

DERBYSHIRE COUNTY COUNCIL
CABINET MEMBER MEETING FOR
COUNCIL SERVICES

14 March 2019

**Report of the Strategic Director Commissioning, Communities and
Policy**

**Acquisition of a New School in Hilton Under a Section 106
Agreement and the Grant of a Lease to an Academy Trust**

1. Purpose of the Report

Approval is sought for the Council to acquire a new school site at Hilton by way of a Section 106 agreement and to subsequently grant a 125 year lease of the school to an Academy Trust. The extent of the site to be acquired and subsequently leased is identified on the attached plan.

2. Information and Analysis

- a. In August 2013, South Derbyshire District Council published its draft Local Plan. This Plan identified new housing sites to provide a total of 6,469 homes over the next 15 years. This housing growth will have a significant impact on infrastructure, including education.
- b. One of the sites identified by South Derbyshire is for 425 houses on a site on the edge of Hilton, and is anticipated to generate around 90 primary aged pupils in the near future.
- c. The village is served by Hilton Primary School. Hilton has already grown significantly over recent years and this school has grown from 456 pupils in 2002 to 775 in October 2013. It is by far the largest primary school in Derbyshire and there is no scope for further expansion.
- d. The scale of the development is large enough to require that the developer make a substantial contribution to educational provision in the area by way of an agreement under Section 106 of The Town & Country Planning Act 1990. The developer discussed the educational requirements of this proposal with Council officers, who identified the need for a new school.

- e. Agreement was reached between the developer, the Planning authority and Childrens Services that the developer should construct a new 2 form entry primary school on land acquired for the development. To transfer to the Council upon completion for a sum of £1.00. The design of the school buildings was then agreed between the parties and suitable plans were drawn up.
- f. The school will be built in 2 phases with the first form of entry being available when the first houses are occupied and the second phase being brought in later as pupil numbers increase. Development is now in progress so it is therefore proposed to instruct the two parties' solicitors to complete the transfer.
- g. The Education Act 2011 requires local authorities to seek proposals to establish academy or free school where it thinks there is a need for a new school in its area. The appropriate advertising and consultation has now taken place and the Spencer Academy Trust will operate the school. Once the developer has transferred the freehold of the new school to the Council for the sum of £1.00, the Council will be required to grant a 125 year lease for nil considerations to the Spencer Academy Trust by the Department for Education under an Academy Order.

3. Financial Considerations

The cost of acquiring the land and constructing the school is to be borne by the developer. The school will transfer to the Council for the sum of £1.00 and the subsequent 125 year lease to the Academy Trust will be at nil consideration. The costs of operating the school pose conversion will fall on the Academy Trust.

4. Legal Considerations

Upon instruction from the Director of Property, the Director of Legal Services shall arrange to complete the acquisition of the school site and subsequently lease it to the Academy Trust.

Section 120 of the Local Government Act 1972 permits a Local Authority to acquire land for the purposes of any of its functions or for the benefit, improvement or development of its area. The proposed acquisition satisfies this requirement.

Section 123 of the Local Government Act 1972 permits a Local Authority to dispose of land at less than the best consideration that can reasonably be obtained, provided that the Secretary of State's consent is first obtained. The Secretary of State for Education will be issuing an Academy Order in relation to the proposed disposal, which satisfies this requirement.

5. Social Value Considerations

The Council is committed to meeting the current and future educational needs of communities in the best possible way in its role as a Local Education Authority. The provision of a new school in Hilton will ensure that there are sufficient school places available for children coming into the locality as new housing development takes place.

6. Other Considerations

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, equality and diversity, human resources, environmental, health and transport considerations.

7. Background Papers

None

8. Key Decision **NO**

9. Call-in

Is it required that call-in be waived for any decision on this report? **NO**

10. Officer Recommendation

That approval be given to:

- a. Acquire a new school site at Hilton under the terms of a Section 106 agreement and
- b. grant a 125 year lease of the school site to the Spencer Academy Trust.

EMMA ALEXANDER
Strategic Director Commissioning, Communities and Policy

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