain £1,600,000 of the Section 106 Contribution for the 105 places of additional offsite primary school provisions with the balance of £6,400,000 for the 2 form entry being paid to the Secretary of State or such other party as they shall nominate on receipt from the Developer in accordance with the terms of a Capital Contribution Letter to be agreed between the parties.
9. The Secretary of State will need to obtain planning permission for the construction of the primary school, and it is therefore intended for an Agreement for Lease to be granted conditional on the grant of planning permission. Following the grant of planning permission, the standard form wave school 125-year lease will be granted to the Secretary of State or such other party as they shall nominate permitting the construction and the use of the school.

10. At this stage, it is anticipated that the John Taylor MAT will be granted the Lease of the School Site, but this is still subject to the John Taylor MAT entering into funding agreements with the Department for Education.

Legal Implications

11. Staffordshire County Council have covenanted in the Section 106 Agreement to, inter alia, deliver the school and to repay the Section 106 Contributions or any part thereof if the school is not delivered or if the Section 106 Contributions are not fully utilised.
12. With the school intended to be delivered through the wave programme Staffordshire County Council are not in control of compliance with these covenants. Accordingly, the Secretary of State has agreed in principle to provide mutual covenants to Staffordshire County Council to mirror the requirements in the Section 106 Agreement and to reimburse Staffordshire County Council for all reasonable and proper costs incurred for any failure by the Secretary of State to comply with these covenants.

Resource and Value for Money Implications

13. Before the Department for Education elected to deliver the Branston Locks Primary School through the wave programme Staffordshire County Council had incurred costs in preparing for the delivery of up to a 3-form entry primary school. Approval has been obtained for Staffordshire County Council to deduct these costs and any further legal costs incurred from the basic need allocation.
14. The Department for Education will contribute any capital over and above the £6,400,000 Section 106 Contribution for the construction of the new school.
15. If Staffordshire County Council were to deliver the 2 form entry primary school then Staffordshire Council would have been liable for the additional costs above the £6,400,000 Section 106 Contribution which would be estimated to be greater than the costs incurred as referred to in 12 above.

List of Background Documents/Appendices:

Appendix 1 – School Site Plan
Summary CIA
Full CIA – Background Document

Contact Details

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