

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan

JOINT REPORT OF THE EXECUTIVE DIRECTOR (CHILDREN'S SERVICES) AND THE EXECUTIVE DIRECTOR (PLACE) TO CABINET

PROPOSAL TO RUN A PRESUMPTION COMPETITION TO ESTABLISH A NEW PRIMARY SCHOOL IN THE ROYSTON AREA OF THE BOROUGH

1. PURPOSE OF REPORT

- 1.1. To seek approval to run a presumption competition to establish a new primary school in the Royston area due to need arising from the Barnsley MU5 Masterplan framework.

2. RECOMMENDATIONS

- 2.1. **Cabinet to approve the commencement of the presumption competition.**

3. INTRODUCTION

- 3.1. The Local Authority has a statutory duty to ensure the sufficient supply of school places; good quality places in the right place at the right time under the Education Act 1996.
- 3.2. The Barnsley MU5 framework includes a new primary school to meet future school place need as a result new homes arising from the development; 828 new homes are planned under the framework.
- 3.3. Latest pupil projection information and expected housing development trajectories indicate an initial need for a 210 place primary school.
- 3.4. The current proposed timescale for the opening of the new school is anticipated to be September 2024. However, this is subject to the actual commencement of the site development.
- 3.5. There are two routes to opening a new school, both of which will result in the school operating through a Multi Academy Trust (MAT):
 - The first, a central mainstream free school, delivered through the DFE's Free School Programme. This is where the government open up a bidding round for prospective groups to apply to establish high quality new schools. This route is by invitation (known as waves) and will require the government to provide the site, capital and pre/post opening costs. Criteria is usually attached to the wave invitation to target specific need, such as areas with educational underperformance and significant basic need.

- The second route is a Presumption Free School. Where a Local Authority identifies the need for a new school, specifically to meet increased basic need in an area. Section 6A of the Education and Inspections Act 2006 places the Local Authority under a duty to seek proposals to establish an academy (free school) via the free school presumption process. The Local Authority is responsible for all associated capital and pre-/post-opening costs, although these costs will be recovered from housing developers in full through S106 agreements.
- 3.6. At present there are no open central mainstream free school application waves therefore not an option for the Local Authority. It is therefore impossible to determine if the Barnsley MU5 development would meet any criteria set out. Based on the previous wave 14 criteria, an application for this area of the borough would not meet the criteria and would not be approved.
- 3.7. At this moment in time the presumption free school process is the only route to establishing a new school and is established through a competition run by the local Authority, with support from the Regional Schools Commissioner.
- 3.8. The presumption competition consists of the following elements:
- Consultation process with stakeholders and other interested parties
 - Impact and equality assessments
 - Preparation of new school specification
 - Advertise/market the opportunity to prospective trusts
 - Assessment of proposals/submissions
 - Due diligence checks
 - Local Authority recommendation
 - Secretary of State/Regional Schools commissioner approval
- 3.9. This process is expected to take between six and nine months, depending on the number of proposals that have been submitted.
- 3.10. Should a further wave of central mainstream free schools be announced, both processes can run concurrently and both can be withdrawn at any time. There is no mechanism in place to prevent a MAT submitting a central mainstream application through the wave process if it is open. The Secretary of State or Regional Schools Commissioner would be the ones to determine which proposal offers the best educational benefit for the area.
- 3.11. Further reports will be submitted in relation to approving the new sponsor for the school following the presumption competition.
- 3.12. The presumption competition is the first stage in the Local Authority determining a preferred sponsor. The Local Authority can recommend their proposed sponsor but ultimately the final decision rests with the Regional Schools Commissioner.
- 3.13. Where the need for additional school places is a direct result of new housing development, local authorities and the government expect this to be largely funded via developer contributions. The following is extracted from DFE Securing Developer Contributions for Education publication (November 2019):
- “The DFE expects local authorities to seek developer contributions towards school places that are created to meet the need arising from housing development.”

- Local authorities should establish “a robust and consistent evidence base, underpinned by the following principles:
 - Housing development should mitigate its impact on community infrastructure, including schools;
 - Pupil Product Ratios (PPRs) should be based on up-to-date evidence from recent housing developments;
 - Developer contributions towards new school places should provide both funding for construction and land where applicable, subject to viability assessment when strategic plans are prepared and using up-to-date cost information;
 - The early delivery of new schools within strategic developments should be supported where it would not undermine the viability of the school, or of existing schools in the area.”
- “Central government basic need grant and the DfE free school programme do not negate the responsibility of housing developers to mitigate the impact of their development on education.”

3.14. The developers for the Barnsley MU5 development will be responsible for providing the funding for the new school via S106 contributions but the school build will be undertaken by the Local Authority using these contributions. The building specification will be in line with the DfE’s standardised design for schools, which sets out the spaces required for the school.

4. PROPOSAL AND JUSTIFICATION

4.1. A presumption competition is essential to ensure that the Local Authority has satisfied its duty to provide sufficient school places and can meet future demand in the area arising from the pupil yield for this large development.

5. CONSIDERATION OF ALTERNATIVE APPROACHES

5.1. The local authority is the strategic commissioner for school places and must ensure that plans are put in place and processes are followed to ensure that future demand can be met.

5.2. Under normal circumstances, the expansion of existing schools has been the standard route to create additional school capacity in Barnsley. Given the size of the development and number of homes proposed, it is not feasible to expand any of the existing primary schools to meet expected demand.

5.3. The Local Authority could wait for the next central mainstream free school wave and encourage Multi-Academy Trusts to submit an application. There is no guarantee that this would be approved and the time waiting for a decision could not be recovered and may result in the houses being occupied without additional school capacity being created.

6. IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS

- 6.1. The provision of a new primary school would be of benefit to families within the area as they would have access to a good local primary school and community hub.

7. FINANCIAL IMPLICATIONS

- 7.1. Consultations have taken place with representatives of the Service Director Finance (S151 Officer) and are summarised below.
- 7.2. There are no direct financial implications from commencing / progressing the competition process itself. Looking forward it is not anticipated that the Council will incur any design or construction costs in delivering the new school. The land and capital funding to build the school will be secured via S106 agreements with the developers, as the requirement of MU5 is for the developers to provide a new primary school.
- 7.3. As the school will be an Academy the successful academy proposer will then need to enter into a revenue funding agreement with the Secretary of State for Education for the operation of the school, to be effective from the date of the schools opening.
- 7.4. There are a number of uncertainties and risks that would need to be managed during the period leading up to the new build. It is envisaged that future detailed reports will be put forward to SMT/Cabinet at each stage addressing specifics such as:
 - 1. There is uncertainty regarding the delivery of the new school by September 2024 - as it is dependent on commencement and progress of the various housing developments;
 - 2. The involvement of different developers and the different timings of the S106 funding contributions (as these would be linked to the stages / phases of housing developments) poses a significant funding risk to the Council. Ensuring that the proposed new school is delivered on time may require some bridge funding by the Council to mitigate cashflow issues arising from the different timings of the S106 developers' contributions.
 - 3. Opportunities to submit bids for future DfE capital funding rounds under the Free School Programme would be considered. This would present opportunities to access government capital funding for the new build, and thereby alleviate any significant costs for the developers;
 - 4. Assess future risk to the Council arising from any financial viability issues (cashflow) for the developers that would impact on their ability to meet their funding commitment of the new may build / school.
- 7.5. It is proposed that the cashflow risk / issue identified above is managed through effective forward planning of the schools' capital programme – underpinned by increased flexibility in the use of available basic need grant funding and S106 contributions. Any bridge funding (i.e. basic need or s106 monies) applied in lieu will be replenish on receipt of the s106 developers' contributions.

8. EMPLOYEE IMPLICATIONS

- 8.1. None.

9. LEGAL IMPLICATIONS

- 9.1. The Local Authority has a statutory duty to ensure the sufficient supply of school places; good quality places in the right place at the right time under the Education Act 1996.

10. CUSTOMER AND DIGITAL IMPLICATIONS

- 10.1. None.

11. COMMUNICATIONS IMPLICATIONS

- 11.1. None.

12. CONSULTATIONS

- 12.1. In accordance with the requirements placed upon local authorities, before launching the competition the Local Authority will consult with stakeholders and interested parties affected by the proposals.
- 12.2. The consultation will clarify the type (e.g. mainstream, faith, special educational needs, alternative provision), age range, gender and capacity of the free school alongside details of the proposed site and expected opening date.
- 12.3. Feedback gathered through consultation will be used to help formulate and finalise the specification for the new school and will take place before publication of the specification of the new free school.

13. THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK

- 13.1. This proposal supports the Corporate Plan objectives of People achieving their potential: Outcome six: Every child attends a good school and is successful in learning and work - The quality of our schools and early year's provision is good.

14. PROMOTING EQUALITY, DIVERSITY AND SOCIAL INCLUSION

- 14.1. The provision of the school will have a positive impact as families will have access to a good local school and the Local Authority can provide a greater range of local preferences for parents and pupils.
- 14.2. A new school will also offer the opportunity to further improve education opportunities generally within the community and bringing new expertise and knowledge to the area through strengthening local partnerships and collaborative working.

15. TACKLING THE IMPACT OF POVERTY

- 15.1. None.

16. TACKLING HEALTH INEQUALITIES

- 16.1. None.

17. REDUCTION OF CRIME AND DISORDER

17.1. None.

18. RISK MANAGEMENT ISSUES

- 18.1. There would be a risk to the Local Authority if the presumption competition did not go ahead as the it would not be in a position to ensure the new primary school was operational within required timescales.
- 18.2. In addition to facilitating new pupil yield from the MU5 development, the new school is part of the Local Authority's strategy for dealing with a projected shortfall of places commencing 2023 as a result of live birth data.
- 18.3. The Local Authority will need to address the issue of a shortage of primary school places for September 2023, as this is when additional places are required purely based on birth data.
- 18.4. Discussions are already taking place with local primary schools regarding the admission of a bulge year group to meet demand for places within the area. This could result in additional costs for the Local Authority.
- 18.5. The Local Authority would be breaching its statutory responsibilities for the supply of school places if the new school or additional bulge places were not in place.

19. HEALTH, SAFETY AND EMERGENCY RESILIENCE ISSUES

19.1. None.

20. COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

20.1. Fully compatible – an EHRIA has been completed.

21. CONSERVATION OF BIODIVERSITY

21.1. Not applicable.

22. APPENDICES

22.1 There are no appendices to the report.

23. BACKGROUND PAPERS

23.1 If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made

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Financial Implications/Consultation



Joshua Amahwe (05/01/2021).

(To be signed by the senior Financial Services officer where there are no direct financial implications)