

**Meeting:** Executive  
**Date:** 10 December 2013  
**Subject:** Commissioning of New School Places for Implementation from September 2015 and September 2016 in Central Bedfordshire

**Report of:** Cllr Mark Versallion, Executive Member for Children's Services

**Summary:** This report outlines four projects within the New School Places Programme 2013/14 – 2017/18 where local pressures of demographic growth require new school places to be provided from September 2015 and a further five projects within the New School Places Programme with a target implementation date of September 2016. The report seeks approval to commence the first four projects which have been subjects of a previous report to Executive in May 2013. For the remaining five projects the report seeks approval to commence processes to further develop these proposals, the outcome of which will be reported to the Council's Executive in August 2014.

**Advising Officer:** Edwina Grant, Deputy Chief Executive/Director of Children's Services

**Contact Officer:** Rob Parsons, Head of School Organisation, Admissions and Capital Planning

**Public/Exempt:** Public

**Wards Affected:** Ampthill, Arlesey, Biggleswade North, Biggleswade South, Cranfield and Marston, Stotfold and Langford, Parkside, Tithe Farm, Houghton Hall, Silsoe and Shillington.

**Function of:** Executive

**Key Decision** Yes

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

The report supports Central Bedfordshire's Medium Term Plan: *Delivering your priorities – Our Plan for Central Bedfordshire 2012- 2016* and the specific priority of Improved Educational Attainment.

**Financial:**

1. The nine proposals outlined in this report are contained within the Council's New School Places Programme 2013/14 – 2018/19. The four projects for which approval to commence is now sought are capital funded through the Basic Need and S106 contributions as outlined in Appendix A to this report. The whole programme to 2018/19 represents a total investment of £106M in New School Places since its commencement in 2011/12. The four projects outlined for commencement in this report account for £9.9M of expenditure. As reported to the Council's Executive in March 2013 the level of Department for Education (DfE) Basic Need Grant allocated to the Council for 2013/14 and 2014/15 represents a significant increase on previous years although the allocations beyond this period will not be known until late 2014/15. As a result of the annual refresh of the 2013/14 – 2018/19 programme it now reflects a capital contribution, on current planning assumptions, that the Council may be required to provide from its own resources of approximately £1.25M in 2016/17.
2. 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 and is based primarily on the numbers of pupils attending and will increase accordingly in an expanded school.
3. 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 Growth Fund established by the Schools Forum.
4. Capital expenditure within the New School Places Programme is subject to the Council's Code of Financial Governance. Expenditure to commission feasibility studies and design work required for projects within this rolling programme has been approved by the Executive Member for Children's Services, in consultation with the Deputy Chief Executive/Director of Children's Services as per Sec 4.10.7 of the Council's constitution.

**Legal:**

5. Section 14 of the Education Act 1996 places a duty on Councils to secure sufficient and suitable school places to provide for 5 – 16 year old statutory aged children in its area. The Education and Inspections Act 2006 gives Councils a strategic role as commissioners, but not providers, of school places to promote parental choice, diversity, high standards, the fulfilment of every child's educational potential and fair access to educational opportunity.
6. The main legislation governing school organisation is found in sections 7-32 of the Education and Inspections Act 2006, The School Organisation (Establishment and Discontinuance of Schools) (England Regulations 2007 and the School Organisation (Prescribed Alterations to Mainstream Schools) (England) Regulations 2007.

7. DfE regulations outline the requirements and process for proposals to expand Council maintained schools and these include full public consultation, the publication of statutory proposals and the decision making process. The Council is able to propose the expansion of maintained schools for which two new projects are set out in this report with recommendations to commence consultation to expand Edward Peake Middle School and Silsoe CofE VC Lower School. The Council is also decision maker for proposals relating to maintained schools, two of which have been subject of previous consultations as set out in this report with recommendations to approve the proposed expansions of St Andrews CofE VC Lower School, Biggleswade and of Russell Lower School in Ampthill.
8. The DfE has produced guidance for Academies wishing to make significant changes including proposals to enlarge premises by a significant proportion. The process, which is overseen by the Education Funding Agency on behalf of the DfE requires consultation and subsequent submission by the Academy of a report for determination by the Secretary of State. The proposals to expand St Marys Lower Schools in Stotfold and Holywell Middle School in Cranfield as set out in this report, have not been required to follow this process as the proposed increases in capacity do not reach the trigger point set out in the DfE guidance. The proposed expansion of Houghton Regis Academy has already secured DfE approval on the 3 June 2012 as part of its approved change in age range from the predecessor Middle School to become a Secondary School.
9. On 12 September 2013 the DfE launched a consultation on a range of proposed changes to the existing legislative and policy requirements for making changes to schools and academies. The aim of the proposals was for schools and academies to be more in control of their own decisions about size and composition and to remove or reduce restrictions of the current legislative processes.
10. Along side a number of less significant proposals a key proposal from the DfE is that Council maintained schools would be given the freedom to propose and determine their own changes including expansion and age ranges without following a statutory process, as long as they had secured any necessary funding. The Council would not be decision maker for proposals of this nature. Likewise the consultation proposed the removal of the current requirement for Academies to apply to the DfE for approval to make similar changes.
11. As commissioner of new school places, the Council would retain the right to determine the process for consultation and determination of its proposals to make capital investment in schools or academies where new places are needed as a result of demographic growth.
12. The Council responded to the consultation by accepting the fundamental aim of giving schools and academies further freedoms but also objecting to the specific proposals regarding changes to age ranges in Council maintained Schools and Academies which in an area served by a predominantly three tier education system could result in significant unintended consequences. The consultation closed on 24 October 2013 and an update will be given to the Council's Executive when the DfE response to the consultation is published on a date as yet unknown. A verbal update will be provided on the day of the Executive if the outcome is available at that point.

13. In February 2012 the process previously in place for establishing new schools under Part 2 of the Education and Inspections Act 2006 was amended by Section 37 and Schedule 11 of the Education Act 2011 and introduced a presumption that, aside from very limited circumstances, all new schools would be an Academy or Free School.
14. The Council is required to seek proposals to establish an Academy/Free School where it has identified the need for a new school. The process is outlined in detail in this report but requires the Council to seek interest from potential sponsors of the new provision with the successful sponsor ultimately a decision of the Secretary of State. This process must be followed for two proposals in this report, new Primary provision on the land North of Houghton Regis development and the new Lower School provision required as a result of development on land east and west of Arlesey.

**Risk Management:**

15. The nine proposals to commission new school places and to allocate related capital investment outlined in this report implement the identified need to manage demographic growth in the previously published school organisation plan and mitigate the risk on the Council of failing in its statutory duty to provide sufficient school places.
16. Key risks include:
  - Failure to discharge legal and statutory duties/guidance.
  - Failure to deliver the Council's strategic priorities.
  - Reputational risks associated with the non delivery of required school places.
  - Financial risks, including;
    - non realisation of anticipated Section 106 monies and anticipated levels of government grant; or
    - potential for overspend on any project within the programme.
  - Inability of schools to recruit suitable additional staff.
17. Without the formal process of strategic planning and implementation of required projects in place there is a risk that the DfE will not approve future allocations of Basic Need Funding to the Council. There is also a risk that Section 106 monies will not be able to be properly utilised or achieve the spend of funds in an appropriate and timely manner.
18. Changes are being made to the way in which contributions are secured from developers to meet infrastructure needs arising from new development. This involves a new regime – the Community Infrastructure Levy (CIL) – together with a reduced role for Planning Obligations through Section 106 of the 1990 Planning Act (s106).

19. The Council is considering introducing CIL in accordance with the Planning Act 2008 and the 2010 CIL regulations. The Government's current approach is to promote the use of CIL and seeks to ensure that use of s106 is reduced. The 2010 regulations introduced statutory restrictions on the use of s106 agreements and nominated a date, 6 April 2014, after which only a maximum of 5 individual s106 contributions agreed after 6 April 2010 can be pooled towards an infrastructure project or type. The April 2014 date has recently been changed by the Government to April 2015, thereby giving us slightly more time to get an agreed CIL regime in place.
20. The pooling restriction applies whether or not the Council chooses to adopt a CIL charge, which remains discretionary and can only be adopted when the Council has its updated local plan, the Development Strategy, in place. There is uncertainty over the legal interpretation and enforcement of this restriction and therefore its potential effect on current practice, particularly with regard to provision of educational places.
21. CIL will not replace S106 contributions, which can continue to be sought in a reduced form alongside CIL if restricted to site-specific mitigation of identified adverse impacts of development, particularly on larger sites. The Council must not, however, require developers to contribute to specific infrastructure requirements through both s106 and CIL for the same development and will need to prioritise its proposed CIL spend accordingly.
22. An essential prerequisite for CIL is an up-to-date local plan. The Council's plan, the Development Strategy, is currently being produced and was originally intended for adoption by February 2014. However, there has been a recent delay to this process arising from the publication of new demographic information by the Office for National Statistics (ONS), which potentially bring into question the overall housing provision in the draft Strategy. The implications of the new ONS information are still being assessed and, at the current time, a revised timetable has yet to be agreed. Every effort is being made to ensure we are in a position to adopt CIL in advance of the s106 restrictions being brought in, in April 2015. Nevertheless, a risk remains.
23. The introduction of CIL represents a revenue opportunity but also a potential threat to funding essential infrastructure needs which currently rely on Planning Obligations. Officers are currently considering the implications of the pooling restriction across services provided by the Council. The timetable for the Development Strategy is also under consideration.
24. In the meantime proposals for funding infrastructure relying on future s106 funding contributions received beyond April 2015 must be considered to intrinsically include an element of risk until the Development Strategy is adopted, until the legal implications are resolved and until the Government's intentions become clearer following the passing of new regulation into law. Further work is therefore underway to determine the potential impact on the funding arrangements for projects within the Council's New School Places Programme.

- 25 The commissioning of each of the nine projects in this report will include risk assessment and management criteria to ensure these and the proposed procurement route are clear to decision makers. Contract and construction risks will be overseen through the project management of the agreed projects which may be led by the schools, with appropriate safeguards in place as set out in the Procurement section below.

**Staffing (including Trades Unions):**

26. Staff and Trades Unions are consulted on all proposals to expand schools and Academies as part of the informal and statutory process required by regulations and DfE guidance.
27. Schools and Academies will have the support of their commissioned HR Providers where any proposals require changes in school staff structures or to terms and conditions of employment. The Council's Schools Statutory HR Team will monitor restructures to ensure redundancy charges to the Council are minimised and justified.
28. Each expanding school will need to increase the numbers of teaching and non-teaching staff to support the increase in pupil numbers. This will be funded through the school's Dedicated School Grant budget and the increased share which the school will receive.

**Equalities/Human Rights:**

29. The consultation and decision making process set out in regulation for proposals to expand Academies and Council maintained schools requires an evaluation on a project by project basis of any equalities and human rights issues that might arise.
30. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and to foster good relations in respect of the following protected characteristics: age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
31. This statutory duty includes requirements to:
- Remove or minimise disadvantages suffered by people due to their protected characteristics.
  - Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
  - Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
32. As decision maker for the proposals relating to Russell Lower School and St Andrews CofE VC Lower School, the Council has considered that there are no race or disability discrimination issues that arise from the changes being proposed.

**Public Health:**

33. Extended Services around School and Early Years settings will be further developed as a result of growing school populations.
34. The range of extended services that may be provided in schools includes:
- Parenting and family support officers.
  - Transition support for pupils, schools and families.
  - Combined clubs and after school activities.
  - Holiday activities.
  - Support for vulnerable pupils and families.

**Community Safety:**

35. Whilst it is acknowledged that schools have an important role under Section 17 of the Crime and Disorder Act 1998 to work alongside a range of other agencies to ensure safety in their local communities, the expansion of any school does have the potential to increase community safety issues around the school's location. These could include inconsiderate parking, low level anti social behaviour, noise, litter etc. These are issues that can, in some instances, have a significant impact on residents living in the school vicinity and place additional demand upon the services responsible for dealing with them. To meet its statutory duty in relation to crime and disorder the Council will need to work with these schools to ensure that community safety issues are considered and appropriate measures are put in place to mitigate any risks. The potential to further promote and support robust partnerships is one of the principles by which options for new school places are evaluated.

**Sustainability:**

36. Whilst there may be additional costs in order to meet sustainability objectives for new build and/or expansion of existing schools, these will be contained within the costs identified for each individual project within the programme. These measures would contribute to reduced running costs through better energy and resource efficiency, alongside creating a better learning environment for the pupils.

**Procurement:**

37. The tendering and approval process for awarding construction contracts will be in accordance with the Council's Code of Procurement Guidance and the thresholds indicated in section 5.1 of the Council's constitution. Where Schools or Academies are able to provide significant reassurance of their ability and capacity to procure and project manage the delivery of the required construction works to time and on budget, the Council will support this arrangement with appropriate oversight and governance in place.

38. Each proposal in the New School Places Programme is required by the Council's Policy Principles on Pupil Place Planning in Schools to be supported by a business case that establishes a guarantee of the quality of the new places being added to the system. Each business case is subject of evaluation against these Principles and the results are considered as part of the final Executive approval of any proposal and before approval to commence expenditure is given. A separate detailed capital business case will be provided for each project to accompany any Executive recommendation to give final approval and to commence expenditure.

**Overview and Scrutiny:**

39. This report has not been subject of prior consideration by the Children's Services Overview and Scrutiny Committee. The report has been circulated to members of the Committee and their comments will be presented at the Executive meeting.

**RECOMMENDATIONS:**

**The Executive is asked to:**

1.
  - i. **confirm that the procedures established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (as amended by The School Organisation and Governance (Amendment) (England) Regulations 2007 and The School Organisation and Governance (Amendment) (England) Regulations 2009, have been complied with in bringing forward the proposals to expand Russell Lower School, Amptill and St Andrews CofE VC Lower School as outlined in this report;**
  - ii. **confirm receipt of representations in respect of the proposal to expand Russell Lower School and the statutory notice as set out in Appendix B, issued on the 16 September 2013 under Section 19(1), of the Education and Inspections Act 2006. No representations were received in respect of the proposal to expand St Andrews CofE VC Lower School and the statutory notice as set out in Appendix D, issued on the 16 September 2013 under Section 19(3), of the Education and Inspections Act 2006;**
  - iii. **approve the statutory proposal to expand Russell Lower School, Amptill from its current capacity of 300 places to provide a total of 450 places for pupils aged 4+ to 9 with an implementation date of September 2015, subject to the grant of planning permission under Part 3 of the Town and Country Planning Act 1990 by 1 May 2014;**
  - iv. **approve the detailed business case attached at Appendix C, thereby approving the commencement of the project to expand Russell Lower School, Amptill and related expenditure;**



- 7. subject to timing and rate of housing developments in Arlesey and Houghton Regis, to approve commencement of the processes as set out in this report, to invite Academy/Free School proposals for the establishment of:**
- i. a new co-educational mainstream 2 Form Entry Primary School (plus provision for early years) for pupils aged 4+ to 11 years of age to serve the new North Houghton Regis development; and**
  - ii. a new co-educational mainstream 2 Form Entry Lower School (plus provision for early years) for pupils aged 4+ to 9 years of age in Arlesey.**

*Reason for Recommendations: To ensure the Council continues to meet its statutory obligations to provide sufficient school places and also to meet the legal requirements placed on the Council by the Education and Inspections Act 2006 regarding proposals to expand maintained schools. Commitment to expenditure and final approval of the proposals set out in recommendations 4-7 will be determined by the Council's Executive in August 2014, informed by the outcome of the consultation exercises, Education Funding Agency approvals where relevant, and business cases which are to be prepared by each School, Academy or prospective provider.*

## **Executive Summary**

40. This report outlines four proposals within the Council's New School Places Programme where local pressures of demographic growth within each school's existing catchment area require additional school places to be provided by September 2015. These proposals were originally reported to the Council's Executive on the 14 May 2013 and each was invited to undertake consultation as required by regulation, and to prepare a business case the outcome of which is set out in this report and the relevant appendices to the report. These four expansions are now recommended for approval, to commence each project and related capital expenditure.
41. In May 2013 the Council's Executive invited Holywell Academy and Cranfield Academy to expand, to undertake consultation required by the DfE and to prepare business cases for the Council's further consideration at its December 2013 meeting.
42. As a result of delayed housing development at Home Farm in Cranfield the expansions originally proposed of these two Academies are not now required by the original forecast implementation date of September 2015. Although the scale of expansion of Holywell Academy to provide 720 places by September 2015 is not now required, an initial phase of expansion of the school from its current capacity of 544 places, to provide 600 places from September 2015 is still required to accommodate growth in pupil numbers in the middle school age range in the local area and is therefore outlined in this report. The further proposed phase of expansion of Holywell Academy and the expansion of Cranfield Academy will be brought forward to Executive in due course.

43. In March 2013 the Council's Executive also approved a recommendation to invite the Academy of Stratton Upper School to prepare a business case for approval by the Council's Executive in August 2013 and to undertake consultation and approval processes required as an Academy by the Education Funding Agency to expand from its current capacity of 1,250 places to provide 1,650 places with an implementation date of September 2014.
44. In August 2013 the Council's Executive was advised that the project would be reported to the Council's Executive in December 2013 for proposed implementation in September 2015. This came as a result of a review of the forecast growth in Upper School pupil forecasts in the Biggleswade area and in order to give the Academy sufficient time to respond to recent Ofsted recommendations, prepare its business case, to procure architects to undertake detailed design for the expansion and to undertake the necessary approval processes required as an Academy by the Education Funding Agency.
45. As a result of a further review informed by the annual refresh of the Council's School Organisation Plan 2013 – 18 which is attached at Appendix H it is now proposed to report the project to the Council's Executive in August 2014, for proposed phased implementation from September 2016. In the meantime, the Academy is undertaking significant detailed design work and is also planning to consult on its proposed expansion as required by the Education Funding Agency, in early 2014. The Academy has confirmed its ability to accommodate forecast pupil numbers in the meantime and as reported to Executive in August, has already received a positive monitoring letter from Ofsted regarding its ability to respond to its recent inspection. The issue still remains that the Education Funding Agency suggestions that Councils should not expand schools that are neither good nor outstanding and this is reflected in the Council's policy principles. If by the time of the places coming into use, Stratton Upper School is not judged good or outstanding, evidence of a strategic partnership to provide support for pupils in the upper age range will be required of Stratton Upper School in partnership with a good or outstanding Upper School.
46. Each of the four proposals for implementation in September 2015 has been developed with support of the Governing Bodies or Board of the relevant school or Academy and each is aligned as set out in the report with the Council's Policy Principles for Pupil Place Planning in Schools as approved by the Council's Executive in February 2013. The only additional issue outside the policy principles relates to Stratton Upper School as explained above.
47. In addition to the four proposals to provide new school places by September 2015, the report also sets out five proposals to provide new school places by September 2016.
48. One of these proposals relates to the expansion of an Academy, two relate to the proposed expansion of Council maintained schools and a further two relate to the establishment of new schools. The Council is decision maker for proposals to expand Council maintained schools, whereas the Council can only invite and not direct Academies to expand and proposals are subject to the Secretary of State's approval and may require amendments to funding agreements and other of the Academy's legal documents.

49. Proposals to enlarge schools and Academies by a significant proportion require consultation to be undertaken, with Academies also required to submit a detailed report to the Education Funding Agency as part of their approval process for the Secretary of State.
50. Each proposal in the New School Places Programme is required by the Council's Policy Principles on Pupil Place Planning in Schools to be supported by a business case in a format set by the Council that establishes a measure of the quality of the new places being added to the system. Each business case is subject to evaluation against these Principles and the results are considered as part of the final Executive approval of any proposal and before approval to commence expenditure is given. A separate detailed capital business case will be provided for each project to accompany any Executive recommendation to give final approval and to commence expenditure.
51. In all instances where new school places are required and proposals are approved the Council is responsible for committing the relevant capital funding to implement required expansions and new build.
52. The report seeks Executive approval to the proposals previously subject of consultation to expand St Andrews CofE VC Lower School and Russell Lower School and to approve the detailed capital business cases thereby approving commencement of each project and commencement of expenditure.
- The report also invites the Executive to consider and to approve the detailed capital business case for the proposals to expand St Marys Academy and Holywell Academy thereby approving commencement of the projects and commencement of expenditure.
53. This report therefore asks the Executive to consider the proposals to provide new school places from September 2016 in Arlesey, Biggleswade, Houghton Regis and Silsoe, and it seeks Executive approval to:
- Commence consultation on the proposals to expand Edward Peake CofE VC Middle School and Silsoe CofE VC Lower School and to invite each school to prepare a business case for consideration by Executive with the outcome of the statutory process in August 2014.
  - Invite Houghton Regis Academy to expand and to prepare a business case for consideration by Executive in August 2014.
  - To commence processes to establish providers for a new Primary School in Houghton Regis and a new Lower School in Arlesey.
54. A report will subsequently be made to the Council's Executive in August 2014 to
- Consider the outcome of the consultations, determine the proposals and approve the business cases to expand Edward Peake CofE VC Middle School and Silsoe CofE VC Lower School, thereby committing to commencement of the project and related expenditure.

- Approve the business case submitted by Houghton Regis Academy thereby committing to commencement of the project and related expenditure.
- Consider an update report on the process to procure providers for the new Primary School in Houghton Regis and the new Lower School in Arlesey. The outcome of an evaluation of proposals received by the Council will be reported to enable the Executive to indicate its preferred provider which will ultimately be subject of Secretary of State's approval.

## **Legal Process for Proposals to Enlarge Council Maintained Schools and Academies**

55. In accordance with the Education and Inspections Act (EIA) 2006 DfE regulations outline the requirements and process for proposals to significantly enlarge Council maintained schools and these include full public consultation, the publication of statutory proposals and the decision making process. The Council is decision maker for proposals to enlarge maintained schools.
56. Proposals to significantly enlarge Academies are dealt with by the Education Funding Agency (EFA) which is responsible for operational work in relation to Academies. The definition of the enlargement of premises by a significant proportion is given in EFA guidance which sets out the process that must be followed by Academies seeking to make such changes.
57. The Secretary of State retains responsibility for the decision to make any significant changes to an Academy even though EFA does the operational work. The Secretary of State needs information on the following to make a decision:
- The educational benefits and value for money;
  - The degree of Council support;
  - The effect on other schools, academies and educational institutions within the Council area;
  - Whether the Academy has the capacity to deal with the change and in particular, whether the Academy's leadership and governance has the capacity and the expertise to be able to take-on such a significant transition without being deflected from its primary purpose of schooling. (This would also include consideration of the Academy's financial position)
  - Whether changes may be needed to the way the Academy is governed and whether any changes to the school's admission arrangements are being proposed;
  - Community support – the degree of support for the proposals that exists in the local community and whether any consultation has been undertaken;
  - Whether any issues have been identified around the existing school site: for example whether there are any foreseen proposed adaptations, additions, refurbishments or land transfers that are needed;
  - Whether the proposal is cost-effective both in terms of capital and recurrent funding. The proposal should include some indicative costings and a proposal as to how these might be met.

58. The process that the Academy must follow with its proposal commences with an initial approach to the Education Funding Agency (EFA) with details of the change requested. An 8 week consultation period follows with stakeholders, including parents and other schools. The Academy then submits a report to the EFA providing the information set out above (to include consultation responses and the Academy's response to consultation) and the EFA analyses the business case and makes a recommendation to the Secretary of State. The Secretary of State determines the proposal and EFA notifies the Academy of the decision and any changes required to the Academy's legal agreements and articles.
59. The Council will support Academies in this process and early engagement has already been undertaken between Council officers and EFA staff to ensure visibility of the proposals contained within this report and of others that may be forthcoming in future years.
60. Each proposal will be supported by a business case drafted in a format set by the Council that establishes a guarantee of the quality of the new places being added to the system based on the school's vision and educational plan. In addition to its Ofsted rating, the business case will also require the school to outline its performance in terms of results and improvement over time in key stage assessments, in terms of value added and in comparison with other schools in similar circumstances. The business case will require the school to set out its improvement targets.
61. Where the school or Academy that is subject to an expansion proposal is also intended to procure and deliver the capital project with the support of the Council, the business case will require assurances of the capability and capacity of the school to deliver the proposal to time and on budget, based on their expertise and experience. A formal payment mechanism and agreement will also be established between the school and the Council to ensure that the funding is allocated in a timely and appropriate manner and to secure the long-term retention of the additional places.
62. Each business case will be evaluated against the Council's Policy Principles for Pupil Place Planning in Schools and the outcome will be considered as part of the final Executive approval of each project in August 2014. Each project will also be supported by a detailed capital business case as required by the Council's constitution, to support an Executive recommendation for approval to commence expenditure.

### **Legal Process for Establishing New Schools**

63. The Education Act 2011 changed previous arrangements for establishing new schools and introduced section 6A (the academy/free school presumption) to the Education and Inspections Act 2006. Where the Council identifies a need for a new school in its area to meet demand for new school places, rather than through an expansion of an existing school or academy, it must seek proposals to establish an academy/free school.
64. The Council is responsible for providing the site for the new school and meeting all associated capital and pre/post opening revenue costs. Capital requirements are contained within the budget established for each project and revenue costs are met through the Growth Fund (dedicated schools grant).

65. The Council must notify the Secretary of State of its plans to seek proposals for a new school as soon as the need for a new school has been agreed and it is required to publish its specification for the new school and invite potential sponsors to submit an application.
66. Once formal proposals are received by the Council, the Secretary of State must be provided with details of all proposers. The Secretary of State will then notify the Council if he has any concerns about a proposer's capability or capacity to deliver the new provision.
67. The Council will assess all proposals received and the outcome will be sent to the Secretary of State. In deciding the proposer with whom he would be prepared to enter into a funding agreement, the Secretary of State will consider the Council's assessment and the preference indicated by the Council will be a key factor in that consideration.
68. All new academy/free school proposals require the Secretary of State's approval. It is the Secretary of State who will enter into a funding agreement with the proposer.
69. In summary the process comprises the following:
  - Approval by Executive of the need to commission a new school.
  - Drafting of template specification of new school.
  - Publication of public notices in local and national press.
  - Notification and Council impact assessment to DfE.
  - Application period of 8 weeks for potential sponsors using a standard form.
  - 6 week period of Council assessment of applications against published criteria.
  - Recommendation to Executive.
  - Submission to DfE.
  - Secretary of State approval to enter funding agreement with chosen provider.

### **Commissioning of New School Places for September 2015**

70. This report outlines four proposals within the Council's New School Places Programme where local pressures of demographic growth within each school's existing catchment area require additional school places to be provided by September 2015. These proposals were originally reported to the Council's Executive on the 14 May 2013 and refer to the expansion of the Council maintained schools of St Andrews CofE VC Lower School and Russell Lower School and the Academies of St Marys Academy and Holywell Academy.
71. Each was invited to undertake consultation as required by regulation, and to prepare a business case the outcome of which is set out in this report and in the relevant appendices to this report. These four expansions are now recommended for approval, to commence each project and related capital expenditure.

## **Russell Lower School and St Andrews CofE VC Lower School**

72. In accordance with the Education and Inspections Act (EIA) 2006 DfE regulations outline the requirements and process for proposals to significantly enlarge Council maintained schools and these include full public consultation, the publication of statutory proposals and the decision making process. The Council is decision maker for proposals to enlarge maintained schools.
73. On the 14 May 2013 the Council's Executive approved the commencement of consultation and the publication of statutory notices for the proposal to expand Russell Lower School. The Executive also indicated its support for the commencement of consultation and the publication of statutory notices by the School's Governing Body to expand St Andrews CofE VC Lower School.
74. The initial consultation period for both proposals commenced on 12 June 2013 to 10 July 2013. The Council worked in partnership with each school to undertake the consultation which included a public meeting, to ensure that the process followed that set out in DfE guidance and regulation.
75. The consultation materials, minutes of the public meeting and copies of all responses, is attached at Appendices B and D to this report. The initial consultation for the proposal to expand Russell Lower School received 33 responses in total of which 67% indicated support. The initial consultation for the proposal to expand St Andrews CofE VC Lower School received 35 responses in total of which 91% indicated support.
76. On the 31 July 2013 the Deputy Chief Executive/Director of Children's Services considered the responses received to the initial period of statutory consultation and approved the publication of statutory proposals, under Section 19(1) of the Education and Inspections Act 2006 for the proposed expansion of Russell Lower School.
77. Likewise on conclusion of the initial period of consultation the Governing Body of St Andrews CofE VC Lower School considered the responses received to the initial period of statutory consultation and approved the publication of statutory proposals, under Section 19(3) of the Education and Inspections Act 2006.
78. The statutory notices were published in line with DfE guidance on 16 September 2013 along with evidence of the initial consultation and other information prescribed by regulation inviting further comment or objection to the proposals by the end of the representation period on 14 October 2013.
79. Copies of the Statutory Notice and the prescribed information for each proposal are also attached at Appendices B and D.
80. No representations were received to the proposal to expand St Andrews CofE VC Lower School. Two representations were received objecting to the proposed expansion of Russell Lower School covering issues related to the site, to the intended size, design and phasing of construction works to the existing school, its catchment area, transport concerns and to the benefits of expansion to those children currently attending the school. The representations are attached to this report as part of Appendix B.

81. The issues raised in each objection were reviewed by the School and by Children's Services. They were considered to have been answered at the public meetings and in the original consultation document or are matters that will be addressed through the design of the expanded school and in further work being undertaken with the school and The Firs to review catchment areas in the town.
82. In considering the proposals the decision maker may decide to reject, approve or to approve with modifications or conditions (e.g. the implementation date). In either case, the reasons for the final decisions must be carefully recorded indicating the main factors considered and the reasons for the decision. A copy of the final decisions must be forwarded to a range of bodies specified in guidance.
83. If the Council were to fail to decide these proposals within 2 months of the end of the representation period it must forward proposals, and any received representations, to the schools adjudicator for decision.
84. Each School's business case has been evaluated by the Council. The proposals comply with the Policy Principles for Pupil Place Planning in Schools and each school's ambition is aligned with the Council's Education Vision, as set out in the detailed capital business case for the projects as attached at Appendices C and E.
85. Having followed the procedure required by regulation and in consideration of the key issues and factors for decision makers set out in guidance it is recommended that the proposals to expand Russell Lower Community School and St Andrews CofE VC Lower School, as set out in this report and published by Statutory Notice issued on 16 September 2013, be approved with an implementation date of 1 September 2015. The detailed capital business case for the project, attached at Appendices C and E are also recommended for approval to enable commencement of the projects and related expenditure.

### **St Marys Academy and Holywell Academy**

86. The DfE has also produced guidance for Academies wishing to make significant changes including proposals to enlarge premises by a significant proportion. The proposals to expand St Marys Academy in Stotfold and Holywell Academy in Cranfield as set out in this report, have not been required to follow this process as the proposed increases in capacity do not reach the trigger point set out in the DfE guidance.
87. In response to the invitation from the Council's Executive in May 2013, each Academy has produced a business case attached to this report at Appendices F and G.
88. Both business cases have been evaluated by the Council and are recommended for approval to enable commencement of the projects and related expenditure. Each project's budget is now less than the indicative budget reported to Executive in May 2013 as a result of the outcome of detailed feasibility studies and further cost modelling. The proposals comply with the Policy Principles for Pupil Place Planning in Schools and each school's ambition is aligned with the Council's Education Vision.

## **Commissioning of New School Places for September 2016**

### **Edward Peake CofE VC Middle School**

89. Up to 2018 1,063 dwellings are planned for the Biggleswade area including 1,020 dwellings within the Land East of Biggleswade, South of Potton Road and Kings Reach developments. From 2019 to 2027 a further 903 dwellings are planned for the Biggleswade area within the Land East of Biggleswade, South of Potton Road and Kings Reach developments.
90. The additional school places required as a result of the scale of demographic growth in the area is intended to be met through the new 2 Form Entry, 300 place expansion of St Andrew's Lower School proposed for implementation in September 2015 on a new site within the new development and through the proposed expansion of Stratton Upper School which is under consideration for implementation from 2016.
91. The need for additional middle school places is proposed to be met through the expansion of Edward Peake Middle School which is immediately adjacent to the largest of the development areas at Kings Reach. The S106 agreement also includes provision for an allocation of land for additional playing fields. The proposed expansion would take the school from its current capacity of 480 to 600 places.
92. In terms of the Council's Policy Principles for Pupil Place Planning in schools this proposal will provide local places for local children promoting sustainable modes of travel and will create a more financially and educationally viable middle school above the suggested minimum size of 480 places. It will mean expansion of a popular and Ofsted rated Good school and will promote further partnership working within the Biggleswade Community Union of Schools which is already working together to deliver new places at Lower and Upper Schools. A feasibility study will be commissioned to inform the design process and ensure that capital investment in the expansion of the school also seeks opportunities to create inspirational learning environments for the school and to maximise community use.

### **Silsoe CofE VC Lower School**

93. Up to 2018 270 dwellings are forecast to be built within the former Cranfield University Campus development in Silsoe. The development is expected to produce approximately 15 children per year group. To manage this it is proposed that Silsoe Lower School relocates to a new site within the development, providing a new building to allow the school to increase its intake from September 2016.
94. The existing school is located on a limited site in Silsoe and for this reason, expansion of the existing school on the site is not recommended. The S106 agreement for the Cranfield University included a requirement for a new school site located in conjunction with the proposed new sports /community hall with a view that some of the facilities could be shared thereby making best use of the available resources.

95. The current school has a capacity for 135 and is now coming under increasing pressure for places from the new development. It is proposed that the new school should cater for up to 240 pupils in the future to also accommodate the SEN unit attached to the school and to enable the continuation of the outreach work from the Children's Centre. Formal external facilities will be shared with the community centre which is also scheduled to be opening in 2015/16 in line with the S106 obligations. This may also release the existing site for alternative use once the school has relocated subject to obtaining the necessary approvals.
96. In terms of the Council's Policy Principles for Pupil Place Planning in schools this proposal will provide local places for local children promoting sustainable modes of travel and will create a more financially and educationally viable lower school close to the suggested optimum size of 300 places. It will mean expansion of a popular and Ofsted rated Outstanding school and will promote further partnership working with the outreach work currently provided through the Children's Centre.
97. A feasibility study will be commissioned to inform the design process and ensure that capital investment in the expansion of the school also seeks opportunities to create inspirational learning environments for the school and to maximise community use. The relocation of the existing SEN provision on site will also continue to provide support for vulnerable learners by integrating appropriate Special Educational Needs provision within the mainstream school.
98. If the recommendations are approved as set out in this report to commence consultation and publish statutory notices for the proposed expansions of the Council maintained schools of Edward Peake CofE VC Middle School and Silsoe CofE VC Lower School, the outcome will be reported to the Council's Executive as final decision maker in August 2014.

### **Primary and Secondary Places in Houghton Regis**

99. Up to 5150 new homes are proposed on land to the north of Houghton Regis as set out within the recently CBC approved outline planning application linked to the development of the A5-M1 link road. If formally approved, this will result in a requirement for new primary school provision and an increase in Secondary school places.
100. Subject to the approval of the planning application, the proposed S106 requires the provision of 3 new primary school sites, the first of which may, subject to the rate and location of the housing development, be required as soon as September 2016. As a new school, this would be subject to the requirement to follow the DfE process to commission a new provider of the school as set out in paragraphs 57 – 63 of this report.

101. In terms of secondary provision, there is an existing DfE approval of a phased expansion of Houghton Regis Academy to eventually provide 9 Forms of Entry if required to help meet the demand from the developments north of Houghton Regis. At this stage, and to coincide with the schools current transformation from a former middle school to become an 11-18 secondary school, this will require additional places to be available with effect from September 2016. In line with the agreed Heads of Terms for the S106 agreement, this would be the start of new provision on the eastern most part of the former Kingsland Campus site to also eventually replace the existing former middle school to the west of the site.

### **Lower School Places in Arlesey**

102. Up to 2018 1,179 dwellings are planned for the overall Samuel Whitbread area and this includes 350 dwellings within the Land at Chase Farm and Land West and North East of High Street development in Arlesey. From 2019 to 2027 865 further dwellings are planned for the Samuel Whitbread area, including 650 dwellings within the Land at Chase Farm and Land West and NE of High Street development in Arlesey.
103. Additional lower school provision will therefore be required in Arlesey, to cater for the Land at Chase Farm and Land West and NE of High Street developments which at present are forecast to produce a total of 1,000 dwellings although this may increase.

Presently, Arlesey is served by a single lower school, Gothic Mede which is currently operating as a 2-3 Form Entry lower school and has recently been supported with additional temporary accommodation to meet its current need. There is no spare lower school capacity to accommodate the new housing, hence it will be important to provide this at the commencement of the proposed new development.

104. At this stage, and subject to the progress of planning applications for the development, this is expected to be from September 2016. Since this is a new school provision this should be subject to the formal commissioning of a new provider in line with DfE requirements as set out in paragraphs 57 - 63 of this report. Existing schools/trusts will also be able to apply to be the new provider.

### **Conclusion**

105. The proposed expansions of St Andrews CofE VC Lower School and Russell Lower School have followed statutory processes and are now recommended for approval. Executive is also asked to approve the detailed capital business cases attached at Appendices C and E thereby approving commencement of each project and commencement of expenditure.
106. The proposals to expand the permanent capacity of the academies of St Marys Lower School, Stotfold and Holywell Middle School, Cranfield are outlined in the business case attached at Appendices F and G. The proposals do not reflect 'significant' enlargement in legislative terms and have not therefore had to follow the process required by the Education Funding Agency. Executive is asked to approve the business cases, enabling each academy to tender for design and build contracts to deliver the planned building works as set out in this report.

107. The proposals to expand Edward Peake CofE VC Middle School and Silsoe CofE VC Lower School, in accordance with the Education and Inspections Act 2006, constitutes a significant expansion of the existing schools which requires both informal consultation and the publication of Statutory Proposals before the Council can finally determine the proposals.
108. Therefore, it is recommended that Executive approve the commencement of informal and statutory consultation on the proposals to expand the voluntary controlled schools of Edward Peake CofE VC Middle School and Silsoe CofE VC Lower School to provide additional places as outlined within the report.
109. The proposal to expand Houghton Regis Academy will add required additional places to the system and while it is not a 'significant' enlargement in legislative terms, it will nevertheless require the Council eventually to commit to expenditure from the New School Places Programme. For that reason the Executive is asked to invite the Academy, along with the other schools in this report, to prepare a business case for final approval at the Executive's meeting in August 2014.
110. The proposals to commission a new Lower School in Arlesey and a new Primary School in Houghton Regis are required to follow a formal process to identify the provider for these new Academies. The process is set out in this report and it is recommended that the Executive approve commencement to enable potential providers to make applications to the Council, the outcome of which will be reported to the Council's Executive in August 2014.

### **Appendices:**

Appendix A - New School Places Programme 2013/14 – 2017/18 – Projects for September 2015 implementation

Appendix B – Consultation materials, responses, Statutory Notice and representations received – Russell Lower School, Ampthill

Appendix C –Capital Detailed Business Case - Russell Lower School, Ampthill

Appendix D – Consultation materials, responses and Statutory Notice – St Andrews CofE VC Lower School, Biggleswade

Appendix E - Capital Detailed Business Case – St Andrews CofE VC Lower School, Biggleswade

Appendix F - Capital Detailed Business Case Holywell Academy

Appendix G - Capital Detailed Business Case St Marys Academy

Appendix H – Central Bedfordshire's School Organisation Plan 2013 – 2018