

CABINET

19 NOVEMBER 2019

SECONDARY SURGE CLASSES FOR SEPTEMBER 2020

Portfolio Holder:	Councillor Mrs Josie Iles, Portfolio Holder for Children's Services (Lead Member) Councillor Martin Potter, Portfolio Holder for Education and Schools
Report from:	Ian Sutherland, Director of People - Children and Adults Services
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Summary

This report outlines the position regarding secondary school places for the intake in September 2020, sets out the proposed solutions, and asks the Cabinet to approve the commencement of the programme to create an additional 248 year 7 non-selective school places to ensure that demand is met. The financial implications are set out in the report and the Cabinet is asked to approve the proposed funding mechanisms.

1. Budget and Policy Framework

- 1.1 Medway Council, as the local authority, has a statutory duty to provide sufficient school places.
- 1.2 The proposals put forward in this report are 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'. The Council's rules on the virement of capital items will be followed, as set out in the financial limits and financial rules in the Council's Constitution.
- 1.3 The Cabinet is asked to accept this item as urgent to enable officers to commence the design and tender process for the projects required to provide the surge classes in readiness for September 2020 at the earliest opportunity, notwithstanding that Full Council approval is required for the virement for scheme 9, as set out in paragraph 6.7 of the report.

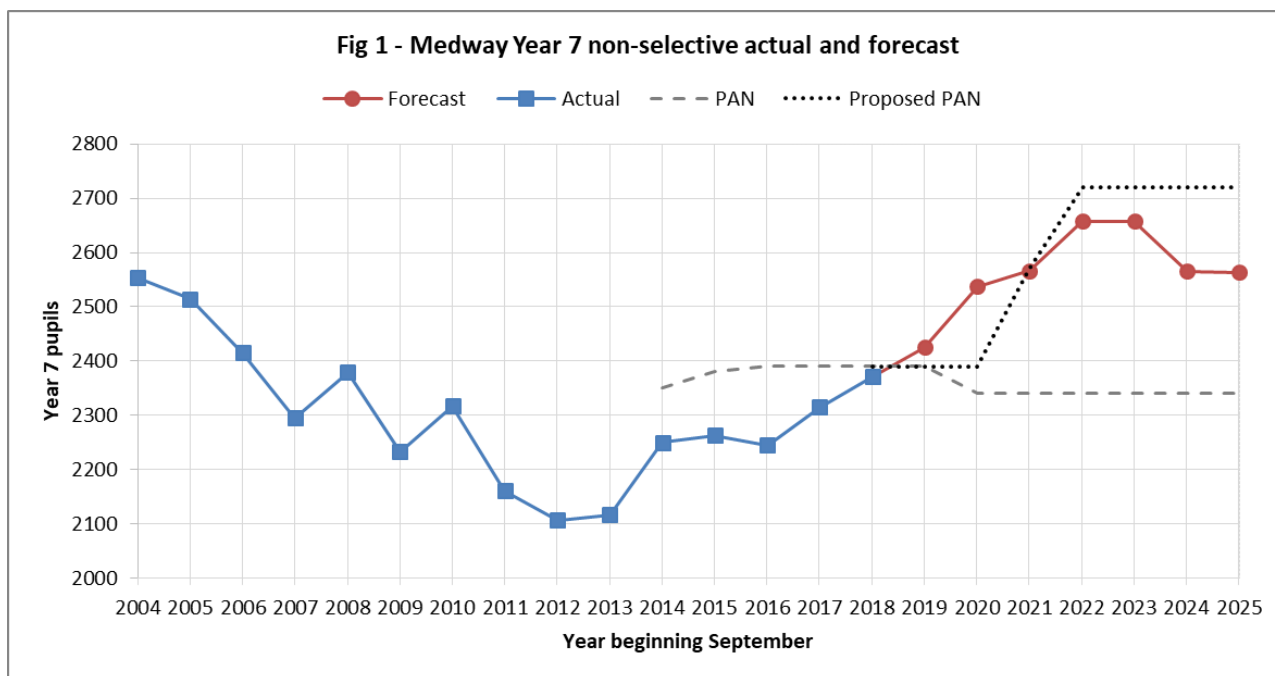
2. Background

- 2.1 In 2016, central government announced wave 12 of the Free School Programme, an initiative to provide new school places funded and delivered by the Department for Education (DfE). This funding would only be available for new schools in areas of demand and planned in conjunction with the Local Authority's place planning needs. Free schools are new academies, rather than academies which have converted from an existing school.
- 2.2 Medway has worked in partnership with academy trusts to submit bids and were successful with four of those. These were:
- **The Maritime Academy:** a mainstream all-through (ages 3 to 19) school with places for 1940 pupils (including 250 sixth form pupils) in the Strood area. This will be operated by The Thinking Schools Academy Trust (TSAT). A site has been sourced for this school and design and pre-planning are underway, with a target date of September 2022 for opening.
 - **Leigh Academy Rainham:** a mainstream secondary school with places for 1150 pupils (age 11 to 19 including 250 sixth form pupils) in Rainham. This school will be operated by The Leigh Academies Trust. A planning application is currently ongoing for this school. The initial opening date for this was 2020, but that is now delayed until 2021.
 - **Rochester Riverside Church of England Primary School:** a mainstream Christian faith primary school with places for 420 pupils. There was strong competition for this school and the successful bidder was the Pilgrim Academy Trust. This school is currently expected to open in September 2021 when the development reaches a certain trigger of completed dwellings. The site for the school is agreed and the design is underway.
 - **The Beeches:** an alternative provision primary school with places for 50 pupils with behavioural issues and excluded children. This will be managed by the Rowans Academy Trust and will be located adjacent to the current Rowans site in Walderslade.
- 2.3 Of the four successful bids, two were for non-selective secondary schools. The Maritime Academy in Strood which is targeted to open in September 2022 and the Leigh Academy Rainham, which was targeted at 2020 initially but is now delayed until 2021 which is the subject of the remainder of this report.
- 2.4 When it became apparent that the Leigh Academy Rainham would not meet the 2020 deadline on the new site, temporary accommodation was sought. This has however failed to materialise despite a number of potential options being considered, meaning that the responsibility to meet the significant demand for 2020 reverts to the Council.

3. Advice and Analysis

- 3.1 Fig 1 below shows how the demand for year 7 non-selective places has been rising steeply from 2016 and is forecasted to continue until at least 2023. Beyond 2023 we expect the forecasts to increase above those shown due to larger cohorts within primary schools and as more housing applications are approved in Medway; the forecasts can only be based upon approved housing applications. Medway's forecasts have been proven to be accurate against the government's benchmarking criteria and so Members can be confident in the analysis and the expected demand.

3.2 Sufficient capacity in year 7 is available in 2019 due to spare capacity in older year groups. Rolls were lower in the past, therefore current older year groups are smaller. However, from 2020 additional capacity will now be necessary to avoid a widespread shortage of places. For example, in 2020 there could be a shortfall of 217 places which equates to the need for more than 7 forms of entry and by 2022 the need for 9 forms of entry.



3.3 This forecast shortfall was planned to be met through the provision of the two new Free Schools (Leigh Academy Rainham and the Maritime Academy in Strood), as set out in paragraph 2.2, awarded to Medway. As the Rainham school will no longer open in 2020 it is now anticipated that these schools will be operational from 2021 and 2022.

3.4 This does mean that for September 2020, there is now expected to be a significant shortfall in available places, and this will need to be met through the creation of surge classes at current secondary schools. This situation has been discussed with every non selective secondary school which admits pupils into year 7, and without exception all have offered to assist the Council to varying degrees.

3.5 The estimated cost of providing sufficient places in the surge classes is approximately £3M. This would create around 248 additional year 7 places at nine of the eleven secondary schools. This will not only ensure that initial demand is met but will also provide some flexibility to meet in year demand from pupils moving into the area.

3.6 The pupils in the surge classes will remain at the school for the entirety of their secondary education, and therefore the additional physical capacity has to be sufficient to support this for at least the next five years.

3.7 Within the education capital programme, £24.7m is allocated to the Special Educational Needs and Disabilities (SEND) School proposed to be built by the Council at Cornwallis Avenue in Gillingham to meet the significant demand for SEND places. However, discussions are progressing with the DfE exploring the opportunity to relocate and expand the Inspire Free School onto the site, which would also create extra places for Social, Emotional and Mental Health (SEMH),

Autism Spectrum Disorder (ASD) and Profound and Multiple Learning Disabilities (PMLD) pupils, the needs highlighted in the SEND needs review. This school, as a Free School, would be funded by the DfE meaning that the £24.7m budget would not be required for this purpose.

3.8 Notwithstanding this, in the event that the DfE do not proceed with the Free School, it is not expected that the full £24.7m will now be required for the Council to create the additional SEND places required, meaning that some of this funding can be released to fund the surge classes.

4. Risk management

4.1 The following would be assessed as risks should recommendations from individual proposals flowing from this report not be implemented.

Risk	Description	Action to avoid or mitigate risk	Risk rating
The Council's statutory duty to provide sufficient good quality school places.	If insufficient school places are made available to meet demand, the Council would be failing to meet its obligations.	Implement proposals to provide additional good quality places in the areas of demand.	B1
That insufficient funding is available to fund proposals to provide sufficient places.	Basic need funding is limited and the extent of the emerging need may mean that unless additional funding can be sourced, projects to provide places may not be able to be implemented, which could mean that the council fails to meet its statutory obligation.	Explore options to fund projects including bidding for funding initiatives. Look at cost effective ways to supply places.	A1
That the level of forecast pupils fails to materialise.	Should the expected numbers of pupils fail to materialise, then any funding committed could have been better spent elsewhere.	Continue to monitor births, migration and housing developments and accuracy of forecasting.	D3
Applications for Free Schools increases.	Applications for Free Schools could be a risk to strategic planning framework as the Council has no control over where or by whom the application is made.	Monitor all applications to Secretary of State, and work with DfE to influence outcomes of applications to suit, and fit in with, the Councils wider pupil place planning strategy.	A2
Other Local Authorities placing children in Medway.	Other authorities are placing children into Medway schools, including unaccompanied asylum seekers, which adds pressure to the system and is difficult to plan for.	Retain a certain level of flexibility within the system to meet unexpected inward movement of children requiring a school place.	A3

5. Consultation

- 5.1 No Diversity Impact Assessment accompanies this report. Assessments will be provided for individual proposals brought forward as a result of actions from this report.

6. Financial implications

- 6.1 All projects will be approved in accordance with the provisions set out in the Council's Constitution and in particular the Financial and Contract procedure Rules. Projects undertaken as a result of this report will be funded through the Children and Adults Capital Programme. The costs of the schemes are set out in the table at paragraph 6.7.
- 6.2 Where appropriate, developer contributions will be sought from new housing schemes to assist with the provision of school places in areas of demographic growth. Developments resulting from the Local Plan will be considered accumulatively to identify the most suitable and wider use of developer contributions or developer provided schools to provide the most benefit.
- 6.3 Occasionally, additional funding sources and initiatives become available such as free school waves or targeted basic need initiatives. Where possible the Council will seek to make use of those opportunities to reduce the demands upon the limited funding currently available.
- 6.4 Medway Council receives an annual basic need grant from central government. This is calculated from the School Capacity return which the Council submits each year. The table below highlights the levels of funding due to be received until 2021/22. The table shows that the DfE has determined that Medway will receive a nil grant award for 2020/21, and the allocation for 2021-22 has yet to be announced. At a national level, the DfE may offer further opportunities to bid for targeted funds to deliver the basic need for school places, although there is no guarantee that there will be opportunities or that bids will be successful. It is uncertain at this time whether Medway will receive grant funding beyond 2021, and this will not be announced until later in 2019.

Year	Funding allocation
Carry over	£1.9m
2015 –16	£2.2m
2016 –17	£2.3m
2017 - 18	£9.0m
2018 - 19	£3.1m
2019 - 20	£3.8m
2020 - 21	£0
2021 - 22	TBC

- 6.5 Due to the reduction in basic need monies there is insufficient funding available within the education capital programme at this time to complete all the required projects including the surge classes. Currently there is approximately £1m remaining in the education capital programme, which is allocated to other proposed projects. Therefore, there is no funding available for the surge classes. As set out in paragraphs 3.7 and 3.8 of this report, capital is available from the allocated funding for the proposed Council built SEND school, which may now not be required. It is

recommended that the necessary funding for the surge classes is vired from the SEND school budget.

- 6.6 Directors have delegated authority to approve virements for capital items up to £150,000, whilst Cabinet approval is required for virements for capital items between £150,000 and £1,000,000. Beyond £1,000,000, Full Council approval is required.
- 6.7 This table outlines the nine schemes required to provide the additional secondary surge places and the estimated cost of each as well as the funding source.

Project	Estimated cost	Funding source	Approval required for virement
Scheme 1	0	No cost	N/A
Scheme 2	0	No cost	N/A
Scheme 3	50,000	SEND School Budget	Director approval
Scheme 4	120,000	SEND School Budget	Director approval
Scheme 5	150,000	SEND School Budget	Director approval
Scheme 6	180,000	SEND School Budget	Cabinet approval
Scheme 7	300,000	SEND School Budget	Cabinet approval
Scheme 8	700,000	SEND School Budget	Cabinet approval
Scheme 9	1,500,000	SEND School Budget	Council approval
	3,000,000		

- 6.8 Officers will robustly explore the chances of receiving additional funding from the DfE based upon the unexpected need and the reduction in basic need funding, to help mitigate the significant shortfall in funding, but this cannot be relied upon and certainly not within the timeframe necessary to ensure the delivery of the surge classes.
- 6.9 There is £10.9m in agreed section 106 contributions for education outstanding from approved developments either underway or yet to start. However, the receipt of these funds is reliant upon housing schemes completing, and with the funding received in instalments at agreed trigger points over time. It is uncertain when this funding will be available.
- 6.10 Wherever possible the most cost-effective solution will be utilised in each surge class project to minimise the cost, but it is expected that the additional funding shown in paragraph 6.7 will be required.

7. Legal implications

- 7.1 The Council has the power under sections 18 and 19 of the Education and Inspections Act 2006 to make “prescribed alterations” to a maintained school. The procedure for making prescribed alterations is set out in ‘School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
- 7.2 From 24 January 2014 there is no longer a requirement for a ‘pre-publication’ (informal) consultation period for prescribed alterations, there is however a strong expectation on Local Authorities to consult interested parties to develop their proposals prior to formal publication as part of their duty under public law to act rationally and take into account all relevant considerations. Specific proposals brought forward from this report will go through this consultation processes.
- 7.3 Where an expansion is proposed at an academy it falls to the academy trust to carry out the appropriate statutory consultation. In these circumstances the Regional

Schools Commissioner is the decision maker on the proposals. If these proposals are to meet basic need for school places, then responsibility for funding falls to the Council. All decisions on funding approval will be approved in accordance with the provisions set out in the Council's Constitution and in particular the Financial and Contract Procedure Rules.

8. Recommendations

8.1 The Cabinet is asked to:

8.1.1 Agree the commencement of the design and tender process for the projects required to provide the surge classes in readiness for September 2020.

8.1.2 Note the virement from the SEND school budget of the funding required for schemes 3, 4 and 5, as shown in the table at paragraph 6.7 of the report, under the Director's delegation.

8.1.3 Agree a virement from the SEND school budget of the funding required for schemes 6, 7 and 8 as shown in the table at paragraph 6.7 of the report.

8.1.4 Recommend to Council the approval of a virement from the SEND school budget of the funding required for scheme 9, as shown in the table at paragraph 6.7 of the report.

9. Suggested reasons for decisions

9.1 By approving the recommendations in section 8, the Cabinet will be ensuring that the Council meets its statutory duty to ensure sufficient good quality school places are available.

9.2 The rules relating to the virement of capital funding are set out in the Council's Constitution.

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Appendices

None

Background papers

School Place Planning Strategy -

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=42617>