

CABINET

5 MARCH 2019

SECONDARY FREE SCHOOL IN STROOD

Portfolio Holders:	Councillor Andrew Mackness, Children's Services (Lead Member) Councillor Adrian Gulvin, Resources
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Summary

This report outlines the current situation with regard to the acquisition of land for a secondary Free School in Strood to help meet rising demand, and requests approval for the Council to underwrite a third party overage held against the preferred land.

1. Budget and Policy Framework

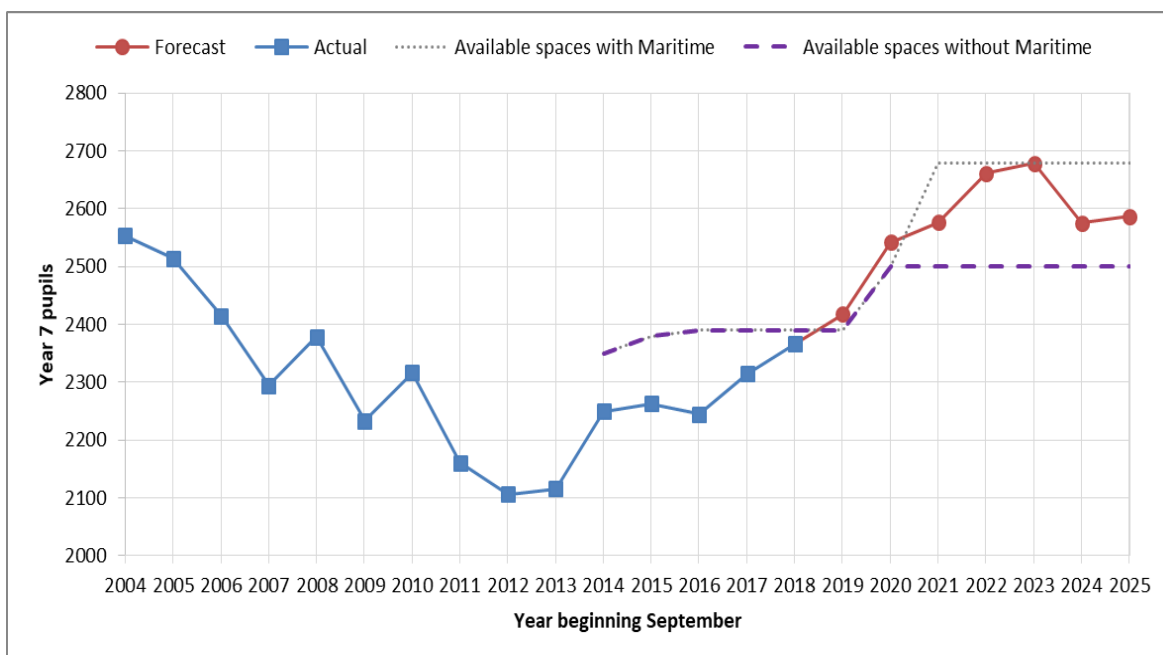
- 1.1 Medway Council, as the Local Authority, has a statutory duty to provide sufficient school places. The proposal put forward in this report will assist in meeting that duty and is consistent with the School Place Planning Strategy Principles, the Council Plan Priority of 'Supporting Medway's people to realise their potential', and the outcome of 'All children achieving their potential in schools'.
- 1.2 An urgent decision is required as the issue has only recently arisen and requires resolution before the end of March 2019. The end of March deadline is to meet Department for Education (DFE) budgets and forecasts; the exchange on the purchase of the land has been included in their 2018/19 funding allocation. If the deal slips into the 2019/20 financial year, the budget is reduced and there becomes no guarantee that the deal is affordable and may be withdrawn.

2. Background

- 2.1 Central Government provided a bidding initiative for new free schools to meet demand in areas of need. Medway was successful in acquiring provisional approval for four schools including the Maritime Academy operated by The

Thinking Schools Academy Trust (TSAT). This school is intended to help meet the demand for secondary school places in the Strood area. The DFE will fund the land purchase as well as the capital investment in the school, removing that responsibility from the Council.

- 2.2 The DFE employed a land search agent, LocatEd, to source and acquire a suitable site. A number of sites were considered, but discounted for various reasons. The preferred site is the land to the West of Berwick Way and south of Frindsbury Hill, which is shared with the mediaeval barn.
- 2.3 Negotiations with the owners to agree a sale have been protracted, but a mutually agreeable position was reached with the purchase price reflecting the highest use for the site which in this case is residential.
- 2.4 Towards the end of negotiations an 'overage' provision came to light which had not previously been disclosed.
- 2.5 When approached about this, the owners declined to renegotiate the price for the land despite it not having a clean title.
- 2.6 The overage will be triggered by an onward sale of the land for residential use at any point until 2033 when the condition falls away. Upon the transfer of the land for residential purposes during that time the overage is triggered with the sum payable equal to 10% of the intended unit sales. For a residential developer this is effectively 10% of the gross development value of the scheme.
- 2.7 The value of the overage, based on current land values is set out in the Exempt Appendix, although this figure could increase or decrease dependent upon land values at the time of any future sale of the land up to 2033.
- 2.8 Therefore, the valuation of the land now needs to be adjusted to reflect this, meaning that the Central Government is effectively being forced to pay over market value for the site.
- 2.9 When acquiring land for free schools, the government will not pay over the market value.
- 2.10 This now places the deal to purchase the land at serious risk, and in turn the Council's ability to meet demand for secondary places.
- 2.11 The graph below outlines the pressure on places if the Maritime Academy is not delivered.



3. Options

3.1 These are the options available to the DFE in terms of acquiring land in the Strood area for the free school.

3.2 Consider other sites

Alternative site options are limited, certainly within those that meet the DFE's criteria of size, accessibility and cost and have been considered but dismissed due to varying reasons; planning restrictions, accessibility issues and cost of the land being the most prevalent. Even if a new site could be found, commencing negotiations with new land owners would cause a significant delay to the process and further delay the opening of the school. Therefore, finding a workable solution within the current preferred site is paramount.

3.3 Renegotiate with owners of the current site

This has been tried, but the owners are not willing to renegotiate the sale value of the land.

3.4 Cancel the project

There is real risk that the DFE will decide, that as no agreement can be reached and no realistic alternative site is available, to cancel the project, meaning that the Council's ability to provide sufficient secondary school places is at serious risk. Not only that, but for the Council to take on the project to build a secondary school to meet demand would likely cost between £25m and £30m inclusive of land purchase.

3.5 The Local Authority underwrites the overage provision.

This action would enable the DFE to continue with the purchase within their market value and value for money criteria, boosting the business case when approaching the Secretary of State for funding.

However, should the land be sold for residential purposes by the DFE up until 2033, the local authority would be liable to cover the overage determined by land values at that time. However, this is a very small risk as the school is required to meet known and expected future demand beyond 2033.

The new school will enjoy a 125 year lease on the land, showing the commitment of the DFE to the school, and it is not the intention of the Secretary of State to dispose of the property, especially within the next 14 years.

3.6 Officers' recommendation is for the option in section 3.5 to be progressed.

4. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
By agreeing to underwrite the overage there is a risk that the Council could become liable for the payment.	The overage will only become payable if the land is subsequently sold by the DFE for residential purposes up until 2033 when the condition falls away.	Forecasts indicate that the school is essential to providing sufficient secondary school places in the Strood area to meet known demand, without the added pressure that will be forthcoming from the as yet unapproved housing schemes in the area and those that come forward from the local plan. Therefore it is highly unlikely that the condition will occur. However, regular monitoring of forecasts will ensure that should the risk materialise in the future the Council will be aware at the earliest of stage. It is very unlikely that the DFE will consider selling the site.	F2
By not agreeing to underwrite the overage, the Council is at risk of not providing sufficient school places.	If the project for the Maritime Free School is withdrawn, the Council will become responsible for creating the additional places required in the area. This will result in the need for significant funding to be made available to either build a new school or expand a number of current schools.	Agree to underwrite the overage	B2

5. Financial implications

- 5.1 Should the DFE decide to sell the site and the outcome was for residential purposes, the Council would be required to cover the overage payment, as set out in the Exempt Appendix. This level of liability could increase or reduce dependent upon the land values at the time.
- 5.2 If underwriting the overage is not agreed, then the project may be cancelled meaning that it will fall to the Council to fund additional secondary places required. This could extend to up to £30m for a new school, or in excess of that to expand sufficient current schools.

6. Legal implications

- 6.1 A comprehensive legal agreement will form part of the process so that the Council will only take on the risk when the DFE has purchased the land for the purposes of building the school.
- 6.2 A pre-emption agreement is also possible, so that in the unlikely event that the DFE determined that the school was no longer needed and wanted to sell the land before 2033, the Council would have the opportunity to purchase the land at today's market value. Therefore, whilst the overage would still be payable if the land was sold on for residential purposes, the Council would get the benefit of the sale of the land.
- 6.3 The Council has a duty to provide sufficient school places. Without the Maritime Free School being built there is a very serious risk that the duty will not be met.

7. Recommendation

- 7.1 Cabinet is requested to approve the underwriting of the overage held against the Manor Barn land in Strood, as set out in the Exempt Appendix.

8. Suggested reasons for decision

- 8.1 Approving the underwriting of the overage will enable the DFE to agree a land acquisition with the owners of the Manor Barn site, and is a low risk high reward strategy which will provide a site for the construction of a secondary free school, to help meet increasing demand in Medway, with all construction costs met by the DFE.

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Appendices

Exempt Appendix

Background papers

None