



## Report to Leader (Education and Skills portfolio)

**Decision Date: 18 March 2021**

**Reference number: ED02.21**

**Title: Buckinghamshire Council recommends to the Regional School Commissioner (RSC) and the Department for Education (DfE) that the Council's preferred bidder to run the new secondary school and Social, Emotional and Mental Health (SEMH) unit on the Kingsbrook development is Bidder A.**

**Relevant councillor(s): Cllrs, Anita Cranmer, Bill Chapple, Julie Ward, Michael Collins, Mary Stamp and Carole Paternoster.**

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**Ward(s) affected: Aston Clinton and Bierton**

**Recommendation: That the Council recommends to the RSC and DfE that Bidder A is the Council's preferred bidder to run the new secondary school and SEMH unit on the Kingsbrook development in Aylesbury.**

### **Reason for decision:**

The Local Authority has followed the DfE guidance for managing the process to select a potential bidder to open and run a new Presumption Free school. The Leader is therefore recommended to agree that the Council's preferred bidder is Bidder A and that this recommendation is submitted to the RSC for approval by the DfE's Headteacher Board.

### *Executive summary*

1.1 The Department for Education published non-statutory guidance in May 2012, updated in June 2013 and May 2018, on the procedures that a Local Authority must follow when opening a new school. The guidance followed on from the introduction by the DfE on 1 February 2012 of Section 37 and Schedule 11 of the Education Act 2011. The guidance makes it clear that apart from certain exceptional circumstances there is a presumption that all new schools will open as Academies/Free Schools and Local Authorities are required to hold a School Competition to establish their preferred bidder, who the Local Authority then recommend to the Regional Schools Commissioner (RSC). The

Headteacher Board (HTB) advised by the RSC and DfE, make the final decision on the successful bidder.

- 1.2 In order to meet the demand for school places that will arise from the Kingsbrook development in Aylesbury, the Local Authority is building a 1080 place secondary school that is due to open in September 2022. When the school is up to capacity it will have on roll 900 students in the main school, including 32 students in a Unit for children with Social, Emotional and Mental Health (SEMH) designation and 180 students in the 6<sup>th</sup> form. The school will initially open with six forms of entry (180) students in Year 7 and an initial intake of c.8 students in the SEMH unit.
- 1.3 When completed, it is intended that the Kingsbrook development will include 2450 homes and as well as the secondary school it will have two primary schools on the development.
- 1.4 The Local Authority held a Competition from 28 September 2020 to 20 November 2020 inviting Multi-Academy Trusts willing to open and run the new school to submit bids. A total of eight bids were received and after a short-listing exercise and input from the RSC and DfE, two bidders were short-listed for interview. The two bids were from Bidder A and Bidder B.
- 1.5 Both bidders were invited to interview on 2 February 2021. The LA interview panel comprised of the Cabinet Member for Education & Skills, Service Director for Education, senior officers from the Council and representatives from the DfE. The format of the interview was a 10 minute presentation from the candidates entitle “How would you work to close the achievement gap in Aylesbury Town between advantaged and disadvantaged children?” followed by questions from the panel. Annex B is the programme for the day.
- 1.6 The unanimous decision of the panel was that their preferred bidder was Bidder A.

### ***Content of report***

- 1.7 On 1 February 2012, Section 37 of the Education Act 2011 was passed including Schedule 11 of the Act. This made changes to Part 2 of the Education and Inspections Act 2006 in relation to the process for establishing new schools, including the Academy/Free School presumption. The guidance was further updated in May 2018. The presumption in the guidance required Local Authorities to establish an Academy/Free School in the first instance where they identified the need for a new school.
- 1.8 The DfE guidance details the process that a Local Authority must follow. There are four stages in the process:
  - I. Publication to interested parties the RSC and the DfE details of the new school requirement and application guidance on how bidders can make applications to run the school via a School Competition.
  - II. An evaluation process by the Local Authority of the bids received.

- III. A recommendation by the Local Authority to the RSC on their preferred bidder.
- IV. The HTB advised by the RSC and The DfE makes the final decision on the successful bidder.

The LA has followed this guidance and as appropriate sought guidance for the DfE throughout the process.

- 1.9 In December 2013, Buckinghamshire County Council signed a Section 106 agreement for the Kingsbrook development which included provision, when the development is finished, for two primary schools and a for a secondary school.
- 1.10 The council has already held a competition to find their recommended bidder to run one of the two primary schools and in 2019 the HTB approved the Council's recommendation that the new primary school that opens in September 2021 should be run by Inspiring Futures Partnership Trust.
- 1.11 The competition for the secondary school was held from 28 September to 20 November 2021. Eight bids were received. The DfE and RSC submitted commentary on all the bids and two bids were short-listed for panel interview.
- 1.12 The panel interviews took place, via Teams, on 2 February 2021. The panel was chaired by Simon James (Service Director for Education) and included: Anita Cranmer (Cabinet Member for Education and Skills), Gareth Drawmer (Head of Achievement and Learning), Paula Campbell-Balcombe (Head of School Commissioning), Hero Slinn (Head of SEND), Elizabeth Williams (Head of Finance, Children's Services), Andrew Tusting (School Commissioner), Catherine Ryz-Turton (DfE) and Daksha Veraria (DfE-observer).
- 1.13 The two organisations were asked to give a presentation and following the presentation, the organisations were asked a number of questions based on current education issues, their knowledge and understanding of running an SEMH unit ,their understanding of the new Kingsbrook community and issues facing education in Aylesbury Town. Both bidders were given the same presentation subject and were asked the same set of questions to ensure transparency and equity through the scoring process. Annex B gives details of the panel members and the presentation. After the panel interviews the panel evaluated the performance of both bidders and agreed a consolidated score for each bidder.
- 1.14 The DfE state in their guidance that there are three criteria that decision makers should consider when making a recommendation on their preferred bidder. The criteria are:
  - The quality of the places being added into the system, based on the proposer's vision and educational plan
  - The capability and capacity of the proposer to deliver their proposal to time and on budget, based on their expertise and experience
  - Value for money, confirming that the proposer considers the new school can be met within the estimate of capital costs outlined by the Local Authority.

1.15 Whilst both bidders had strengths and weaknesses in their presentations and during the panel question sessions, the panel was unanimous in its view that Bidder A had a better understanding of the needs and purpose of a SEMH unit.

Bidder A demonstrated that they met the LA's and the DfE's criteria and the Panel's unanimous recommendation was that Bidder A was their preferred bidder.

1.16 When making their recommendation, the Local Authority has taken account of the Public Sector Equality Duty. An Equality Impact Assessment (EIA) has been completed and forwarded to the Head of Equalities who raised no objection or comment. The EIA established that no group were disadvantaged from applying to bid to run the new school and that no particular group of children would be disadvantaged by the opening of the new school.

1.17 As the process undertaken by the Local Authority has followed the guidance issues by the DfE and the panel unanimously recommended Insignis Academy Trust as their preferred bidder the Leader is recommended to agree that the LA make that recommendation to the DfE that Insignis Academy Trust is their preferred bidder.

1.18 If the recommendation is agreed the LA will forward to the DfE the summary evaluation form and panel interview scores and comments.

#### *Other options considered*

1.19 The other options open to the Leader would be to not agree to the panel's recommendation and request a re-run of the process or to recommend Bidder B as the Council's preferred bidder.

1.20 The process followed the DfE guidance on Free school presumptions and as the unanimous decision of the panel was that their preferred bidder was Bidder A, it is appropriate that they be recommended to the DfE. As outlined above Bidder B did not convince the panel on a number of key issues.

1.21 The LA advertised the competition in the appropriate channels and received eight bids and there is no guarantee that running the competition again would result in other suitable bids coming forward. The delay in running another competition would mean that by the time a final decision had been confirmed by the HTB it would be less than a year before the new school opened and this could make a successful opening less likely. In addition the LA was successful in securing additional Basic Need funding of c.£3m towards Kingsbrook Secondary School on the condition that a sponsor is identified by Spring 2021. If the competition had to be re-run there is a high risk that this funding would be lost to the Council.

#### *Legal and financial implications*

1.22 The capital cost of the new school and the creation of the playing fields are being funded through Section 106 contributions from the Kingsbrook development as set

out in the Section 106 agreement dated 5 December 2013. In addition the LA has secured Housing Infrastructure Funding and additional Basic Need funding towards the cost of delivering the new school. The planning application has been submitted for the new School and is due to be determined in March 2021 with works due to commence on site in April 2021 and complete in July 2022. With regards to revenue funding, the DfE guidance states that “Local Authorities are also required to meet the revenue costs of the new provision... in addition to all funding for pre-opening development costs and post-opening funding required to address diseconomies of scale until a school reaches its full capacity.... Local Authorities are expected to work with selected proposers to agree a reasonable and mutually acceptable funding allocation for the Local Authority to cover pre-and post-opening costs”. Once the HTB have decided which organisation will run the new school, the LA will establish a Project Board for the opening of the school and we will meet with the successful organisation to agree on set up and diseconomies of scale funding as the school builds up to full capacity, as no funding will be provided by the developer through the Section 106 agreement for these revenue costs.

- 1.23 Revenue funding for the new school will be determined by the Local Authority’s Local Management of Schools formula and total school funding from the DfE will be adjusted to take account of the impact of any demographic changes caused by the opening of the new school. Advice has been sought from the section 151 officer.
- 1.24 On 1 February 2012 Section 37 of the Education Act 2011 was passed including Schedule 11 of the Act. This made changes to Part 2 of the Education and Inspections Act 2006 in relation to the process for establishing new schools, including the Academy/Free School presumption. The guidance was further updated in May 2018. The “presumption” in the guidance required Local Authorities to establish an Academy/Free School in the first instance where they identify the need for a new school. Local Authorities are required to hold a School Competition to establish their preferred bidder, who the Local Authority then recommends to the Regional Schools Commissioner (RSC). The HTB, advised by the RSC, make the final decision on the successful bidder. In addition, advice has been sought on the contents of this report from the Principal Lawyer.

#### *Corporate implications*

- 1.25 The successful opening of the new school will ensure that the Council meets its statutory duty to ensure sufficient school places.
- 1.26 The new school will have travel plans to ensure that as many children as possible walk to school and the successful bidder will work with the LA and partners to ensure that the environmental impact of the new school is minimalised.

### *Consultation and communication and local member comments*

- 1.27 The council will ensure that when the HTB have made their decision on the bidder to run the new school, that the decision is publicised and will work with the bidder to ensure that there is a successful opening of the new school to serve the Kingsbrook community. The recommendation of the Council must remain confidential under a final decision is made by the HTB. It is hoped that a decision will be made by April 2021. Unfortunately Cllr Chapple and Cllr Ward were unable to make the panel interviews but the Cabinet Member for Education and Skills did take part. Cllrs Chapple, Paternoster and Ward have said they support the recommendation of Bidder A to run the new secondary school.

### *Next steps and review*

- 1.28 When the HTB have made their decision the LA will confirm with the successful bidder and work with them on the opening of the new school. The Council will brief the unsuccessful bidder and those that were not short-listed
- 1.29 Once the decision has been made by the HTB the Local Authority will establish project boards in partnership with Bidder A. The build project for the new school is being managed by Buckinghamshire Council's School Commissioning Team and a separate board will be established to oversee the finance, admission and legal issues.

### *Background papers*

- 1.30 A-LA Application form and specification  
B-Format of panel interviews [confidential]

### Your questions and views (for key decisions)

If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the Leader to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email [democracy@buckinghamshire.gov.uk](mailto:democracy@buckinghamshire.gov.uk)