

## **CABINET**

**4 APRIL 2023**

### **ADDITIONS TO THE SCHOOLS CAPITAL PROGRAMME**

Portfolio Holders: Councillor Mrs Josie Iles, Portfolio Holder for Children's Services  
(Lead Member)

Councillor Martin Potter, Portfolio Holder for Education and Schools

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#### **Summary**

This report sets out the proposals to ensure that appropriate levels of good quality mainstream and SEND school places are available through to 2027. It requests that the projects are approved, and that Cabinet recommends to full Council for them to be added to the Education Capital Programme.

1. **Budget and Policy Framework**
  - 1.1. Medway Council has a statutory duty to provide sufficient school places. The School Place Planning Strategy describes the principles, methods, and challenges of this duty.
  - 1.2. Annual reviews of the School Place Planning Strategy provide up to date information and proposals to make sure there continue to be sufficient good school places for the expected numbers of pupils, whilst managing published admission numbers (PAN) to avoid oversupply.
  - 1.3. The proposed projects in this report follow the School Place Planning Strategy Principles. They also support 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 projects, if added to the Education Capital Programme, would be delivered through available funding from a combination of Basic Need and SEND grant funding, as well as s106 developer contribution receipts. Therefore, this is a matter for Cabinet.

## 2. Background

- 2.1. On 18 October 2022, under decision 111/2022, the Cabinet supported the strategy as set out in sections 9 and 11 of the 2022 Annual Review of the School Place Planning Strategy, with individual schemes being brought forward to Cabinet and Council seeking approval to be added to the Capital Programme in due course. This report sets out the individual schemes.
- 2.2. Approval of the proposals within this report will ensure that the Council meets its statutory duty to provide sufficient school places.

## 3. Proposed primary and secondary mainstream actions

- 3.1. The following projects provide additional provision to meet demand coming through, as highlighted by the forecasts and reflect those indicated within the 2022 Annual review of the School Place Planning Strategy.

Table 1 - Proposed mainstream projects

School	Sector	Increase in places	Cost <sup>1</sup>
St Nicholas CofE Primary	Primary	70	£2.10m
Hundred of Hoo Primary	Primary	210	£0.80m
Luton Primary (nursery)	Primary	Zero <sup>3</sup>	£0.40m
Chatham Grammar co-education <sup>2</sup>	Secondary	Zero <sup>4</sup>	£0.90m
Fort Pitt co-education <sup>2</sup>	Secondary	Zero <sup>4</sup>	£0.90m
Holcombe co-education <sup>2</sup>	Secondary	Zero <sup>4</sup>	£0.90m
Maritime Academy Temp site	Secondary	180 temp	£0.30m
Victory Academy	Secondary	150	£3.45m
Greenacre Academy	Secondary	100	£3.50m
Hundred of Hoo Secondary	Secondary	150	£3.25m
Robert Napier	Secondary	150	£2.94m
Total		830 (1010)	£19.44m

<sup>1</sup> Expected cost subject to formal tender

<sup>2</sup> Subject to a decision by the Regional Schools Director in Spring 2023

<sup>3</sup> Replacement would improve the learning environment as well as reduce school and council costs in ongoing maintenance costs.

<sup>4</sup> No direct additional pupil places are created, although the proposals may result in freeing up some spaces in the non-selective sector.

- 3.2. In recent years Medway has received no basic need funding from central government. The only funding available has been section 106 developer contributions, paid by housing developers to offset the impact of pupils from new developments.
- 3.3. To fund this programme without the need to consider borrowing, for 2023/24 Medway has been allocated £17,049,927 in basic need funding from central government. There is approximately £1,165,731.67 in developer contributions available, which name one of the listed projects and so can be added to the grant funding as appropriate, together with £1,231,540.42 basic need grant rollover which can be added to the programme to provide a total available programme value of £19,447,199.09.

- 3.4. The proposals in (Table 1), together with occasional bulge classes at other schools on a rota basis including the two new free schools, should ensure that Medway has sufficient school places for the foreseeable future (5 years for primary and 7 for secondary). Additional housing expected through the local plan will impact upon the demand, but there is an indicative plan in place to meet that demand, dependent upon the timing, location and phasing of the new developments, however, funding for that is reliant upon future Section 106 contributions.
- 3.5. The mainstream expansion programme as set out, is expected to be delivered in full by September 2025, with most completing by September 2024.

#### 4. Proposed SEND actions

- 4.1. A SEND needs analysis was undertaken and highlighted the main diagnosis of need where additional places are required. These were Autistic Spectrum Disorder (ASD), Social Emotional Mental health (SEMH) and Severe Learning Difficulties (SLD) and profound and Multiple Learning Difficulties (PMLD).
- 4.2. The table below (Table 2) sets out the programme by project to provide these additional places. The projects are a mix of special school expansions and new resourced provision attached to mainstream schools. This will ensure that the most appropriate provision is in place to meet the pupil need.
- 4.3. This programme will reduce the need to place children and young people in out of area placements, which will support the pupils in remaining close to their family and friends; will enable local transport and where possible and appropriate enable young people to develop skills to support independent living. It will also reduce travelling times for the most vulnerable pupils which in turn will reduce transport costs and the overall programme will contribute towards reducing the High Needs Budget deficit.

Table 2 - Proposed SEND projects

School		Sector	Increase in places	Cost*
Victory Academy Resourced Provision	SEMH	Secondary	25-32	£2.5m
Strood Academy Resourced Provision	ASD	Secondary	25-32	£2.3m
Leigh Academy Resourced Provision	MLD	Secondary	25-30	£2.3m
Howard School Resourced Provision	ASD	Secondary	25-30	£2.2m
Delce Academy Resourced Provision	SEMH	Primary	25	£0.25m
SJW Math School Resourced Provision (Selective school)	ASD	Secondary	25-30	£2.3m
Inspire Special School interim increase	SEMH	Secondary	40	£1.2m
Rivermead Expansion	ASD	Secondary	40-50	£1.7m
Danecourt Expansion	ASD/SLD	Primary	20	£900K
Pre Beeches @Rowans	SEMH	Primary	20	550k
Total			309 (max)	£16.2

\*Expected cost subject to formal tender

- 4.4. The funding streams to provide sufficient funding for the SEND programme without the need to borrow additional monies, comprises of a central government grant allocation of £7,961,522; there is also £1,449,648 forecast to be available carried forward from a previous allocation.
- 4.5. Further funding for SEND is now available from a successful bid through the Safety Valve Intervention programme. This bid has realised an additional £7,188,479, which means the total funding package for SEND is £16,599,649.
- 4.6. The SEND programme will be delivered by September 2025, with some projects completing in time for September 2023 and 2024.
5. Option for Academies to self-deliver
- 5.1. When schools convert to academy status, they lease their land and buildings from the Council, and become fully responsible for their maintenance. However, there are several academies where the academy trust owns the freehold of their site and building. Academy trusts often have their own estates and property teams who manage the various academy sites and projects across the trust.
- 5.2. Academy Trusts in this position would often prefer to undertake the projects themselves, rather than the Council fulfilling the project. This report also proposes that where an academy trust owns the freehold interest of the site, and the Council has no asset interest in the property, that we formally engage the trust to undertake the work, where they will follow the appropriate RIBA stages through to completion.
- 5.3. This will reduce the timeframe of the project and reduce fees as the academy trust project teams will already be salaried, whereas the Council would need to commission the professional team. It will reduce the risk to the Council and

avoid the need and cost for the Council to insure the site and building work, negate the need for a works development agreement or license to enter. It will also reduce the burden upon the council's education project team given the extent of the current programme and the staffing resources available.

- 5.4. The local authority will continue to undertake projects at maintained schools and those academies where there is a lease, and the Council is the freeholder. But the recommendation is that for ring-fenced projects with set deliverables at Academy sites that are in their freehold, or where the Council has no asset interest, officers can directly engage the academy to self-deliver.
- 5.5. A legal agreement, setting out the scope of the work, the funding mechanism and the expectations upon the academy trusts would be in place before any funding is granted to the academy trusts. A draft template of the agreement is attached as appendix 1.
- 5.6. The funding granted will be based upon the figures set out against individual projects in tables 1 and 2 and would be held by the Council and drawn down by the schools at appropriate and agreed stages, ratified by inspection to provide assurance that the work stage is appropriately completed.
- 5.7. The local authority will remain as the commissioner of places, and all projects proposed now and, in the future, will be focussed upon providing sufficient school places at the right time and at the most appropriate location. The Council therefore retains the control of the programme as it does currently.
- 5.8. Academy Trusts would welcome this opportunity as it is in their interests to maintain and protect their owned asset appropriately and therefore the standard of work delivered is expected to be high.
- 5.9. The projects where this situation arises are as follows; from the mainstream table 1;
  - The three grammar schools for the co-educational proposals (Subject to a decision by the Regional Schools Director in Spring 2023 - Holcombe Grammar, Fort Pitt Grammar and Chatham Grammar)
  - Hundred of Hoo Secondary School
  - The Robert Napier SchoolAnd the SEND projects from table 2;
  - The Sir Joseph Williamsons Mathematical School
  - The Howard School
  - Leigh Academy Rainham
- 5.10. The Council's education project team will maintain oversight and scrutiny of the projects to ensure that the agreed deliverables are being met. However, with the extent of the proposed programme set out in tables one and two (21 projects) to deliver by 2025, if this proposal is not implemented, resulting in a reduction of projects to lead and manage by eight (paragraph 5.9), additional staffing resource will be required for the Council's education project team to ensure the programme is delivered effectively in time and to budget. This will result in additional cost to the Council.

5.11. As further funding becomes available additional projects will be developed to ensure demand for school places is met, and where the appropriate schools are academies who own the freehold interest in their sites, this process is recommended to continue. In each case this will be highlighted in the report to Cabinet requesting approval for the project, and to full Council when adding the project to the capital programme.

## 6. Climate change implications

6.1. No climate change implications arise directly from this report, however as all projects are progressed, designs and construction methods will consider such impacts and look to contribute to the Council's ambitious and exciting climate change agenda.

6.2. By creating local provision for children and young people, it is expected that there would be a reduction in car journeys across Medway which will reduce any impacts upon air quality.

6.3. Pupils are encouraged by schools to walk or cycle to school, and this becomes more achievable if the provision is local.

6.4. As part of this programme of expanding schools', officers will look to utilise methods and materials to help reduce the carbon footprint, examples include replacing fossil fuelled heating systems with greener alternatives, LED lighting, improving insulation, photovoltaics and providing vehicle charging points and where possible using local contractors, and conforming to the latest regulations in construction.

## 7. Risk management

7.1. There are no risks resulting directly from this report, however 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.	C1
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	Explore options to fund projects including bidding for funding initiatives. Look at cost effective ways to supply places.	B1

	<p>its statutory obligation.</p> <p>The strategy refers to s106 contributions that have been requested but have not been agreed through the planning process and therefore may not be realised.</p>		
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 less 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 Council's wider pupil place planning strategy.	C2
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.	B3

Likelihood	Impact:
A Very high	1 Catastrophic (Showstopper)
B High	2 Critical
C Significant	3 Marginal
D Low	4 Negligible
E Very low	
F Almost impossible	

## 8. Consultation

- 8.1. No consultation is required for this report, but any specific proposals that are progressed as a result of this report will include a consultation process as appropriate.

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

## 9. Financial implications

9.1. All projects approved and undertaken as a result of this report will be funded through the Children and Adults' Capital Programme.

9.2. In recent years no basic need funding has been provided by central government to Medway Council to provide additional places. Therefore, funding of projects was reliant upon education section 106 receipts, or Council borrowing in advance of future developer contributions due to the delay in receiving funding through this avenue. For 2023/24 the government has allocated £17,049,927 in basic need funding to Medway, this will provide the bulk of the funding for the mainstream programme but will be complemented with section 106 receipts as set out in Table 3 below.

**Table 3 - total funding available**

Basic Need grant	£17,049,927.00
Basic Need Rollover	£1,231,540.42
Total Basic Need pot	£18,281,467.42
Total Section 106 funding available	£1,165,731.67
Total funding (basic need + section 106 receipts)	£19,447,199.09

9.3. Where appropriate, further 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.

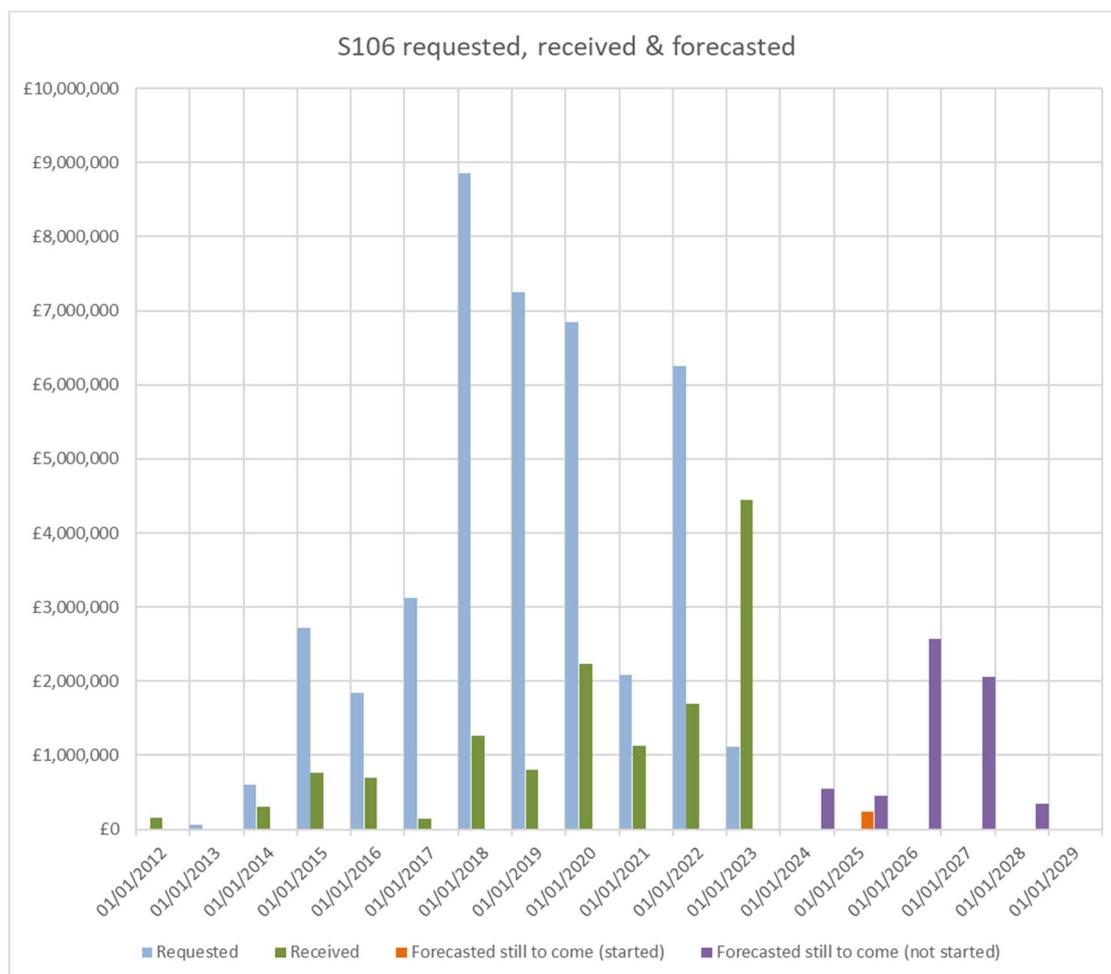
9.4. Table 4 below sets out the received, agreed, and requested Education Section 106 funding.

**Table 4 - Section 106 contributions**

Education S106 receipts available	£2,134,207.28
Education S106 funds to come from started developments	£1,736,416.37
Agreed S106 to come from developments not yet started	£12,439,640.29
S106 funding requested from developments not yet agreed through the planning process	£1,798,022.46

9.5. As set out in the table 4 above there is the potential for up to £12,439,640.29 from approved housing schemes with S106 agreements in place yet to be started. Whilst not all of this will be realised as the developments may not go ahead, it is reasonable to assume that a fair proportion of this funding will be received over the coming years. This figure will increase as more housing developments are put forward and will provide funding to complete future projects to ensure demand is met. The graph below ([Figure 1](#)) shows the level of section 106 receipts received and requested and highlights when we expect to receive future agreed contributions.

Figure 1 - Requested, received, and forecast s106 contributions



- 9.6. The outcome of the above means that immediately there is £19,447,199.09 available to commence the mainstream programme, with future receipts being added to the overall funding envelope. Officers will seek to fund the projects proposed in section 3 (mainstream) using the most suitable combination of basic need and available section 106 funding therefore removing the need to borrow further funding.
- 9.7. For the SEND programme £16,599,649 is available as set out in sections 4.1 and 4.2 of the report.
- 9.8. 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.
- 9.9. The Government's Free School programme provides an opportunity to create additional provision without the responsibility for funding. The funding waves announced under this programme are separate from the Free School presumption process, where new schools from housing developments are funded by the Council. All opportunities to benefit from future Free School waves will be explored. This is particularly relevant to secondary provision which requires significantly higher capital funding than primary schools. However, the availability of land is an issue. Officers will seek to secure Free School provision for Medway as required and discussions with the DFE will continue.

## 10. Legal implications

- 10.1. 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.
- 10.2. 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.
- 10.3. 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 follow the Council’s procurement procedures.

## 11. Recommendations

- 11.1. The Cabinet is asked to note and approve the projects set out in sections 3 and 4 of the report and recommend to full Council that these individual schemes are added to the Capital Programme.
- 11.2. The Cabinet is requested to authorise the Director of People Children and Adults to enter into a formal agreement with academy trusts to engage them, where the Council has no asset interest in the school site, to undertake the projects as set out in section 5 of this report.

## 12. Suggested reasons for decisions

- 12.1. By approving the recommendations in section 11 of the report, the Cabinet will be ensuring that the Council meets its statutory duty to ensure sufficient good quality school places are available.

### Lead officer contact

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## Appendices

Appendix 1 Template funding agreement

## Background papers

School Place Planning Strategy 2022-27

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=63361>

2022 Annual Review of the School Place Planning Strategy 2022-27

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=65570%20>