

## **Commissioning of New School Places in Barton-Le-Clay and Marston Moretaine for September 2018**

Report of Cllr Steven Dixon, Executive Member for Education and Skills,  
([steven.dixon@centralbedfordshire.gov.uk](mailto:steven.dixon@centralbedfordshire.gov.uk))

Advising Officers: Sue Harrison, Director of Children's Services,  
([sue.harrison@centralbedfordshire.gov.uk](mailto:sue.harrison@centralbedfordshire.gov.uk))

**This report relates to a key decision**

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### **Purpose of this report**

1. This report seeks support for the proposed consultation by Arnold Academy (middle), Barton Le Clay, to expand by 1 form of entry (30 places in each middle school year group) by September 2018.
2. This report seeks support for the publication of the official proposal for the proposed expansion of Church End Lower School (Forest End campus) Marston Moretaine, to expand by 1 form of entry (30 places in each lower school year group) by September 2018.
3. The schools referred to within the report serve the Wards of Marston Moretaine and Barton Le Clay.

### **RECOMMENDATIONS**

**The Executive is asked to:**

1. **support the proposed commencement of consultation by Arnold Academy (middle), Barton Le Clay to expand by 1 form of entry (30 places in each year group) by September 2018;**
2. **support the publication of the statutory proposal for the proposed expansion of Church End Lower School (Forest End campus), Marston Moretaine to expand by 1 form of entry (30 places in each year group) by September 2018; and**

3. **approve delegated decision to the Director of Children's Services, in consultation with the Executive Member for Education and Skills and the Director of Resources in consultation with the Executive Member for Corporate Resources, to determine the temporary programme of up to £2.0m for additional school places as a result of deferred or unsuccessful Free School applications, which are required to meet the basic need for school places in 2018.**

### **Overview and Scrutiny Comments/Recommendations**

4. This report was presented to Children's Services Overview and Scrutiny Committee at its meeting on the 22 November 2016 and the Committee was asked to indicate its support for the recommendations set out within the report. The views of the Committee will be reported to Executive prior to the meeting.

### **Pupil place planning for Middle School places in Barton Le Clay from September 2018**

5. In July 2016 the demographic forecasts for the Council's School Place Planning pyramid area covering Barton Le Clay and the surrounding area were revised with refreshed data as part of the annual review of the Council's School Organisation Plan.
6. The Councils revised School Organisation Plan was published in September 2016 and can be found at, <http://www.centralbedfordshire.gov.uk/school/organisation/plan.aspx>
7. The outcome of the revision is a forecast deficit in middle school provision in the village from 2017/18. This is a sustained deficit of up to 1 form entry (30 places per year group).
8. The forecast deficit for Barton Le Clay from the Councils School Organisation Plan for the next 5 years is as follows:-

			Forecast				
	Total PAN, Sept 16	Total year 5, Jan 16	2016-17	2017-18	2018-19	2019-20	2020-21
PAN/ forecast year 5	150	132	151	174	153	165	166
<b>Balance of places at YR 5</b>			<b>-1</b>	<b>-24</b>	<b>-3</b>	<b>-15</b>	<b>-16</b>

9. There is 1 middle school in the village. In December 2013, Arnold Academy was rated by OFSTED as a "Good" school in all areas.

10. There are no new middle school sites secured through the S106 in the village. The anticipated rate of growth in the village's middle school year group is also such that a new standalone school would not fill and be revenue efficient for a number of years. The solution to manage the further growth in places is therefore through the proposed expansion of Arnold Academy.
11. Arnold Academy has agreed through the request of the authority to temporarily admit pupils over its planned admission number in 2017 in Year 5 to meet a local demographic need. The school has supported the council's principles to provide additional school places at a local popular and successful school.
12. Further accommodation will be required to enable the school to permanently expand by 1 form of entry to meet the local basic need from September 2018. The governing body of the school are supportive of the proposed permanent expansion.
13. Arnold Academy converted to an academy in July 2011. The council has a duty to ensure adequate school places are provided to everyone that wants a place and can commission these additional places at academies and maintained schools as long as they meet the Council's policy principles for pupil place planning
14. An Academy is required to submit an application to the EFA for approval to expand. The results of the consultation undertaken by the academy will be presented to the EFA in support of their application.

#### **Pupil place planning for Lower School places in Marston Moretaine from September 2018**

15. The 2016 school organisation plan for Marston Moretaine forecasts a deficit of lower school places from 2018-2019 of up to 1 form of entry.
16. The forecast deficit for Marston Moretaine from the Councils School Organisation Plan for the next 5 years is as follows:-

	Total PAN, Sept 16	Total year R, Jan 16	Forecast				
			2016-17	2017-18	2018-19	2019-20	2020-21
PAN/ forecast year R	143	133	126	136	166	134	149
<b>Balance of places at YR R</b>			<b>17</b>	<b>7</b>	<b>-23</b>	<b>9</b>	<b>-6</b>

17. There is forecast deficit in 2020 but no forecast deficit in 2019. In 2019 there is a 6% surplus of school places forecast. Considering the rate of growth in the local area this small surplus is acceptable and will be monitored through the school organisation plan on an annual basis.

18. Since 2013 the Council has commissioned an additional 150 lower school places in Marston Moretaine, required as a result of demographic growth in the area, most significantly due to increases in housing on the Marston Park development on land east of Bedford Road.
19. The additional lower school places have been provided by the expansion of Church End Lower School on to a new second campus on land east of Bedford Road. The new campus was phase 1 of the expansion, known as the Forest End campus. The school opened in September 2014 and now provides up to 150 lower school places.
20. There are no large lower school sites secured through S106 in the village. Land has been secured adjacent to the Forest End campus, as planned for phase 2 of the school expansion to meet the local need as the occupation of the housing increased. The additional land will provide the Forest End campus with space to expand to a 2 form entry school.
21. The anticipated rate of growth in the village's lower school year group is also such that a new standalone school would not fill and be revenue efficient for a number of years.
22. There are 3 other lower schools within the Marston Moretaine pyramid: Shelton Lower, Thomas Johnson Lower and Houghton Conquest Lower. Shelton Lower is on a constrained site and would not be able to expand without additional land. Thomas Johnson and Houghton Conquest Lower are not in the area of the greatest basic need. Church End is the preferred school for the proposed expansion due to its location in the area of greatest need, the availability of the land secured through S106 as part of the phase 2 proposal and the school is an Ofsted rated 'Good' school.
23. The solution to manage the further growth in places is therefore through the proposed expansion of Church End Lower School, through the Forest End campus.

**Guidance for prescribed alterations as set out by the Department of Education (DfE)**

24. The revised guidance for prescribed alterations, published by the DfE in April 2016, requires local authorities to undertake a statutory process for proposed expansions of maintained schools that meet a specified threshold. Although the previous requirement for a 2 stage consultation process has been removed (ie both pre statutory and statutory) the DfE expects that the local authority will consult interested parties to develop the statutory proposal prior to publication.

25. The proposed expansion of Church End Lower School meets the specified threshold. Therefore, in order to develop the statutory proposal for the proposed expansion a preliminary consultation has already been undertaken. This was launched on the 28 September 2016 and concluded on the 2 November 2016.
26. The letter used to canvas the views of stakeholders are summarised in Appendix A.
27. In summary, 23 responses were received to the preliminary consultation of which 19 were in favour, 3 were against and 1 was unsure of the proposal. Appendix C summarises the key themes from the consultation and the council's responses.
28. The proposal is supported by Marston Moreteyne Parish Council (Appendix B). The considerations requested by the Parish Council are addressed in Appendix C.
29. Stakeholders who were canvassed included
  - I. The Governing Body of Church End Lower School
  - II. The staff of Church End Lower School
  - III. Parents/ carers of the children currently attending Church End Lower School
  - IV. Marston Moretaine Parish Council
  - V. Other schools and academies within Central Bedfordshire
  - VI. Central Bedfordshire Ward Members
  - VII. Local diocese
30. The responses to this preliminary consultation will help to develop the statutory proposal.

### **Guidance for Making Significant Changes to an Open Academy**

31. The guidance for academies differs to the guidance for prescribed alteration to a maintained school. Academy trusts need to confirm that a fair and open local consultation has been undertaken, with all those who could be affected by the proposed change, and that the proposal takes account of all responses received.
32. For Academies there is no requirement to publish a statutory notice. An assessment of the proposal will be made before the Regional Schools Commissioner (RSC) or Secretary of State, as appropriate.

## **Pupil place planning and meeting the demographic growth in Central Bedfordshire**

33. Additional school places are forecast to be needed to meet a basic need in parts of Central Bedfordshire. In order to ensure that the council fulfils its duty to provide adequate school places and to meet the council's policy principles for pupil place planning, additional accommodation may be required at schools for 2018.
34. The Academies Act 2010 enables the Secretary of State to enter into an academy arrangement with any person wishing to establish a Free School. Academy Trusts can submit a Free School application to the Secretary of State for new school places. The next wave of Free School applications is Wave 13.
35. Free School applications, supported by the council, have been submitted under Wave 12 and proposed for Wave 13. The outcome of all these applications will not be known until Autumn 2017.
36. The process for approving and planning new school places through the Academies Act can be extensive. It is prudent for the council to have in place a contingency fund, for applications to the Secretary of State for Free Schools which are deferred or are unsuccessful and where there is a clear basic need for school places. The contingency will enable the council to set in place a temporary programme for commissioning additional school places to meet its statutory obligations.
37. The timing of the announcements for the Free schools do not allow for a further opportunity to report back to Executive and in the same time have in place a programme to deliver the additional accommodation required for the beginning of the autumn school term 2018. The Executive is therefore asked to approve delegated decision to the Director of Children's Services in consultation with the Executive Member for Education and Skills, to determine the temporary programme of up to £2.0m for additional school places.
38. The temporary programme is up to £2.0m. This sum is allocated and reserved from the New School Places programme, which is a contribution of s106 funds and the basic need grant.

## **Conclusion**

39. Each of the 2 schools in this report support the proposals to expand and provide new school places for the local communities and in the areas of greatest basic need.
40. Maps indicating the location of each of the 2 schools are attached in Appendix D of this report.

41. As an academy, Arnold Academy can propose an enlargement of their premises. It is a requirement of the Department for Education that they must consult with stakeholders and prescribed organisations and persons on their proposal.
42. For Church End Lower School, which is a maintained foundation school, the Council is required to carry out the required consultation for the proposed expansion via the publication of the statutory proposal.
43. The consultees for the 2 proposals will include staff at the schools and their feeder schools, the head teachers and governing bodies of all other Central Bedfordshire schools, all members of Central Bedfordshire Council, local diocese, local town and parish councils and local residents and all other prescribed consultees.
44. The outcome of the consultations, along with a business case submitted by each school to illustrate the alignment of their proposal with the Council's Policy Principles for Pupil Place Planning in Schools, will be reported to the Council's Executive for final approval.
45. The Executive will be asked to determine the outcome of the 2 proposals and the accompanying business cases in April 2017.
46. Executive approval, in April 2017, of each proposal will enable the schools to continue to work in partnership with Council officers to influence the design and delivery of the new provision, funded through developer contributions and Department for Education basic need grant, within the Council's New School Places Programme.

## **Legal Implications**

47. Section 14 of the Education Act 1996 places a duty on Councils to secure sufficient primary and secondary school places to provide appropriate education for pupils in its area. S14A of the Education Act 1996 imposes a duty to consider representations about the exercise by local authorities of their functions from the parents of qualifying children in relation to the provision of primary and secondary education. Qualifying children include all those of compulsory school age or under.
48. The Education and Inspections Act 2006 gives Councils a strategic role as commissioners, of school places and includes duties to consider parental representation, diversity and choice, duties in relation to high standards and the fulfilment of every child's educational potential and fair access to educational opportunity.
49. The main legislation governing school organisation is found in sections 6A-32 of the Education and Inspections Act 2006, The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.

50. Department for Education Guidance for proposers and decision makers regarding school organisation in maintained schools was published in April 2016 to support the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
51. This guidance can be viewed at:  
<https://www.gov.uk/government/publications/school-organisation-maintained-schools>
52. The guidance for prescribed alterations, published by the Department for Education (DfE) in April 2016, requires local authorities to undertake a statutory process for proposed expansions of maintained schools that meet a specified threshold. Although the requirement for a 2 stage consultation process has been removed (ie both pre statutory and statutory) the DfE expects that the local authority will consult interested parties to develop the statutory proposal prior to publication.
53. The local authority is expected to ensure that there is effective consultation with parents and other interested parties to gauge demand for the proposed change, and provide consultees with sufficient opportunity to give their views.
54. The Council will need to ensure that the new accommodation is suitable and the necessary capital funding and planning permission have been secured before the expansion can be implemented.
55. Department for Education (DFE) Guidance for Academies wishing to make significant changes, including enlargement of their premises, was published in March 2016.
56. The Guidance can be viewed at:  
<https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>
57. Academy Trusts are required to exercise their own judgments in deciding whether a change is significant, although it is anticipated that the proposals set out in this report for Arnold Academy would come within the definition of 'fast track significant change' as set out by 2016 DfE Guidance.
58. The process is overseen by the Education Funding Agency on behalf of the DfE and requires an academy to undertake consultation, to obtain consent of the Secretary of State and to secure any capital required by the proposal before implementation.
59. The business case submitted to the Education Funding Agency by an academy must be rigorous enough for a decision to be made on whether the change is necessary. Details of minimum content are set out in the 2016 DfE Guidance.



60. In both cases there are statutory and processes for consultation and applications which, if the proposals are agreed, must be followed to ensure the proposals can be implemented when required.

### **Council Priorities**

61. The support to launch the proposed consultations for new school places at Barton Le Clay and Marston Moretaine meets the Council priorities to 'Improving education and skills in Central Bedfordshire'. This is in addition to the council's statutory obligations to provide adequate school places and the Council's 9 policy principles for pupil place planning.

### **Financial and Risk Implications**

62. The New School Places Programme is funded by developer contributions and Basic Need grant income from the Department for Education (DfE) and on current planning assumptions the programme 2016/17 to 2019/20 with gross expenditure of £18.2M (£4.0M net) in 16/17, £25M (net nil) in 2017/18, £17.2M (net nil) in 2018/19 and £15M (£3.4M net) in 2019/20.
63. The Council will continue to ensure that all opportunities are taken to increase income and to seek alternative funding sources for new build and expansions of existing school buildings.
64. The day to day running costs of school provision is met through revenue funding which is made available to each school as part of the Dedicated Schools Grant (DSG) and is based primarily on the numbers of pupils attending and will increase accordingly in an expanded school.
65. Where necessary and where Schools and Academies are undertaking significant expansion on commission from the Council additional revenue support for relevant costs can be accessed on application through the DSG funded Growth Fund established by the Schools Forum.
66. Capital expenditure within the New School Places Programme is subject to the Council's Code of Financial Governance.
67. There are no financial implications arising out of a decision to support the commencement of consultations as outlined in this report.
68. Approval is sought at this stage for a temporary programme with a fund of £2.0m for delayed or unsuccessful Free School applications to the DfE. Free school applications, supported by the council, have been submitted under Wave 12 and proposed for Wave 13. The outcome of these applications will not be known until 2017.

The temporary programme will allow the council to meet its statutory obligations of providing additional school places in light of any failed or deferred Free School applications.

69. The new school places if approved will be funded through a combination of s106 contributions from local developments and the Basic Need grant received from the DfE.

### **Equalities Implications**

70. The consultation and decision making process set out in regulation for proposals to maintained schools and academies requires an evaluation on a project by project basis of any equalities and human rights issues that might arise.
71. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
72. This statutory duty includes requirements to:-
- I. Remove or minimise disadvantages suffered by people due to their protected characteristics.
  - II. Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
  - III. Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
73. The proposed consultations are not envisaged to have an adverse impact on any of the listed groups below:-

I.	Sex	N/A
II.	Gender Reassignment	N/A
III.	Age	Lower and Middle aged pupils will have access to sufficient school places
IV.	Disability	N/A
V.	Race & Ethnicity	N/A
VI.	Sexual Orientation	N/A
VII.	Religion or Belief (or No Belief)	N/A
VIII.	Pregnancy & Maternity	N/A
IX.	Human Rights	N/A
X.	Other Groups (rural isolation etc)	N/A

## **Risk Management**

74. The proposal set out in this report has been developed and evaluated against the key criteria for decision makers that are outlined in guidance. Likewise the proposal has followed the procedures set out in regulation. This mitigates the risk on the Council of failing to comply with the relevant statutory requirements.
75. The key risks mitigated by the process that has been followed include:
  - I. Failure to discharge legal and statutory duties/guidance.
  - II. Failure to deliver the Council's strategic priorities.
  - III. Reputational risks associated with the non delivery of required school places.
  - IV. Financial risks, no capital investment from the council and all consequential additional running costs will be borne by the school
76. If approved, the Council and the Governing Body and Trustees of the schools will develop and implement change management plans that will include risk assessment and management criteria to ensure the effective delivery of the objectives set out in the proposal document

## **Conclusion and next Steps**

77. If approved, Arnold Academy will launch the proposed consultation and draft a business case for the expansion. The academy will also seek the DfE approval to expand.
78. The Council will publish the statutory notice for the proposed expansion at Church end Lower (Forest End site).
79. The responses to the consultations will be presented at Executive on the 4 April 2017 for determination and approval for capital expenditure.

## **Appendixes**

80. The following appendices are attached:

Appendix A Church End Lower School: Letter used to canvas the views of stakeholders.

Appendix B Marston Morteyne Parish Council

Appendix C Key themes to the preliminary consultation for the proposed expansion of Church End Lower School

Appendix D Maps indicating the location of the two schools.