

CABINET

6 FEBRUARY 2018

LOAN TO DELCE ACADEMY

Portfolio Holder: Councillor Alan Jarrett, Leader
Report from: Phil Watts, Chief Finance Officer
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Summary

This report sets out a proposal for the loan of £400,000 to Delce Academy to fund capital expenditure on the installation of a four classroom block of modular buildings.

1. Budget and Policy Framework

- 1.1. Cabinet can only make decisions which are inside the budget and policy framework. As the making of a loan to a third party on commercial terms would have no adverse impact on the Council's revenue or capital budget and would be allowable within the Council's Treasury Management Strategy, it would be a decision for Cabinet.

2. Background

- 2.1. When Delce Academy converted to become an academy, it was a Junior School admitting 130 children into year 3 comprising 90 children from Crest Infants (formerly Delce Infant) and 40 children from St Peters Infant School. The Delce Academy building also houses the Bridge provision for primary children with social, emotional and health needs.
- 2.2. In September 2016 the Delce Academy started to admit key stage one children with a Published Admission Number (PAN) of 30. This followed a period of consultation led by the school. During the consultation the Local Authority provided a response to the Regional Schools Commissioner (RSC), neither supporting nor objecting to the proposal. The rationale for this was that other options to provide places were available to the Council in the area and these could be provided at little or no capital investment. As such, the local authority's position was that if the proposal were approved, the Council would not be able to invest basic need funding into the project. It was accepted at the time though, that the additional 30 places, whilst not essential, would add some flexibility into the place planning system.

- 2.3. It was also made clear to the school not only at the time but subsequently, that they did not have sufficient space to accommodate this number of children i.e. the usual intake from the two local infant schools and their own intake of 30 per year group. This would result in the school admitting 730 primary pupils when full instead of the 520 they would admit if the proposals did not proceed. This would mean that they needed another 8 classrooms to meet demand.
- 2.4. The school has adapted the buildings to create some additional teaching space and had intended to utilise the classrooms taken up by the Bridge provision. The Bridge provision was expected to move into new accommodation to be built by the Education and Skills Funding Agency (ESFA) as part of the free school programme, however the work has yet to commence and therefore release of the rooms back to the mainstream academy has been delayed. Notwithstanding this, even with the Bridge rooms returned to mainstream use, the academy would be short of space to accommodate 730 pupils, although would have sufficient for the 520 had it remained a junior school.
- 2.5. The school does not have spare accommodation for the key stage one pupils; the school has bid for funding through the Condition Improvement Fund (CIF) initiative for the past two years but have been unsuccessful. The CIF is intended for condition and maintenance projects and as such this does not fit with the criteria. The school has, apparently, approached the ESFA for funding too, but have been told that this is a basic need issue and to speak to the local authority.
- 2.6. In reality, there are sufficient spaces available in the area without the Delce Academy admitting key stage one pupils and therefore it could be considered that this is not a basic need issue, but a situation created by the school themselves, albeit with the approval of the RSCs office, who were the decision makers.

3. Options

- 3.1. The school has requested funding from the Council on several occasions and have been refused on the basis that this was not considered a priority project when allocating limited funding for the provision of school places. To provide the classroom space it needs for September 2018, the school has looked at installing a four classroom block of modular buildings. This has been estimated to cost £400,000. To ensure the building is complete for September 2018, the project would need to commence early in 2018. As the school cannot secure funding from the ESFA, the RSC or the local authority basic need grant they have approached the Council regarding a loan to cover the cost. The school states that they can afford to repay the loan over a five to seven year period, however the local authority would need to undertake due diligence to satisfy itself of that.
- 3.2. Option 1: Cabinet could decline the loan request, however this would mean that the academy would not have sufficient space for the children on their roll in September 2018. This would have a detrimental effect on the children's learning and reputational issues for both the Council and the academy trust. It is not practical to move children to other schools in the area as the current placements are the outcome of the expression of parental preference and such, a move would also be disruptive to the children's education. Ultimately, given the response already received from the ESFA to the academy trust, the Council is likely to be called upon to resolve the issue of capacity in the school resulting in extreme financial pressure on an already stretched capital programme.
- 3.3. Option 2: Cabinet could agree the loan, allowing the school to provide the additional classroom space it requires in the short term and there is little doubt that

over the longer term, as Medway grows, this additional capacity will become necessary for the wider area.

- 3.4. Option 3: Cabinet could consider reprioritising the basic need funding and using the grant to provide this additional space. Option 3 is not recommended, as the basic need for school places in other parts of the borough represents a far more pressing call on extremely scarce capital funding.

4. Advice and analysis

- 4.1. It is considered that making the loan to Delce Academy (option 2) represents the best option for a number of reasons:

- Whilst there is no immediate need for additional primary school places in this part of Medway, as the population is predicted to grow by around 20% by 2035 this additional capacity is likely to become necessary.
- This new provision would be delivered at no cost to Medway Council.
- It would meet current parental expectations regarding the availability of primary school places in the area, providing greater parental choice.
- It would protect the Council from unwarranted reputational damage, by resolving an issue not of its making.

- 4.2. The loan would have to be made on commercial terms and at an interest rate commensurate with those available in the private sector in order to have no adverse effect on the Council's budget and to avoid breaching 'state aid' rules. As importantly the loan agreement would need to be structured in a way that protects the Council from financial loss, particularly in the event of the academy transferring to another trust. Finally, all due diligence would be undertaken by officers regarding the academy's ability to repay the debt from its delegated grant allocation and other revenue income.

5. Risk management

- 5.1. The risks pertinent to this decision are outlined in the table below:

Risk	Description	Action to avoid or mitigate risk	Risk rating
Reputational damage	If the additional places are not provided, there is a risk that negative public, political and press attention could be aimed at the council.	Agreeing option 2 should mitigate this.	D3
Financial loss to the Council	It would be impractical to secure a loan on the schools assets, which increases the risk of the school defaulting on the repayments.	Officers will carry out all due diligence on the schools ability to repay the loan and the loan agreement would be structured such that it protects the Council's interests.	D3

Setting a precedent for other academy trusts	There is a risk that other academy trusts would see this as an opportunity for growth and make similar applications to the RSC.	The Council must be ready to respond robustly to other schools attempts to increase their PAN, where it is deemed that there is already sufficient capacity in the area.	E4
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6. Financial and legal implications

- 6.1. There will be no adverse financial implications for the local authority, as long as due diligence is undertaken, the loan is agreed on commercial terms and the loan agreement is robust and legally enforceable.
- 6.2. The wider legal implications of making a commercial loan to the Delce Academy are set out in the body of the report. The formal agreement itself will be in a format approved by the Chief Legal Officer.

7. Recommendations

- 7.1. Cabinet is requested to agree in principle to the making of a loan to Delce Academy (option 2) and to delegate authority to the Chief Finance Officer, in consultation with the Chief Legal Officer and Leader, to agree the interest rate, repayment terms and terms of the loan agreement, following all due diligence, on the basis set out in paragraph 4.2 of the report.

8. Suggested Reasons for Decision

- 8.1. The making of a loan to Delce Academy would allow the school to provide the additional classroom space it requires in the short term and there is little doubt that over the longer term, as Medway grows, this additional capacity will become necessary for the wider area

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Appendices

None

Background papers

None