

CABINET

15 November 2016

Title: Review of School Places and Capital Investment - Update November 2016	
Report of the Cabinet Member for Educational Attainment and School Improvement	
Open Report	For Decision
Wards Affected: All Wards	Key Decision: Yes
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Accountable Director: Jane Hargreaves, Commissioning Director Education	
Accountable Strategic Director: Anne Bristow, Strategic Director for Service Development and Integration	
Summary This report sets out the latest information regarding forecast demand for education places across the Borough's schools, together with a detailed Strategy for Ensuring Sufficient School Places and School Modernisation through to 2022/23. (Appendix 1), and Future Planning Programme to meet Basic Need (including SEN and 2 year old places) 2016 to 2025. There are some important aspects of the development of school places which influence demand and cost. Two very important points are: <ul style="list-style-type: none">• the Local Plan Review sets out the aspirations to create new and additional homes; with that comes some infrastructure requirements and in particular for Children's Services the provision of school places;• the limit to expanding existing schools is fast approaching because of physical space. Developing new sites brings additional costs as sites are generally more confined and more expensive to develop, plus building inflation which is currently running at 1% per month, but also the potential process of competitions for school operators. The law imposes a "free school presumption" on new schools.	
Recommendation(s) The Cabinet is recommended to: <ul style="list-style-type: none">(i) Approve the Strategy for Ensuring Sufficient School Places and School Modernisation to 2022/23 and the Future Planning Programme Basic Need (including SEN places) 2016 to 2025 as set out the Appendices 1 and 2 to this report;(ii) Agree the inclusion of £700,000 in the Capital Programme to support the provision	

of nursery places for 2 year olds in accordance with the DfE approval, as detailed in section 3 of the report; and

- (iii) Authorise the Strategic Director for Service Development and Integration to enter into discussions with potential operators of Free Schools and the Education Funding Agency (EFA) regarding the design and construction processes for new schools in the Borough to enable the Council to influence design, oversee construction and achieve a greater degree of certainty around the on-time delivery of new school places and to comply with requirements imposed by the Education Act 2011.

Reason(s)

The decision will assist the Council in fulfilling its statutory obligations to provide a school place for every child and support the intention of the Council's Vision and Priorities, including encouraging civic pride, enabling social responsibility and growing the Borough, and delivering the ambition for excellence in education set out in our Education Strategy.

It is part of the mitigation of Corporate Risk 31 – Inability to Provide School Places.

1. Introduction and Background

- 1.1 It has been the practice since 2010 to report regularly to Cabinet the forecast for pupil numbers. These reports have also covered a programme of proposed works necessary to ensure that children in the Borough have the opportunity to attend school. The last report presented to Cabinet on this subject was on 19 April 2016, Minute 120 refers.
- 1.2 This report provides an update and sets out the most up to date information on the projected demand for education places to 2025. Further, the report covers a number of initiatives which build on existing arrangements to develop the use of accommodation.
- 1.3 The third aspect of the report is to provide an updated Programme of School Development through to 2025 to support the forecast pupil demand.
- 1.4 The following information is provided for Cabinet Members as there are some important aspects of the development of school places which influence demand and cost. Two very important points are:
- The Local Plan Review sets out the Council's aspirations to create new and additional homes; with that comes some infrastructure requirements and in particular for Education, the provision of school places;
 - Additionally, the limit to expanding existing schools is fast approaching, and developing new sites brings with it not only additional costs but the potential process of competitions for school operators
 - Crucially, any proposal for a new school must comply with the "free school presumption", details of which are given below.

2. Update on Pupil Numbers and Capacity

2.1 Cabinet has received regular reports about the continuing demand for school places and the need to develop additional provision. It is worth noting that pressure to provide sufficient school places is a national issue and in particular regional to London owing to the rising population. For Barking and Dagenham, it has been a major priority for investment since 2007.

2.2 When looking at the forecast in growth of the pupil population a number of factors are taken into consideration as follows:

- Numbers of pupils currently in the borough;
- Birth figures;
- New housing proposals, as advised in the Local Plan Review;
- Historical data e.g. pupils living in borough but choosing out borough schools;
- Internal knowledge of recent population fluctuations;

2.3. The most recent set of pupil forecast figures have been reviewed over the last 3-4 months in order to provide evidence to the Government about the local changes and forecast changes to the pupil population. This data, when put together with all other Council's forecast data, is then used by the DfE to measure the growth in pupil demand at national level and to allocate resources for meeting school place basic need at local level. The forecasts indicate:

- the primary School population across the Borough will increase from its present levels of 27,491 at May 2016 to 30,460 for the school year 2025/2026.
- the secondary school population across the Borough will increase from its present levels of 14,275 to 25,380 for the school year 2025/2026.

[Note: these figures allow for the growth of the borough and projected increases to population allowing for published house building; there may be fluctuations owing to other demographic changes.]

2.4 These projections are slightly higher than previous forecasts as the higher house building projections have been reflected in the figures. The projected house building has a significant impact on the Council's ability to attract funding from Central Government to support the provision of new or additional school places. The review of the Council's Local Plan has begun and this anticipates that housing delivery will accelerate significantly beyond 2017/18.

Primary Provision

2.5 The primary population growth to 2025 is expected to increase by around 2,970 pupils based on current housing development plans and published data, but does not include any element of future planned expansion beyond current published figures. The current capacity for Reception is 3,930 places at September 2016, and the numbers on roll at May 2016 were 3,720, giving spare capacity or vacancies of 210 places across the Borough. Some of this 210 places will be utilised through to September 2017, any small balance helps to provide a little spare capacity. Current forecast is being managed down to ensure we do not over provide in the Borough

but have regard to longer term need for places. This has been analysed further by reception place demand as follows:

Year	Yr R Number Forecast	Increase
2016-17	3,858[May 16 Actual 3720]	
2017-18	3,973	115
2018-19	3,914	-59
2019-20	3,921	7
2020-21	4,026	105
2021-22	4,081	55
2022-23	4,193	112
2023-24	4,270	77
2024-25	4,334	64
2025-26	4,478	144
	Total	620

- 2.6 It should be noted that the forecast figures given above relate to the whole academic year and we therefore have to plan to satisfy the demand which is likely to arise in the whole of each academic year. This means we need to have some spare capacity at the start of the new year so that places can be offered through to the following July.
- 2.7 This extra demand of at least 620 places is equivalent to 21 forms of entry at YrR (Reception). The pace of this demand is directly affected by changes in rates of house building, which makes predicting exactly when children will need school places, and in which year groups, extremely challenging. Details about how these places are planned to be provided are set out on the Appendix 2 of this report which acts as a master plan of proposed developments through to 2025. This is reviewed on a monthly basis and brought to Cabinet 6 monthly to enable a flexible response to changing population information, whilst maintaining our strategic approach to creating an excellent education service.
- 2.8 Experience has proven that we need to provide above the minimum level forecast to manage the high number of in year admissions and to give parents the opportunity to express a preference. Our aim is to meet the DfE minimum recommended 3% spare capacity. These forecasts are kept under review on an annual basis to maximise investment opportunities when they arise.

Secondary Provision

- 2.9 In order to address the shortfall of places efficiently Education staff have looked at solutions based on an increase in secondary school provision at year 7 [Yr7] going forward. As previously indicated the secondary population growth to 2025 is expected to increase by around 11,106 pupils (YRS 7 to 13) based on current housing development plans and published data, but does not include any element of future planned expansion beyond current published figures. This has been analysed further by year 7 place demand as follows:

Year	YR7 Capacity 2015	YR7 Number Forecast	Increase
2016-17	2679	2,835 [actual May 16 2,596]	
2017-18		3,100	265
2018-19		3,490	390
2019-20		3,660	170
2020-21		3,709	49
2021-22		3,834	125
2022-23		3,935	101
2023-24		4,013	78
2024-25		4,034	21
2025-26		4,021	-13
			Total 1,186

- 2.10 This extra demand of at least 1,186 places is equivalent to 40 forms of entry at Yr7. Details about how these places are planned to be provided are set out on the Appendix 2 of this report which acts as a master plan of proposed developments through to 2025.
- 2.11 In order to provide for demand of 40 classes of YR7 pupils in the years up to 2025 the plan has been updated to provide 1,186 YR7 places by expanding existing sites or creating new secondary schools. The current plan creates a small surplus necessary if we are to manage parental preference. Further, any review of demand also takes into account other opportunities such as vacant places in neighbouring boroughs.

3. Conversion of Early Years Revenue to Capital

- 3.1 An application was made to the Education Funding Agency (EFA) to disapply the financial regulations covering revenue grant to support the provision of childcare places for 2 year children in the Borough. A sum of £700k has been identified from the revenue grant which might be used to support the development of new places which is a capital cost. Such approval was subject to the EFA authorising the request. By letter of 12 May 2016 this consent has been granted.
- 3.2 Cabinet are asked to approve the changes and for the sum of £700,000 to be included in the capital programme. This fund will support additional 2 year old places being developed.
- 3.3 Capacity is fully utilised across the sector at present, and there is currently no spare capacity in the market to deliver further 2 year old places. Investment through capital to create new places is therefore essential.

4. Establishing a New School

- 4.1 From 1 February 2012 for new schools other than pupil referral units and from 1 September 2012 for new pupil referral units s6 of the Education and Inspections Act

2006 came into force. This is known as the “free school presumption”. Free schools are new provision academies, rather than “converter” academies. Both types of academies are state-funded schools that are independent of local authority control and receive their funding directly from the Government.

4.2 Under s6 where a local authority thinks there is a need for a new school in its area it must seek proposals to establish an academy (that is a free school, because it will be new provision). The Department for Education published non statutory guidance on this in February 2016, which is helpful in setting out details of and expectations for what it calls the “free school presumption process”. .

4.3 It is not possible to establish a new school without going through the requirements of s6. Therefore, the Council has no choice when it identifies a need for a new school, other than to follow this. This Council has exploited all opportunities to expand existing provision, but where circumstances require **new** provision, it must act within the law on establishing a new school. At the same time, the law remains the same in that it is the Council’s legal responsibility to ensure sufficient provision of school places, both mainstream and SEN.

4.4 In order to keep any new school provision as much in line with Council strategy and existing provision as possible, known local groups who are involved in education provision have been encouraged to apply to the Education Funding Agency to be allowed to open new school facilities. The following applications have been made.

New 3FE Primary	– Beam Park	– Abelle Pre-School
New 3FE Primary	– Gascoigne Regeneration	– Partnership Learning
New 3FE Primary	– Former City Farm Site	– Partnership Learning
New 10FE Secondary	– East Dagenham (No Site)	– Partnership Learning

4.5 Applications were made in the spring 2016. There has been a letter advising that the 4 bids have been approved and the LA will extend the dialogue with applicants and the DfE.

4.6 It is proposed that officers from the School Investment and Organisation team will enter into a dialogue with both the operators and the EFA about the possible involvement in the design and construction process to ensure that any new schools are compatible with the LA preferred model and standards. This could allow the Council to influence the design, oversee construction of the buildings and achieve a greater degree of certainty that the places will be delivered on time.

5. Options Appraisal

5.1 Current strategy is formulated against a backdrop on the demand side of:

- continuing increase in demand for school places for the foreseeable future;
- short run surges of demand for school places e.g. over the summer period and on the supply side: limited funding on short time horizons;
- shortage of sites in areas of high demand; and timescales for new providers e.g. timescales for Free Schools to be established may be two years.

5.2 The agreed investment strategy (see Appendices 1 and 2 to this report) is first, to expand provision on existing school sites as far as practicable to meet local demand

- to seek value for money solutions which have longevity; subsequently to seek and build on sites in areas of demand in Council or other public ownership that are suitable for development as a school and which also offer value for money and longevity;
- thirdly, to support those external providers that have access to further capital funding and are capable and willing to provide high quality inclusive education places that comply with the Council's Admissions Policies.

5.3 The variables that influence the delivery of this strategy are:

- demand fluctuations; the willingness of governing bodies to accede to expansion plans;
- funding limitations; cost variances – specific to sites;
- timescales to achieve cost efficient/ competitive prices in short timescales.

5.4 The Council's Strategy for Ensuring School Places and School Modernisation through to 2022/23 is attached as Appendix 1. Appendix 2 shows the schedule of need and timescale to meet demand forecast. The overall strategy is robust and has delivered successfully for the last 5 years: individual project specifics may change but will remain in the overall strategic framework

6. Consultation

6.1 These proposals are not Ward specific. There has been consultation with a range of officers throughout the Council in order that appropriate matters are considered including financial, legal, risk management and others mentioned in section 9 of this report.

7. Financial Implications

Implications completed by: Katherine Heffernan, Group Manager – Service Finance

7.1 This report sets out a strategy for ensuring Sufficient School Places. The report identifies a requirement for a considerable number of new school places and the sites where they made be provided. This is likely to require a considerable capital programme.

7.2 In recent years the Council has successfully maintained a Schools Capital Programme of around £45m to £50m per year in order. The programme and funding available for future years will be reviewed and approved on a rolling basis as part of the Council's Medium Term Financial Strategy.

7.3 This report also requests Cabinet approval to invest £0.7m of Revenue grant funding into the Capital Programme. This revenue funding is available and has been earmarked; it should be noted that there are pressures on revenue funding for Early Years. The future revenue costs of the new provision will be funded by DfE on a participation-led basis via the DSG Early Years Block.

8. Legal Implications

Implications completed by: Lucinda Bell, Education Lawyer

- 8.1 S13(1) of the Education Act 1996 imposes a duty on local authorities to “so far as their powers enable them to do so contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education and secondary education andin England, (some) Further Education are available to meet the needs of the population of their area.” S13A requires the local authorities to promote high standards and, in England, to ensure fair access to educational opportunity. They must also promote the fulfilment by almost every child of his or her educational potential.
- 8.2 S14 requires local authorities to secure the provision of sufficient schools and equipment for pupils of all different ages, abilities and aptitudes and for the different periods for which they may be expected to remain at school. Provision must include practical instruction and training appropriate to the pupil’s different needs and must secure diversity in the provision of schools and to increase opportunities for parental choice. S14(6)B requires that in exercising functions under S14 the Authority has in particular regard to the need for securing that special educational provision is made for pupils who have special educational needs.
- 8.3 The Childcare Act 2006 imposes duties on English local authorities to secure sufficient childcare for working parents, early years provision free of charge for 3 and 4 year olds and some 2 year olds.
- 8.4 School organisation, including opening and altering schools is subject to a statutory framework, now relaxed in part, and covered in the Department for Education Guidance. The process of establishing a new state school varies according to the type of school and the type of proposer. The law is contained in the Education and Inspections Act 2006. Section 6A requires that where a Local Authority perceives a need for a new school it must seek proposals to establish an academy (free school) and to specify a date by which proposals must be submitted. Advice published in February 2016 “The free school presumption, departmental advice for local authorities and new school proposers” details consultation, funding etc. Further legal comments on this aspect have been incorporated into the body of the report.
- 8.5 This report asks members to approve the strategy for meeting the place sufficiency duties, which are detailed above and to agree to the inclusion of £700,000 in the Capital Programme to support the provision of nursery places for 2 year olds for which authority has been given consent. It is also asked to indicate its support for officers from the School Estate Team to negotiate with potential operators of free schools and the EFA to support the specification of the new schools. This last request will facilitate the initial stages of the free school presumption that must be observed in considering additional schools to meet need.

9. Other Implications

9.1 Risk Management

- 9.1.1 Risk that funding levels will not be sufficient to meet demand to create new education places needed.
This risk is high impact (4) and medium (3) probability = 12 red. This risk is being managed by purchasing the best school accommodations which achieves efficiency through the latest design and build technology where possible. Post control the risk is high impact (4) and low (2) probability = 8 amber.
- 9.1.2 Risk that funding levels will not be sufficient to create suitable new school places.
This risk is high impact (4) and high (4) probability = 16 red. This risk is being managed by purchasing the most affordable accommodation which is system built, and blending it with site specific proposals. Post control the risk is high impact (4) and low (2) probability = 8 amber.
- 9.1.3 Primary schools: risk that site availability would prevent delivery of school places in the areas where demand is highest.
This risk is high impact (4) and medium (3) probability = 12 red. This risk is being mitigated, as far as practicable, by expanding all available sites in high demand areas, and reviewing other buildings for potential school use. Post control the risk is still high impact (4) and medium (3) probability = 12 red.
- 9.1.4 Risk that the cost of the rate of deterioration of the school estate will outrun the funding available to maintain it.
This risk is high impact (4) and high (4) probability = 16 red. This risk is being mitigated as far as practicable by lobbying DfE for improvements in funding. Post control the risk is high impact (4) and medium (3) probability = 12 red.
- 9.1.5 The provision of school places is a matter which is directly identified in the Corporate Risk Register and listed at Corporate Risks 31 – Provision of School Places.
- 9.1.6 Risk that final costs will be higher than estimate costs.
This risk is high impact (4) and high (4) probability = 16 red. This risk is managed through monthly CPMO meetings and initial planning figures that architects and schools are asked to work within being set below the highest estimate to allow for unforeseen challenges.
- 9.2 **Contractual Issues** – as a Free School the decisions about how buildings are procured lie with the EFA and the operator. There will be a dialogue as indicated in 4 above.
- 9.3 **Staffing Issues** - There are no specific staffing issues although the growing demand for school places will create additional opportunities in schools for both teaching and non-teaching staff and recruitment pressures for schools in a difficult environment.
- 9.4 **Corporate Policy and Customer Impact** - The decision will assist the Council in fulfilling its statutory obligations to provide a school place for every child and support the intention of the Council's Vision and Priorities, including encouraging civic pride,

enabling social responsibility and growing the Borough. It is also part of the mitigation of Corporate Risk 31 – Inability to Provide School Places.

The short term impact of the recommendations for the coming year would be positive for customers on all counts of: race, equality, gender, disability, sexuality, faith, age and community cohesion.

The longer term outlook is unlikely to be positive on the proposed funding levels as it will be difficult to address need on current budget levels.

- 9.5 **Safeguarding Children** - Adoption of the recommendations in the short term will contribute to the Council's objectives to improve the wellbeing of children in the borough, reduce inequalities and ensure children's facilities are provided in an integrated manner, having regard to guidance issued under the Children Act 2006 in relation to the provision of services to children, parents, prospective parents and young people.
- 9.6 **Health Issues** - The health and wellbeing board and JSNA highlight the importance of investing in early intervention and education to support children's and young people's long term wellbeing. The evidence and analysis set out in Fair Society, Healthy Lives (Marmot Review) has been developed and strengthened by the report of the Independent Review on Poverty and Life Chances. The reports draw attention to the impact of family background, parental education, good parenting and school based education, as what matters most in preventing poor children becoming poor adults. The relationship between health and educational attainment is an integral part of our Health and Wellbeing Strategy. At this point there is no need to change the focus of the Health and Wellbeing Strategy as a result of this report.
- 9.7 **Crime and Disorder Issues** - Appropriate consideration of the development of individual projects will take into account the need to design out potential crime problems and to protect users of the building facilities.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- **Appendix 1** – Strategy for Ensuring Sufficient School Places and School Modernisation through to 2022/23.
- **Appendix 2** - Future Planning Programme to meet Basic Need (including SEN places) 2016 to 2025.