
Meeting: Executive

Date: 19 August 2014

Subject: Determination of Statutory Proposals to close Brewers Hill Community Middle School, Streetfield Community Middle School and Ashton Church of England (C of E) Voluntary Aided (VA) Middle School

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

Summary: The report provides information regarding the responses to the statutory notices published as a consequence of the decision taken by the Council's Executive at its meeting on the 27 May 2014 regarding the phased closure of the Community Schools of Brewers Hill Middle School and Streetfield Middle School and the C of E VA School of Ashton Middle School from September 2015, with full closure from August 2016. The report also provides a response to each of the schools' business cases for their alternative proposals submitted as part of their response to the statutory notices.

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

Contact Officer: Helen Redding, Assistant Director School Improvement

Public/Exempt: Public

Wards Affected: Dunstable Central, Dunstable Icknield, Dunstable Manshead, Dunstable Northfields, Dunstable Watling, Caddington.

Function of: The Executive

Key Decision Yes

Reason for urgency/ exemption from call-in A call-in would prevent the Council from reaching a decision on the recommendations set out in this report and delay the publication of the composite prospectus for parents and carers applying for a school place for September 2015, which needs to be published in time for the admission rounds opening on 1 Sept 2014. Any delay likely to be caused by the call-in process would seriously prejudice the Council's and the public's interests.

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. Schools budgets are funded through Dedicated Schools Grant (DSG). There are financial implications for the schools identified within previous reports with regard to their budgets for 2014/2015 and beyond. Budgetary provisions for redundancy payments as a consequence of a school closure are the responsibility of the Council. Should a maintained school close with a deficit budget, the deficit falls to the de-delegated school DSG contingency budget. If there is not sufficient budget within the de-delegated DSG school contingency, a deficit on central expenditure can be applied to the next year to be funded by the schools budget. This deficit would fall on either DSG (which would impact on all maintained schools budgets) or the Council. The Schools Forum makes this decision, and the Department for Education (DfE) adjudicates where School Forum does not agree.
2. Following consultation with schools and others in September 2013, and the recommendations of the Schools Forum, the Council's Executive approved the distribution of DSG at its meeting on 14 January 2014. This included approval of the recommendation of using admissions applications data for calculating schools' budgets for a limited number of schools and Academies that are affected by their own change in age range or the impact of others locally. This is to ensure that as far as is possible the financial resources follow the pupils where age range changes are approved, based on January admissions applications data for the period September 2014 to March 2015, rather than the previous year's October Census data.
3. Each school's budget share has been calculated based on the October 2013 census for the period April to August, and on the admissions applications data in January for the period September to March. If the actual numbers differ by more than 10%, an adjustment will be applied the following September. If the impact of this is that a school finds itself in financial difficulty, maintained schools can apply to the Council for a licenced deficit, and the Council will evaluate the proposal and support the school to address the issues.
4. The Governing Body of each school is required to manage their budget in accordance with the Council's financial procedures for Maintained schools. Where a deficit budget is identified schools may need to reduce staffing as part of a recovery plan. In accordance with the 2002 Education Act and the Council's Redundancy Procedures for School Based Staff the default position is that redundancy costs must be charged to the Council's budget. The DSG budget has no provision for redundancy costs therefore all costs arising from school based redundancies must be met by the Council's corporate budget.
5. If the outcome of this consultation process results in a decision to close the schools all employees engaged in the schools at the point of closure will be at risk of redundancy. The Council would seek to mitigate declaring compulsory redundancies as outlined in paragraph 26 of this report, however where posts are required to be declared redundant due to a school closure all redundancy and premature retirements costs incurred at the point of school closure will be met by the Council. This may result in significant redundancy and premature retirement costs to the Council.

6. Streetfield Middle School and Brewers Hill Middle School are both Community Schools with land and buildings owned by the Council. This report does not include consideration of potential future use or disposal of either site. If the outcome of this consultation process results in a decision to close either or both of these schools, subsequent reports will be made to the Council's Executive on options for the land and buildings.
7. The land occupied by Ashton Middle School is owned by the Ashton Foundation and the school is a St Albans Diocese School. If the outcome of this consultation process results in a decision to close the school, the Ashton Foundation would need to consider future use of the land and buildings.

Legal:

8. 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.
9. To help meet these duties and restructure local provision Council's also have the power to close all categories of maintained schools. Reasons for closing a maintained mainstream school may include:
 - where it is being replaced by a new school;
 - where it is to be amalgamated/merged with another school; or
 - where it is surplus to requirements (e.g. as a result of area wide school reorganisation and/or where there are sufficient places in neighbouring schools to accommodate displaced pupils).

In this instance, the process has been initiated as a consequence of the schools as middle schools being surplus to requirements.

10. The main legislation governing the discontinuance of Council maintained schools in force, when the report to the Council's Executive on the 4 February proposing to initiate the consultations was published, was contained in the Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 (as amended by The School Organisation and Governance (Amendments) (England) Regulations 2007 which came into force on 21 January 2008 and The School Organisation and Governance (Amendment)(England) Regulations 2009 which came into force on 1 September 2009).

11. As a result of Department for Education (DfE) proposals published in 2013, these regulations have now been revoked and replaced by The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 which came into force on 28 January 2014. The DfE has also published revised guidance to provide additional information on the procedures established by the new regulations to outline the detailed requirements and process for proposals to close Council maintained schools that include full public consultation, the publication of statutory proposals and the decision making process. This new guidance was published in final form on 21 February 2014. Under Section 16(3) of the Education & Inspections Act 2006 the Council, as proposer of the school closures covered in this report, must have regard to the guidance issued by the DfE.
12. The revised statutory process to close a Council maintained school continues to have 5 stages:
 1. Full public consultation - Minimum of 6 weeks recommended in DfE guidance.
 2. Publication of Statutory notice – following consideration of outcome of initial consultation.
 3. Representation period – Final period of 4 weeks to enable people and organisations to express their views about the proposals and ensure that they will be taken into account by the Decision Maker.
 4. Decision – The Council Executive determination of the proposal, within 2 months of the end of the representation period, otherwise it will fall to the Schools Adjudicator.
 5. Implementation – Putting into effect of the proposed closure.
13. The Council is able to propose the discontinuance of the maintained schools as set out in this report and is also decision maker for these proposals. On the 4 February 2014 the Council's Executive approved commencement of consultation, represented by Stage 1 of the process set out above. On 27 May 2014 the Council's Executive approved progression to Stage 2, the service of statutory notices. Publication of Statutory Notices automatically includes the commencement of the Stage 3 Representation period. This report reflects Stage 4 of the process, which is determination by the Council's Executive.
14. The DfE guidance for decision makers contains a number of key factors to be considered when a final decision is made on school organisation proposals, represented by Stage 4 in the process as set out above. Decision makers determining school closure proposals must consider these factors and all of the views submitted throughout the consultation process, including all objections to and comments on the proposals. The guidance is clear that these factors should not be taken to be exhaustive and all proposals should be considered on their individual merits.

15. The factors outlined in statutory guidance for school organisation proposals include:
 - Consideration of consultation and representation period
 - Education standards and diversity of provision
 - Demand
 - School size
 - Proposed admission arrangements
 - National curriculum
 - Equal opportunity issues
 - Community cohesion
 - Travel and accessibility
 - Capital
 - School premises and playing fields.
16. In addition, the guidance sets out additional factors relevant to the closure proposals set out in this report which include:
 - Arrangements and capacity elsewhere for displaced pupils;
 - Popularity of those schools with surplus places and evidence of parents aspirations;
 - Schools to be replaced by provision in a more successful/popular school;
 - Schools causing concern;
 - Balance of denominational provision;
 - Community Services.
17. Proposals that make changes to special educational needs (SEN) provision must also be carefully considered and evaluated by the decision maker. This factor is relevant to the proposal to close Streetfield Middle School which currently includes a Specialist Autistic Spectrum Disorder (ASD) Provision, which would need to be re-commissioned if the school were to close.
18. The reports to the Council's Executive of 4 February 2014 and 27 May 2014 have reflected upon each of the factors set out in paragraphs 15, 16 and 17. Other factors that have arisen throughout the consultation phases are also included. This will provide the information required for the Council's Executive to make a final decision on 19 August 2014.
19. If the proposals to close the schools in this report are approved, the local Church of England (CofE) Diocese of St Albans, the Bishop of the local Roman Catholic Diocese of Northampton and the governing body and trustees of Ashton CofE Voluntary Aided Middle school have a right of appeal to the schools adjudicator if they disagree with the Council's final decision at Stage 4 in the process as set out previously in this report. The Governing Bodies of the Community Schools of Streetfield Middle and Brewers Hill Middle have no right of appeal to the schools adjudicator.

Risk Management:

20. The proposals to close the 3 Council maintained schools which have been the subject of a 6 weeks consultation followed by a 4 week Statutory Notice period as set out in this report supports the need to manage the supply of school places in the Dunstable area by reducing the significant surplus in places in Years 5 to 8, and addressing the impact that reducing rolls will have on the financial viability of these 3 schools and the education of children accommodated within them.
21. Key risks associated with taking no action include:
- Failure to discharge the Council's legal and statutory duties/guidance.
 - Failure to deliver the Council's strategic priorities.
 - Reputational risks associated with the ineffective management of school places.
 - Inefficient use of dedicated schools grant and corresponding reduction in funding for all other schools and Academies in Central Bedfordshire.
 - Financial and educational unviability as pupil numbers fall further.
 - Unplanned and un-coordinated loss of teaching and support staff.
22. If these proposals are approved once due process has been followed, each will be project managed to delivery which will include risk assessment and management processes overseen by a Project Team from the Council and involving key school staff. External support for each school will be commissioned as appropriate by the Council. The financial risks are identified in paragraphs 1, 4 and 5, with some mitigations identified in paragraph 26.

Staffing (including Trades Unions):

23. Staff and Trade Unions/Professional Associations have been consulted on proposals to close Council maintained schools as part of the informal and statutory process required by regulations and DfE guidance.
24. Alongside the proposals set out in this report, all 3 schools have been advised to seek advice from their Human Resources (HR) Provider regarding any restructuring of staffing as a consequence of the reducing numbers of pupils at the schools from September 2014.
25. The Council's HR Team has monitored all proposed restructures to ensure redundancy charges to the Council are minimised and justified, and the Team will be represented in the Project Team created to deliver each school's closure, if this is the decision that is made.

26. Opportunities would be sought to ensure that good staff are retained in the area where possible and staff wish it. Schools will be supported to consider incentives for retention of key staff throughout a phased closure process, if this is the decision that is made. If agreed and can be afforded by the school, this process would need to be in accordance with conditions of service, be transparent and be discussed and agreed with Trade Unions/Professional Associations. Employment in other schools in the area that will have opportunities due to their changing age ranges can also be encouraged and facilitated through the use of the schools redeployment policy. The Council do not have any powers to redeploy staff to other schools as the Governing Body of each school is responsible for the appointment of staff.

Equalities/Human Rights:

27. The consultation and decision making process set out in regulation for proposals to close Council maintained schools requires an evaluation of any equalities and human rights issues that might arise.
28. 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.
29. 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.
30. The proposals would impact on provision for children with special educational needs and disabilities placed in the specialist provision for children with ASD at Streetfield School. If the decision was taken to close the school this would be re-commissioned locally and the SEN Improvement Test will be applied.

Public Health:

31. The range of Extended Services provided by schools may include:

- 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.

These services can have an important impact on public health and be of benefit to the communities in which the schools are based although they will become increasingly unviable as any hosting school suffers a significant fall in pupil numbers. If a decision is taken to close the schools, alternative local services will be identified to ensure that any extended service currently being provided from these school sites will be re-provided.

Community Safety:

32. 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 closure of any school site also has the potential to increase community safety issues around the school's location as disused buildings can attract anti social behaviour and have a significant impact on residents living in the school vicinity, placing additional demand upon the services responsible for dealing with them. To meet its statutory duty in relation to crime and disorder the Council as landlord for both Brewers Hill Middle School and Streetfield Middle, and the Ashton Foundation as Trustees of Ashton Middle School will need to work to ensure that community safety issues are considered and appropriate measures are put in place to mitigate any risks.

Sustainability:

33. Not applicable.

Procurement:

34. Not applicable.

Overview and Scrutiny

35. A report was considered by the Children's Services Overview and Scrutiny Committee on 22 July 2014. The Overview and Scrutiny Committee's views are set out below in relation to each of the schools:

36. Brewers Hill Middle School

1. That the school's proposal represents significant risk that had not been addressed in the business case with regards to finances.
2. Concern that future curriculum delivery from reception to year 11, especially for years 9-11, was questionable in such a small school.
3. That predicted future pupil numbers could not be guaranteed.
4. For the Executive to consider the scale of additional secondary places that is acknowledged will be required from September 2016.

37. Streetfield Middle School

5. That the school's proposal represents significant risk that had not been addressed in the business case with regards to finances.
6. That predicted future pupil numbers could not be guaranteed.
7. That the Executive recognise the innovative alternative model submitted by the school, but take into consideration the financial risk.
8. Concerns on the impact for other schools in the area on pupil numbers if the alternative model submitted was implemented.

38. Ashton Middle School

9. That the proposed Ashton Model was of interest, but the Committee were concerned regarding the financial risks of implementation that had not been addressed in the business case.
10. That predicted future pupil numbers could not be guaranteed, however, the school could gain pupils out of catchment area from Luton.
11. For the Executive to consider the scale of additional secondary places that is acknowledged will be required from September 2016.
12. Consider the risk attached to financial deficit in the interim if the proposal was approved and the school remained open.

RECOMMENDATIONS:

The Executive is asked to:

- 1. consider the responses to the statutory notice for the closure of Brewer's Hill Community Middle School, including the school's business case for an alternative proposal;**
- 2. a) approve the statutory proposal to close Brewer's Hill Community Middle School with a modified implementation date of phased closure from September 2016 with final closure in August 2017, for the reasons set out in paragraphs 69 – 95;**
b) note that Executive approval will be sought to modify the implementation date should Beecroft Academy be able to accommodate Year 5 children in September 2015.
- 3. consider the responses to the statutory notice for the closure of Streetfield Community Middle School, including the school's business case for an alternative proposal;**
- 4. approve the statutory proposal to close Streetfield Community Middle School implemented with a phased closure from September 2015 with final closure in August 2016 for the reasons set out in paragraphs 99 – 120;**
- 5. consider the responses to the statutory notice for the closure of Ashton C of E VA Middle School, including the school's business case for an alternative proposal; and**
- 6. approve the statutory proposal to close Ashton C of E VA Middle School implemented with a phased closure from September 2015 with final closure in August 2016 for the reasons set out in paragraphs 124 – 142.**

<i>Reason for Recommendations:</i>	<i>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 School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2013 regarding proposals to close the three maintained schools as set out in this report. Determination of each of the 3 statutory proposals is now required by the Council's Executive, informed by the outcome of the Statutory Notice period. The Council's Executive is required to make its decision within 2 months of the end of the consultation period, which finished on 7 July 2014.</i>
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Summary

39. The purpose of this report is to provide the Council's Executive with information on the responses to the Statutory Notices published on 9 June 2014 to close Brewers Hill Community Middle School, Streetfield Community Middle School and Ashton Church of England Voluntary Aided Middle School.
40. The report sets out a summary of the responses to the consultation for each school, and provides an evaluation of each of the schools' business cases giving alternative options to closure that have been submitted by the schools in response to the Statutory Notices.

Background

41. The Council's Executive considered a report at its meeting on the 4 February 2014 which set out the rationale for commencement of consultation on proposals to close Streetfield Community Middle School, Brewers Hill Community Middle School and Ashton C of E VA Middle School from August 2016.
42. The future viability of the three schools in this report has been evaluated and reported to the Council's Executive on the 4 February 2014 on the basis of reduced applications for admission to Year 5 in each school in September 2014 and increased numbers of children applying to transfer from each school at the end of Year 6 to take a place in Year 7 at one of the secondary schools in the area from September 2014.
43. The report to the Council's Executive on 4 February 2014 also illustrated the forecast reduction in the total number of children attending each of the 3 schools based on Admission applications, and the consequential impact on the reduction in revenue funding that the schools will receive from September 2014. The report highlighted the challenges both the reduction in pupil numbers and therefore budget would have on the ability of the schools to continue to deliver both the Key Stage 2 and Key Stage 3 curriculum in their schools.

44. On the basis of this information, the Council's Executive approved the recommendations to initiate a 6 week period of consultation, required by regulation, for each proposal on the 24 February 2014 concluding on the 7 April 2014. The details of these consultations are set out in the report to the Council's Executive on 27 May 2014.
45. The report to the Council's Executive on 27 May 2014 set out the background to the proposals, which relate to the changed pattern of provision and therefore admission and transfer points in the local area which has significantly altered the supply of places with particular impact on the 3 identified middle schools. That report set out in detail the availability of places within the local area, and clearly set out the high percentage of surplus places in particular year groups. If no action was taken there would be between 63% and 65% surplus places across the year groups served by middle schools. The report also included information on the number and percentage of places available should all 3 proposals be implemented, which showed that there would still be between 14% and 15% more places available within the local area than currently needed for school place planning.
46. Secondary schools across Dunstable and Houghton Regis are currently able to accommodate a total minimum capacity of 802 places in each Year group 7 to 11. These schools are All Saints Academy, Houghton Regis Academy, Manshead School, Priory Academy and Queensbury Academy. This excludes additional capacity currently available at Year 7 and 8 in Caddington Village School (75 places per year), Barnfield Vale Academy (100 places per year) and in Year 10 and 11 in the University Technical College (75 places per year).
47. The following table indicates the total number of pupils accommodated in year groups across all lower and primary schools in Dunstable and Houghton Regis that could seek transfer to a Year 7 place in a local secondary school over the next five years.

Year	Sept 2015	Sept 2016	Sept 2017	Sept 2018	Sept 2019
Pupils	731	767	783	848	913

48. Current school census data indicates that the 913 pupils who will be in Year 2 from September 2014 (Year 7 in September 2019) is a high point in the size of current cohorts with numbers reducing to 882 currently in Year 1, 875 in Year R, 847 3-4 year olds and 803 2-3 year olds.
49. As set out in the report of the Council's Executive of 27 May 2014 the proposed North Houghton Regis development is intended to provide new educational infrastructure for the new community early in the construction phase. In addition, over the next five years the Dunstable and Houghton Regis area is forecast to see housing growth of approximately 850 new dwellings which will produce additional pupil yield of approximately 45 children per year group.

50. The main developments are in the Dukeminster/Central Bedfordshire College/White Lion Retail Park area, the French's Avenue area and at Chaul End in Caddington. Each of these developments is likely to produce a pupil yield of 15 children per year group.
51. The following table indicates the total number of pupils accommodated in year groups across all lower and primary schools in Dunstable and Houghton Regis, plus the forecast pupil yield calculated from the anticipated build rate of the new housing developments. This gives a forecast of the total pupil numbers that could seek transfer to a Year 7 place in a local secondary school over the next five years. These figures reinforce the statement in previous reports to the Council's Executive that the Council may be required to commission a small number of additional secondary places from September 2016.

Year	Sept 2015	Sept 2016	Sept 2017	Sept 2018	Sept 2019
Pupils	746	796	824	891	956

52. As reported to Executive in February 2014 and May 2014, the forecast growth as a result of increased birth rates and the impact of housing development can be accommodated within the primary year groups within existing surpluses. The proposals set out by Brewers Hill and Streetfield in their business cases would not therefore be required to meet demographic demand.
53. By September 2017 the Council may need to have an additional 60 new secondary places available at Year 7 to accommodate the forecast growth in demographic. It is likely that this growth in capacity will be spread across a number of year groups, and not all required in Year 7. Options for the commissioning of these new places will be guided by the Council's Policy Principles for Pupil Place Planning in Schools. It is likely that this additional required capacity will be accommodated by the expansion of secondary school places required to serve the North Houghton Regis development.
54. The growth will be implemented through a phased increase in pupil numbers. As a result of the uncertainty of timing and target year group, it is very likely that the new places will be commissioned through the expansion of existing secondary provision. The forecasts do not indicate a justification for a new secondary school to accommodate these places, as proposed by Brewers Hill Middle School and Ashton Middle School.
55. On 27 May 2014 the Council's Executive considered a report on the outcome of the initial phase of the Council's consultation on each of its proposals to close the Middle Schools in this report, concluding with a recommendation to progress to the publication of statutory notices. At the same meeting the Council's Executive considered a separate report on Ashton Middle School's statutory proposal to become a secondary school.

56. The Council's Executive determined that the statutory proposal published by the Governing Body of Ashton C of E VA Middle School on 17 March 2014, to change the age range of Ashton C of E VA Middle School, the linked Prescribed Alterations and the current business case be rejected. The reason for this rejection was that the evaluation of the proposal against the factors set out in guidance for decision makers indicated serious weaknesses within the proposal itself and the information provided to support it. The school's Trustees, despite retaining a position of neither agreeing or disagreeing with the proposal, were also clearly concerned that a number of key areas of development and planning had not been addressed sufficiently to provide a level of confidence that the proposal was viable.
57. As part of its deliberation of the outcome of the initial phase of consultation on its closure proposals the Council's Executive on 27 May 2014 also considered business cases submitted by Brewers Hill Middle School and Streetfield Middle School and determined that they were not robust or representative of financially viable alternatives to closure. Each of the schools' proposals was based on meeting what they believed to be unmet parental demand, rather than demographic demand for their proposed alternative age range.
58. On 27 May 2014 the Council's Executive approved the publication of statutory notices and final representation period to close Brewers Hill Community Middle School, Streetfield Community Middle School and Ashton C of E VA Middle School, all in Dunstable, phased from September 2015, with final implementation in August 2016.
59. Statutory Closure Notices were published as required by Regulation for each school on 9 June 2014, with a closing date of 7 July 2014.
60. The Council's Executive also agreed with the Overview and Scrutiny recommendation that there be further opportunity for schools either individually or in conjunction with another or other schools to bring forward a viable business plan with any appropriate assistance being provided by Council officers.
61. As a result each of the schools was provided with a more detailed template to prompt further thought on the challenges of making significant changes to schools, to better articulate their proposals against the Council's policy principles for school places and DfE factors for decision makers of such proposals, and to support them in drawing up their business cases.
62. A meeting was held with each of the 3 schools, and each of the schools identified different types of support they felt they required. These requests included external support regarding looking at the financial modelling, external advice and support regarding the business case documentation, support for the carrying out of surveys, and supply cover to support staff to be released to do the work required. All requests for support were agreed and actioned.
63. A key factor in determining viability is for each of the schools' alternative models is the extent to which sustained parental demand, in an area with significant surplus places, can be evidenced.

64. This test is similar to that applied by the DfE to Free School applications which must demonstrate committed interest from parents of pupils eligible to go to the proposed school in the appropriate years of entry up to or exceeding the school's intended capacity for the first 2 years of opening.
65. The DfE also require such applications to show that there is no significant surplus of places in the relevant phase in the area and/or that the number of places in weak existing schools (Ofsted 'requires improvement' or 'inadequate') in the vicinity of the proposed school comprises a total number of pupil places greater than the proposed school's capacity at steady state.

Responses to Statutory Notice for Brewers Hill Middle School

66. 37 responses were received with regard to the Statutory Notice for Brewers Hill Middle School. A copy of the Statutory Notice and accompanying documents are attached at Appendix A. The highest numbers of responses came from current parents and pupils, with 12 responses from parents and 12 from pupils. Details are provided in Appendix B.
67. 4 of the respondents supported the proposal for closure of the school, 32 objected, and 1 respondent only commented.
68. The points made in the responses replicate those made during the previous consultation process, for example:

The current Ofsted rating of the school;
The school's role at the heart of the community;
Housing development in the area;
Size of the school
Facilities at the school;
Increased travel;
Supportive ethos of the school;

These points were answered within the report of the Executive on 27 May 2014. It is important to recognise that this proposal relates to future viability and not to the quality of education provided by the school which is recognised.

Evaluation of alternative proposal put forward by Brewers Hill Middle School as a response to the Statutory Notice.

69. The table below provides an update on the figures provided in the 4 February 2014 and 27 May 2014 reports to the Council's Executive, which demonstrate that the school is not viable as a middle school and includes:
- current numbers of pupils on roll at the school as of 11 July 2014;
 - the projected numbers in September 2014 based on Year 5 offers now made (including late applications that will be allocated to the school);
 - Year 7 transfer offers now made and late applications yet to be offered.

The projected figures in the table are based on a number of assumption originally set out in the 4 February report to the Council's Executive:

- Beecroft Academy and Lancot Primary School retain their Year 4 pupils into Year 5.
- All of the Year 5 pupils transfer into Year 6 in 2015.
- Approximately half of the parents with Year 6 children in 2014/2015 make a secondary application to a local secondary school for September 2015.
- All pupils in Year 7 in 2014/2015 stay on into Year 8 in September 2015, although parents could make an in year application into Year 8 in any of the local secondary schools.

NB The original data reported to the Executive on 4 February 2014 is indicated in brackets.

70. Brewers Hill Middle School has a Published Admission Number (PAN) of 120.

Year Group	Current	Projected September 2014	Projected September 2015
5	59 (64)	39 (36)	0 (0)
6	56 (56)	59 (64)	39 (36)
7	27 (33)	23 (28)	31 (32)
8	27 (28)	27 (33)	23 (28)
Total	169 (181)	148 (161)	93 (96)
Capacity	480	480	480

71. Alongside the school's ambition to convert to academy status, the school's alternative proposal to closure is for the school to change age range to eventually become a school serving the 4-19 year age range. Their business case is attached with supporting documentation at Appendix C.
72. The school's business case challenges the Council's demographic forecasts, although it makes reference to generic population forecast data provided on the Council's website. This data is based on information published by the Office for National Statistics for Central Bedfordshire as a whole based on 2011 data. It does not reflect specific school age population data for the Dunstable and Houghton Regis area which has been presented through the Council's consultation process and which includes reference to the anticipated pupil yield from housing development.
73. As set out in the report to the Council's Executive on 27 May 2014 and within paragraphs 51 – 54, the proposal by Brewers Hill Middle School is not required to meet demographic demand.
74. The school carried out a two-stage but dual purpose consultation from February to May 2014 on its proposal to convert as an Academy, and then change its age range. To date the school has not had an Academy order approved by the Department for Education (DfE).

75. The proposals that the school consulted on originally are not the age range of 4-16 and eventually 19 proposed in the school's second phase of consultation. The school amended the proposed age range in the light of responses received to the first phase of consultation. The results published from the first phase of consultation indicate that 57 of the 91 respondents were parents and 86% of all respondents indicated that they would consider sending their child to the school.
76. In the school's second phase of consultation the 4-16 and eventually 19 age range was supported by 45 of the 58 respondents who indicated that they would consider sending their child to the school.
77. The business case makes reference to a survey of parents with pre school children, although it is difficult to interpret the results given the outcome of the earlier consultation exercise to be able to prove sustained or significant parental demand for the proposal that the school would need to successfully deliver such an ambitious change in age range.
78. The business case does not provide any further data on the level of parental demand for the proposal.
79. The proposal introduces Early Years Foundation Stage and KS1 curriculum and would require support for such a significant change, in addition to upper Key Stage 3 and Key Stage 4. The business case indicates that it is considering partnership with a local secondary school, although there is no detail and it would appear discussions are at an early stage.

Finance

80. The budget figures currently provided by the school over a 5 year period up to 2018/2019 reflect a deficit position in 2014/15 of £29k, rising to £371k by 2016/17 and only moving into a surplus position in 2018/19 by £117k. However, this will move into a deficit position once the calculation of funding is corrected, and expenditure has been amended in the light of the points made below.
81. The revised business case provided has included the Minimum Funding Guarantee (MFG) for the entire five year period. Although MFG has been agreed as continuing into 2015/16 at negative 1.5% it is not known if this arrangement will continue or at what level into the next Comprehensive Spending Review (CSR). The business case has assumed MFG for the years 2016/17 to 2018/19 of £782k.
82. The school has not reflected in the business case the disapplication of the use of October pupil numbers for the calculation of the basic per pupil entitlement. If these estimated numbers were achieved (although this demand has not been evidenced by the school) it would have the impact of increasing the basic entitlement by £635k.

83. Teaching costs are not reflective of the school's predicted increase in pupil numbers, although this demand has not been evidenced by the school. Pupil numbers in the school's proposal increase by 100 between 2016/2017 and 2017/2018, but the budget provision in 2017/2018 only increases by £12k, which is not sufficient to fund even 1 teacher with on-costs.
84. The Scheme for Financing Schools does not allow Direct Revenue Funding (DRF) contribution to capital costs as the school is proposing if it places a school in deficit. The school's business case provides information on the costs of remodelling existing accommodation to provide for the proposed Early Years Foundation Stage and Key Stage 1 children. It does not identify the potential cost or funding source for the required increase in the school's overall capacity, as proposed.
85. It is estimated that even if the unrealistic demand is achieved the school would remain in a deficit position at the end of the 5 year period of approximately £230k, although MFG is expected to remain in some reduced form for the next CSR to alleviate this position. The Council would not normally allow a school to remain in deficit beyond 2 to 3 years.
86. On the basis of the information provided in paragraphs 69 – 85, there is insufficient evidence to support the school's proposal as a viable alternative.

Updated information regarding Beecroft Academy

87. Beecroft Academy has now contacted the Council and indicated that following their commissioning of a feasibility study in relation to their ambition to become a primary school from September 2015, they have identified that they currently hold insufficient funds to implement this proposal at that time. This impacts on the assumptions originally set out in paragraph 69.
88. Beecroft Academy is intending to apply for capital grant through the academies capital maintenance fund which closes in late Jan 2015 with successful applicants advised by May 2015.
89. This will mean that for parents of Year 4 children who will require a year 5 place in September 2015, there is no certainty that Beecroft Academy will be able to accommodate children into Year 5 until after the close of the School Admissions middle transfer round on 15 January 2015.
90. This has the impact of potentially displacing 53 children who are currently in Year 3 at Beecroft Academy who would need to make an in year transfer application to Year 5 in a Primary School in the area for September 2015 or make a Year 5 transfer application to another school, such as Priory Academy, Barnfield Vale or Caddington Village School if the Council's proposal to phase the closure of Brewers Hill from that date is approved, as proposed.
91. Priory Academy's Year 5 admission number is sufficient to accommodate the total pupil numbers from its three partner lower schools: Dunstable Icknield Lower School, Watling Lower School, and Studham Lower School. Caddington Village School has a Year 5 admission number of 15 to accommodate children from Slip End Lower. Barnfield Vale has indicated its intention to remove its current Year 5 admission point from September 2015.

92. Parents could make an in year transfer application to Year 5 in a primary school for September 2015, but the availability of places in primary schools in the immediate area of Beecroft Academy would mean that most of these children would not be able to be accommodated in their catchment, or next nearest primary schools.
93. Historically, the majority of children from Beecroft Academy have transferred to Brewers Hill Middle School in Year 5.
94. The table below is a revised version of the table in paragraph 60, showing all of the 53 Beecroft pupils accessing a place at Brewers Hill Middle School in September 2015. It is recognised that some of these parents may choose to apply for an in year admission into a primary school in the local area, and not apply for a place in Year 5 at Brewers Hill Middle School.

Year Group	Current	Projected September 2014	Projected September 2015
5	59 (64)	39 (36)	53 (0)
6	56 (56)	59 (64)	39 (36)
7	27 (33)	23 (28)	31 (32)
8	27 (28)	27 (33)	23 (28)
Total	169 (181)	148 (161)	146 (96)
Capacity	480	480	480

95. If the Council's Executive approves the statutory proposal to close Brewers Hill Middle School, the implementation date can be modified in line with DfE guidance. The recommended solution is to delay the commencement of the phased closure until September 2016, with final closure in August 2017, allowing time for Beecroft Academy to implement its proposal to convert to a primary school.

Streetfield Middle School

96. 60 responses were received with regard to the Statutory Notice for Streetfield Middle School. A copy of the Statutory Notice and accompanying documents are attached at Appendix D. The highest numbers of responses came from current parents of pupils at the school, employees at the school, and local residents, with 19 responses from parents, 14 from staff and 14 from local residents. Details are provided in Appendix E.
97. 5 of the respondents supported the proposal for the closure of the school, 41 objected, and 14 respondents only commented.

98. The points made in the responses replicate those made during the previous consultation process, for example:

The school's ethos, good staff and facilities;
 The provision for vulnerable pupil and those with SEN;
 The size of the school.

These points were answered within the report of the Executive on 27 May 2014.

Several respondents indicated support for the school's proposals to become a primary school.

Evaluation of alternative proposal put forward by Streetfield Middle School as a response to the Statutory Notice.

99. The table below provides an update on the figures provided in the 4 February 2014 and 27 May 2014 reports to the Council's Executive, which demonstrate that the school is not viable as a middle school and includes:

- current numbers of pupils on roll at the school as of 11 July 2014;
- the projected numbers in September 2014 based on Year 5 offers now made (including late applications that will be allocated to the school);
- Year 7 transfer offers now made and late applications yet to be offered.

The projected figures in the table are based on a number of assumptions:

- All primary schools retain all of their Year 4 pupils into Year 5.
- All of the Year 5 pupils transfer into Year 6 in 2015.
- A similar percentage of the parents with Year 6 children in 2014/2015 make a secondary application to a local secondary school for September 2015.
- All pupils in Year 7 in 2014/2015 stay on into Year 8 in September 2015, although parents could make an in year application into Year 8 in any of the local secondary schools.

NB The original data reported to the Executive on 4 February 2014 is indicated in brackets.

100. Streetfield Middle School has a Published Admission Number (PAN) of 130.

Year Group	Current	Projected September 2014	Projected September 2015
5	74 (78)	26 (22)	0 (0)
6	85 (86)	76 (78)	26 (22)
7	81 (85)	24 (29)	24 (26)
8	110 (114)	81 (85)	24 (29)
Total	350 (363)	205 (206)	74 (77)
Capacity	520	520	520

101. Two consultations have now been conducted by the school on its proposal to become a 2 form entry primary school with pre school provision. These consultations were undertaken in March and in June 2014 and the results (although interim for the June consultation) are set out in the school's business case (Appendix F). The school has included a separate brochure which is attached at Appendix G.
102. The results of the initial survey in March 2014 indicated support from parents who would send their child to Streetfield in pre school and Years R through to 6 if the proposal were to be implemented in September 2015. The results were unable to evidence sustained demand for the proposal.
103. The second survey conducted in June 2014 focussed on measuring demand of parents of children in early years' settings in Dunstable for Streetfield as a Primary School with Early Years provision as part of a single site 0-19 early years, primary and secondary school provision with wrap around care, and before and after school provision for children and parents.
104. Comments made in response to the school's June consultation suggest that there may have been a lack of clarity for some respondents as to the commissioner or origin of this survey. The leaflet distributed by the school asking people to complete the survey was not clear that it was intended to reflect the proposal of Streetfield's Governing Body, which would have provided the context of specific location and a school changing its age range to achieve the model being proposed.
105. The consultation exercise indicates a level of support in principle for the 0-19 model described within the consultation materials, but it is difficult to determine whether this would result in uptake of places due to the nature of the content of the survey.
106. It is difficult to predict the geographical pattern of parental preferences for out of catchment places in the next five year period. In the commissioning of school places, where new or expanded provision is required, the Council will continue to seek to provide these places locally to the areas of demographic growth, in line with its policy principles.
107. The vision in the school's business case alludes to 0 – 19 provision as an aspiration, but this is not referenced to best practice in the early years or Foundation Stage. The Finnish approach to early years is mentioned, but without any clear indication of how this would be delivered within the model proposed in partnership with other schools. It is recognised that the school had a short amount of time to add more detail to its business case following the meeting of the Council's Executive on 27 May 2014.

108. The proposal includes provision for the early years, including early help, citing 'family and parent support particularly in the early years/nursery provision'. The proposal does not make reference to the already well developed local provision of early help carried out directly by the local Children's Centre and by the central Parenting Team working through the centre. Many of these services are already being accessed by children and young people who would be in the school's proposed cohort. The school does indicate that they could contribute to the consultation on the Early Help Offer, but do not detail how they could work with the existing centre to provide appropriate services.
109. The business case does not reflect a clear understanding of the existing early years offer, for example the two year old offer which is well underway, or the offer for 3 and 4 year olds. The school alludes to delivering the early years offer, although this is not clearly stated. There is no cost analysis undertaken, and no evidence of an understanding of the levels of finance for very young children, which are different to those for school age children.
110. Conversations have not been held with any of the Council's Early Years Team around what the need for additional provision in the area might be, or the implications of making early years or child care provision.
111. The school has set out its pupil forecasts on page 45 of its business case and provides what it refers to as an 'optimistic' and a separate 'realistic' scenario assuming an implementation date of September 2016. The 'realistic' model indicates a build-up of numbers assuming significant in year growth in the size of year groups and therefore pupil numbers from 2016 to 2019. This assumption is based on the school's confidence that demand will grow as the model develops. The willingness of parents to remove their child from their current provision/school to justify the in year growth forecasts appears untested.
112. The school's business case refers to the level of surplus places that already exists across Dunstable and Houghton Regis in the primary phase. These have been previously reported to the Council's Executive and are the basis of the Council's proposals to close the three middle schools in this report which contribute significantly to the over supply of places in Years 5 to 8.
113. The business case does not reflect the Council's information on anticipated pupil yield from housing development. The forecast growth within the primary phase can be accommodated within existing surpluses, although the Council may be required to commission additional secondary places from September 2016 as set out in paragraphs 51 – 54 of this report. As set out in the report to the Council's Executive on 27 May 2014 the proposal by the school to change age range and provide a further 60 places for Year groups R to 6 would further add to the over supply of places, and is not required to meet demographic need.

Finance

114. Page 29 of the business case refers to 255 pupils in 2017/2018, but on page 45 it refers to 225 pupils. It is not clear in the business case which of these numbers the funding figures have been based on. There is not a guarantee of this level of demand.

115. The business case refers to the school closing in 2016 as a middle school, and then reopening as a primary school. If the school remains open and becomes a primary school any deficit incurred up to this time is kept by the school and must be managed.
116. The business case includes a budget up to 2020/2021, and it is only in 2021 that the school states that they would move into a surplus position of £100k. The Council would not normally allow a school to remain in deficit beyond 2 to 3 years. These figures are based on anticipated demand rather than proven demand. The funding relating to pupil numbers has been overestimated. The business case assumes only 78 pupils in 2015/2016, but the assumed funding is not reflective of this, showing an expectation of £1.1M of funding. The estimated funding for this year would be £835k a reduction to the business case of £265k.
117. The school has not reflected in its business case the disapplication of the use of October pupil numbers for calculation of the basic per pupil entitlement, although the numbers of pupils are not evidenced by demand. It is not possible to confirm the predicted surplus in 2020/21 without pupil numbers being provided. However, if this methodology was applied it is estimated that the school would receive approx. £504k additional funding.
118. Pupil Premium has also been overestimated and does not reflect a realistic methodology of calculation that relates to pupil numbers. Pupil Premium has been over-estimated by approximately £190k.
119. It is estimated that if the unrealistic demand is achieved the school could achieve a balanced position at the end of the 7 year period of approximately £150k. This demand has not been proven, and there would be significant risk in approving this model on this basis.
120. On the basis of the information provided in paragraphs 99 – 119, there is insufficient evidence to support the school's proposal as a viable alternative.

Ashton Middle School

121. 59 responses were received with regard to the Statutory Notice for Ashton Middle School. A copy of the Statutory Notice and accompanying documents are attached at Appendix H. The highest numbers of responses came from current parents of pupils at the school, and parents of pupils at other schools, with 14 responses from parents of pupils at the school, and 35 from parents of pupils at another school in the area. Details are provided in Appendix I.
122. 6 of the respondents supported the proposal for closure of the school, 52 objected, and 1 respondent only commented.

123. The points made in the responses replicate those made during the previous consultation process, for example:

The school's ethos, good staff and facilities;
 The provision for vulnerable pupil and those with SEN;
 The size of the school.

These points were answered within the report of the Executive on 27 May 2014.

Several respondents indicated support for the school's proposals to become a secondary school.

Evaluation of alternative proposal put forward by Ashton Middle School as a response to the Statutory Notice.

124. The table below provides an update on the figures provided in the 4 February 2014 and 27 May 2014 reports to the Council's Executive, which demonstrate that the school is not viable as a middle school and includes:

- current numbers of pupils on roll at the school as of 11 July 2014;
- the projected numbers in September 2014 based on Year 5 offers now made (including late applications that will be allocated to the school); and
- Year 7 transfer offers now made and late applications yet to be offered.

The projected figures in the table are based on a number of assumptions:

- All primary schools retain all of their Year 4 pupils into Year 5.
- All of the Year 5 pupils transfer into Year 6 in 2015.
- A similar percentage of the parents with Year 6 children in 2014/2015 make a secondary application to a local secondary school for September 2015.
- All pupils in Year 7 in 2014/2015 stay on into Year 8 in September 2015, although parents could make an in year application into Year 8 in any of the local secondary schools.

NB The original data reported to the Executive on 4 February 2014 is indicated in brackets.

125. Ashton Middle School which has a Published Admission Number (PAN) of 155.

Year Group	Current	Projected September 2014	Projected September 2015
5	109 (106)	38 (35)	0
6	114 (118)	110 (106)	38 (35)
7	110 (104)	25 (37)	37 (33)
8	140 (140)	111 (104)	25 (37)
Total	473 (468)	284 (282)	100 (105)
Capacity	620	620	620

126. The school has conducted further consultation on its proposal to become a secondary school since the last report to the Council's Executive on 27 May 2014. The school has received a total of 122 responses to their consultation, and the results are provided within the business case (Appendix J). These responses indicate support from parents of pre secondary school aged children currently in Years R through to Year 6 for the model proposed.
127. The school has undertaken research into the viability elsewhere of successful small secondary schools. They have focussed on a particular school in a case study, and have also compared workforce and curriculum across 8 examples of other small secondary schools. The business case refers to a similar level of financial expenditure for their proposed secondary model as their case study school. This is comparing both schools in a steady state, and does not reference the potential deficit budget position of Ashton Middle School at point of transition. More detail is provided in the financial section of this report (paragraphs 134 – 141). The comparison provided in the business case with the other small secondary schools does not make reference to those schools' local school funding formula.
128. The Trustees have not provided any update on their position which was referenced in the report of the Council's Executive on 27 May 2014 in terms of support of otherwise for the school's proposal.
129. The sample size of survey respondents is small but results have been analysed by the school and set out by age of child of those who have responded. The school has calculated the number of those indicating support, as a percentage of the number of all respondents in each age group and its business case refers to the schools confidence that if these were to be extrapolated against the total size of cohort in each year group in schools in the area, that Ashton Secondary School would be vastly oversubscribed. Confidence in this assumption must be doubted, given the small sample size of the survey and the school's model that would require admissions of 90 children in each year group.
130. As set out in the report to the Council's Executive on 27 May 2014 and within paragraphs 51 – 54, the proposal by Aston Middle School to become a secondary school is not required to meet demographic demand.
131. There is a lack of clarity with regard to responses to one question. In one section the respondents are recorded as indicating they would consider the model, whereas in the business case the school has drawn a conclusion from this that respondents are indicating that they would choose the school as destination for their child.

132. The business case refers to a demand for faith based secondary school places and also to an intended implementation date of September 2015. Both of these points were addressed in the 27 May 2014 report to the Council's Executive. Church of England Voluntary Aided provision in the secondary age range is available in the Dunstable area through Manshead School. Manshead School only received 14 first preference applications for Year 9 places and 7 for Year 7 places for September 2014 on religious criteria. Evidence of demand has still not been proven through the school's consultation exercise and evaluation of the responses, or through the figures illustrated in relation to Manshead School.
133. The proposed admission arrangements of the school would require a variation, with approval of the school's adjudicator, to remove a Year 5 transfer point from September 2015 as the admission arrangements for 2015/16 have already been determined.

Finance

134. The budget figures currently provided by the school over a 5 year period up to 2018/2019 reflect a deficit position in 2014/15 of £421k, and only moving into a surplus position in 2017/18 by £142k, increasing to £612k surplus in 2018/19. However, this will move into a deficit position once the calculation of funding is corrected, and expenditure has been amended in the light of the points made below.
135. The pupils numbers provided in the school's business case are unrealistic. The school has based all 3 of their scenarios on a September 2014 intake of 85 pupils. Currently there are only 38 applications/places offered for September 2014, so there is an overestimation of 47 pupils
136. The 'best case' scenario assumes 90 pupils in Years 6,7,8 and 9 from 2015/2016, moving to 90 in Years 7-11 in 2018/2019. The 'most likely' scenario mirrors the 'best case' scenario' in all but Year 8 in 2015/2016. The funding model has not been adjusted to reflect this. There is therefore an over-estimation of pupils in 2015/2016 of at least 30 pupils.
137. The 'most likely' scenario refers to additional income to account for an under-payment in 2014/2015, but there has been no under-payment. The budget will only be adjusted if pupil numbers in September 2014 are higher than 10% of those funded, therefore the admissions would need to increase by more than 21 pupils for the school to be funded an approximate £2k for each pupil above that level. The business case is not clear regarding any financial assumptions the school has made with regards the value of the underpayment included.
138. The school has not reflected in the business case the disapplication of the use of October pupil numbers for the calculation of the Basic per pupil entitlement, although these pupil numbers are not evidenced by demand.

139. Pupil Premium has been over-estimated and does not reflect a realistic methodology of calculation that reflects pupil numbers. The school is proposing to move to become a secondary school, where pupils currently attract £935 for Pupil Premium, and not as per the primary rate of £1,300. It is calculated that the school has overestimated Pupil Premium by approximately £262k.
140. The business case refers to projected teaching staff increasing by 7 over the period, but this is not evident from the teaching staff budget costs provided.
141. It is estimated that even if the unrealistic demand is achieved the school would remain in a deficit position at the end of the 5 year period increasing to an approximately £600k. The deficit will increase further if the assumption of an underpayment in 2014/15 being funded is removed. The Council would not normally allow a school to remain in deficit beyond 2 to 3 years.
142. On the basis of the information provided in paragraphs 124 – 141, there is insufficient evidence to support the school's proposal as a viable alternative to closure.

Conclusion

143. Previous reports to the Council's Executive have demonstrated that the alternative options presented are not required on demographic need.
144. The information provided in the business cases that all 3 schools have submitted as a response to the Statutory Notices for closure have been scrutinised. None of the schools have been able to present a case that demonstrates confidence in sufficient parental demand for their proposed alternatives to secure future viability of the schools.
145. No new information has arisen through the responses to the Statutory Notices that indicate that the Council's proposals should not proceed to determination for all 3 schools, although with a proposed modified implementation date for Brewers Hill Middle School.

Appendices: Please note that the Appendices have been circulated as a separate document to the Agenda.

Appendix A: Brewers Hill Middle School Statutory Notice and Full Proposal
Appendix B: Brewers Hill Middle School Responses to Statutory Notice
Appendix C: Brewers Hill Middle School Business Case
Appendix D: Streetfield Middle School Statutory Notice and Full Proposal
Appendix E: Streetfield Middle School Responses to Statutory Notice
Appendix F: Streetfield Middle School Business Case (1)
Appendix G: Streetfield Middle Schools Business Case – Lyceum Brochure (2)
Appendix H: Ashton Middle School Statutory Notice and Full Proposal
Appendix I: Ashton Middle School Responses to Statutory Notice
Appendix J: Ashton Middle School Business Case

Background Papers: (open to public inspection)

The Executive Report of 4 February 2014 seeking approval to initiate the first stage of consultations.

The Executive Report of 27 May 2014 seeking approval to commence publication of Statutory Notices