

## CABINET

21 DECEMBER 2010

### REPORT OF THE CABINET MEMBER FOR CHILDREN AND EDUCATION

<b>Title:</b> Provision of a New Church of England Voluntary Aided Primary School at Barking Riverside	<b>For Decision</b>
<b>Summary:</b>  At its meeting of 24 March 2009 [Minute 162 refers) the Cabinet supported proposals for the Diocese of Chelmsford to establish a new voluntary aided Church of England primary school at Barking Riverside. These proposals have been progressed in line with statutory requirements and this report seeks formal approval for the new school.  The school is planned to be named The George Carey Church of England Primary School, subject to confirmation from the Diocese of Chelmsford, and will open on 1 September 2011 with three reception classes, one mixed infant class and two mixed junior classes. The new school will cater for pupils between the ages of 3 to 11 when fully operational and provide places for 630 boys and girls, 39 FTE places for nursery pupils and a children's centre together with 12 places for pupils with Special Educational Needs.  <b>Wards Affected:</b> Thames Ward	
<b>Recommendation(s)</b>  The Cabinet is recommended to approve the proposal for The Diocese of Chelmsford to establish a new voluntary aided primary school at Barking Riverside, to be open with effect from 1 September 2011, as detailed in the report.	
<b>Reason(s)</b>  To assist the Council in achieving its Community Priority of "Inspired and Successful" and in fulfilling its duty to provide every child in the borough with a school place.	
<b>Comments of the Chief Financial Officer</b>  The school will open from 1 September 2011 with three reception classes, one mixed infant class and two mixed junior classes at a cost of £279,159.  The school will require funding from the Dedicated Schools Grant (DSG) but due to the time lag and that the DSG is calculated on the January 2011 census, we will not receive additional funding for these pupils. This will be a pressure on the DSG and sufficient provisions must be made within the DSG to fund for 7/12 <sup>th</sup> of the year.  In addition to providing per pupil funding, there are significant start up costs and revenue lead in costs, such as equipment, books, ICT hardware/software that will require additional funding. These pressures must be managed very carefully and it may not be possible to contain the cost of all of these additional pressures within next year's DSG allocations. Therefore, sufficient funding must be carried forward from the DSG in order to support	

these additional school places where possible.

### Comments of the Legal Partner

The Legal Partner has confirmed that relevant legal issues are set out in section 9 of the report.

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## 1. Background

- 1.1 The Barking Riverside development is to provide a mixed use development that includes up to 10,800 homes in a phased build with the final homes being completed in 2024.
- 1.2 The increase in 0 to 15 year olds forecast for the South Riverside Area from new developments by 2016 is as follows:
  - 0 to 4 year olds an increase of 957 children
  - 4 to 10 year olds an increase of 1,338 pupils, and
  - 11 to 15 year olds an increase of 884 pupils
- 1.3 At its meeting of 24 March 2009 the Cabinet supported the Diocese of Chelmsford in applying to the Secretary of State to open a new Church of England primary school in the area.
- 1.4 With the overall rising birth rates in the borough from 2,380 (2000/01) to 3,619 (2007/08) and the accompanied proposed development of new homes across the Borough and more specifically at Barking Riverside, there will be an increased demand for school places. It is therefore appropriate that as part of the new Barking Riverside development, some new provision for school places should be made. In particular, it is intended some primary school places are available for September 2011 for three reception classes, one mixed infant and two mixed junior classes with the school then growing year on year depending on the demand for school places.
- 1.5 It is especially important for residents in this new area that there is suitable and convenient access to school places.
- 1.6 This is an opportunity for the Council to expand the number of Church of England (CoE) Primary Schools in the borough and provide students with the option of attending a local CoE Primary School. Also, the first CoE Secondary School in the

Borough opened on 1 January 2010 and so pupils have the opportunity to go on to a CoE Secondary School within the borough.

- 1.7 Subject to confirmation from the Diocese of Chelmsford, the school is to be named The George Carey Church of England Primary School, after the former Archbishop of Canterbury. This was recommended at Cabinet on 24 March 2009.
- 1.8 Further evidence of demand for places in CoE schools can be seen from the noticeable increase in the number of applications for St Edward's Comprehensive School in Romford from pupils in Barking and Dagenham.
- 1.9 Where Councils have identified a requirement for a new school the Department for Education (DfE) (under what was previously the Department for Children, Schools and Families) introduced procedures for creating a new school established under The Education and Inspections Act 2006 (EIA2006) and The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 (as amended by The School Organisation and Governance (Amendments) (England) Regulations 2007 which came into force on 21 January 2008.
- 1.10 The provisions apply in all circumstances where it is intended to establish a new school and applies for the establishment of any new maintained school whether they are to be brand new schools (e.g. to meet population growth) or to replace existing schools (e.g. following a reorganisation).
- 1.11 Therefore, where the Council wishes to see a new school established they must either:
  - Invite proposals for the school as provided for in Section 7 of the EIA 2006 Regulation 2007. This process is generally referred to as a "competition" and is expected to be the route by which most new schools will be established.
  - Apply to the Secretary of State for consent to publish proposals for a new school without running a competition. This is consent to **publish proposals only** and is **not** permission to establish a new school. Therefore, where consent is granted to publish proposals, it is not permission to establish a new school. The normal statutory process would still apply i.e. Consultation; Publication; Representations; Decision (by LA or schools adjudicator).
  - Work with the Secretary of State and sponsors to establish an Academy;or
  - For new maintained nursery schools and new 16-19 schools only, publish proposals for the new school under Section 11 of the EIA 2006 .
- 1.12 The Government wants schools to become self-governing and to form relationships with external partners. Voluntary aided schools along with Foundation schools, Trust Schools and Academies are all self governing schools. These types of schools all benefit from external partners who can bring energy, expertise and innovation to strengthen governance and help raise standards.

1.13 Where proposers (i.e. other than Councils) wish to establish a new school, they must apply to the Secretary of State for consent to publish proposals for a new school, without a competition. The Diocese applied for consent to publish proposals to establish a new school, under Section 10 of EIA 2006, in July 2009. This application was for a voluntary controlled school. However, following advice from the DfE, this application was withdrawn and a revised application was submitted to establish a voluntary aided school. The advice given by the DfE was it would have been unlikely for ministers to have given consent for a voluntary controlled school as these types of schools do not have the same degree of autonomy as voluntary aided schools.

## **2 The main steps in the process for proposers setting up a new school outside of a competition**

2.1 The proposer must apply to the Secretary of State to seek consent to publish proposals. The Diocese of Chelmsford submitted their application in July 2009 and the Secretary of State, after considerable time, confirmed their consent for the Diocese to publish their proposal in August 2010.

2.2 The proposer must obtain capital funding and this has been obtained through a grant provided to the Council.

2.3 The proposer must consult with interested parties and the Council has been involved in this process. Consultation has been conducted since March 2009. Those who must and have been consulted are:

- a) Any LA likely to be affected by the proposals
- b) The governing bodies, teachers and other staff of any other school that might be affected by the proposal.
- c) Families at any other school who may be affected by the proposals.
- d) Representatives of any trade union of any staff at other schools
- e) The Roman Catholic diocese and anyone else who has recently expressed an interest in setting up a school.
- f) MPs whose constituencies include the school that are the subject of the proposal or whose constituents are likely to be affected by the proposal.

2.4 Having consulted and taken account of the views expressed, the proposer must publish their proposal according to legal requirements set out in DfE Guidance. The notice was published in The News on 16 October 2010.

2.5 As a voluntary aided school, the Diocese must complete and return Form 18 to the DfE Voluntary Aided Capital Team. This is a statement of the governors' resources indicating that they can meet their contribution of at least 10 per cent for maintaining the school in the future. This Form 18 has been completed by the Diocese.

2.6 The proposer must then allow six weeks from the date of publication of their proposal for any objections or comments. The notice period ends on 26 November 2010.

2.7 The proposal will be considered on the basis of its educational merits and what it has to offer parents and the local community and the Diocese will receive a decision from the Council.

2.8 If their proposal is approved the Diocese must implement their proposal.

### **3. Comply with Conditions**

3.1 The Diocese is required to comply with the following conditions:

**a. Curriculum and assessment**

All maintained schools must:

- Provide the national curriculum
- Participate in national curriculum assessment, including tests
- Provide RE and Collective Worship

**b. Admissions**

For a voluntary aided school the governing body is responsible for deciding a school's admission arrangements each year. The Diocese will be using the same admissions criteria that the Local Authority uses for admissions into mainstream school. This is:

1. Children in the care of a Local Authority
2. Children who have a sibling (brother or sister) at the school.
3. Children who live nearest to the school, measured in kilometres in a straight line (as the crow flies).

**c. Staffing**

All maintained schools must have a head teacher who would normally hold the National Professional Qualification for Headship. Teaching staff would normally hold qualified teacher status.

**d. Governance**

All maintained schools must have a governing body.

**e. Equal Opportunities**

Schools must not discriminate against pupils, or prospective pupils, on the grounds of:

- Race
- Sex (gender)
- Disability
- Religion or belief
- Sexual orientation

**f. Revenue Funding**

All maintained schools are funded according to their LA's funding formula which is primarily based on the number of pupils on roll.

Maintained schools cannot supplement their revenue budget by charging fees for education:

- That takes place in school hours
- Is part of the national curriculum

**g. Special Educational Needs**

If the name of a maintained school is specified in a child's statement a school cannot refuse to admit the child. Schools must consider the most effective ways of delivering special educational needs support to pupils requiring it.

**h. Community Cohesion**

From September 2007, governing bodies of all maintained school are under a duty to promote community cohesion – educating children and young people to live and work in an ethnically, culturally and socially diverse country.

**i. Extended Schools**

Every Child Matters aims to improve outcomes for all children. As part of this agenda all schools must provide children, their parents and the wider community with access to core extended services, including wrap-round childcare in primary schools, by 2010.

**4 Decision**

4.1 In making a decision on whether to agree this proposal, the following factors should be considered:

- **Effects on standards and contribution to diversity**

This would include whether the proposal would:

- improve the quality of educational provision in the area, help to raise standards, improve attainment and narrow the attainment gap for under-performing groups.
- Improve the diversity of educational provision in the area

- **Need for Places**

This would include:

- Whether there is a need for additional places in the area.
- Whether there are surplus places in neighbouring schools, the educational standards at schools with surplus and their level of popularity with parents.

- **Accessibility**

This would include:

- Whether the school's proposed admission arrangements are equitable and allow fair access for all.

- **Finance**

This would include:

- whether the capital resources needed are available
- whether the proposals are viable and represent a cost-effective use of public funds

- **Site**

This would include:

- as this proposal is for a voluntary school if the Trust will not hold the freehold of the site whether the land tenure arrangements are satisfactory.

- **Community cohesion and inclusiveness**

This would include:

- whether the proposal tackles divisions in the community – religious, social, racial and cultural – and the extent to which the school will promote community cohesion.

- **Trust Schools**

This would include:

- the nature and constitution of the proposed Trust, and the activities and reputation of the proposed trustees.

- **Other Issues**

This would include:

- whether there are any equal opportunities issues

- **Views of interested parties**

This would include:

- parents, pupils, families, local residents affected by the proposals or who have an interest in them.

4.2 The Council must make a decision within two months of the end of the representation period i.e. by 26 January 2011. Should the Council not make a decision by this date, the matter would be referred to the school's adjudicator.

## **5 Implementation**

5.1 There is no prescribed timescale but would be as specified in the published notice subject to any modifications agreed by the Decision Maker. The date specified for the opening of the new school is September 2011.

## **6 Responses to consultation**

6.1 No responses have been received at the time of writing this report, regarding the published notices or from the letters that were sent to local residents and schools. Any subsequent responses will be reported at the meeting.

## **7. Proposal**

7.1 This report presents a proposal for the Diocese of Chelmsford to establish a New Voluntary Aided Primary School under section 10(2) of the EIA 2006. This follows an earlier decision by the Cabinet at its meeting of 24 March 2009 [Minute 162 refers] to support the Diocese in pursuing this option with the Secretary of State.

- 7.2 Subject to confirmation from the Diocese of Chelmsford, the school is to be named The George Carey Church of England Primary School.
- 7.3 It is proposed that the school will open on 1<sup>st</sup> September 2011 with three reception classes, one mixed infant class and two mixed junior classes. The new school will cater for pupils between the ages of 3 to 11 when fully operational and provide places for 630 boys and girls, 39 FTE places for nursery pupils and a childrens centre together with 12 places for pupils with Special Educational Needs.
- 7.4 The benefits of this proposal will be to make provision for pupils of primary school age at the new Barking Riverside development where it is planned for approximately 10,800 new homes will be built and also to meet the increasing demand for school places caused by the changes experienced in the age profile of the Borough, most notably the rise in birth rates and changes in migration patterns into the Borough.

## **8. Financial Issues**

- 8.1 A grant has been secured from the DfE to meet 100% of the cost of the School provision and construction is under way. This is a joint construction project with funding coming from Barking Riverside Ltd to provide other community facilities and a place of worship.
- 8.2 There are additional revenue costs associated with the increased intake of pupils and these will be met from the Dedicated Schools Grant (DSG) budget allocated for this purpose from Central Government. Schools receive funding based primarily on pupil numbers and the increase in pupil numbers will generate sufficient funding to meet revenue costs.
- 8.3 Therefore, revenue funding to support the school will come from the Schools DSG once the school starts to function subject to set up costs to begin supporting the school's establishment which would also need to come from the DSG.

## **9 Legal Issues**

- 9.1 The proposals for a new school have been published in accordance with Section 10 of the Education and Inspections Act 2006 and the required procedural and implementation arrangements are being followed, in accordance with The School Organisation (Establishment and Discontinuance of Maintained Schools) (England) Regulations 2007 (SI 2007 No.1288) (as amended).
- 9.2 The statutory six week consultation period commenced on the 16 October 2010 (following publication of a notice) and concluded on 26 November 2010. The Council (Cabinet) is required to make their decision on the proposal within two months of the end of the statutory consultation period, i.e. by 26 January 2011, otherwise the matter has to be passed to the School's Adjudicator to be determined.



## **10 Other Implications**

### **10.1 Risk Management**

The Council has a statutory obligation to make provision for additional pupil places in the Borough and these proposals mitigate the risk of failing to provide suitable numbers of places for pupils' learning.

### **10.2 Staffing Issues**

New teaching staff and non-teaching staff will need to be recruited for the new school and this will be funded through the school's DSG budget. This will be taken forward by the Diocese of Chelmsford and the School's Governing Body.

### **10.3 Customer Impact**

The new housing development at Barking Riverside will ensure that those pupils living in the local area including pupils with Special Educational Needs have access to education in the primary sector in their local area.

### **10.4 Property / Asset Issues**

The freehold of the land and property will be invested in the Community Development Trust. There is a lease being assigned to the Council to hold the land and buildings for 999 years. The Diocese/Trustees of the new school will have a sub-lease for a minimum of 50 years in accordance with the direction of the Secretary of State.

## **11 Options appraisal**

### **11.1 The options available are:**

- Do Nothing - This is not practical due to the legal and statutory obligation placed on the Council to provide sufficient school places and the pressures currently faced across the Borough.
- Accept the proposal from The Diocese of Chelmsford for a Church of England Primary School.

## **12 Background Papers Used in the Preparation of the Report:**

- Legislation which allows this – Education and Inspections Act 2006
- Report to the former Executive dated 24 March 2009
- Notice Published 16 October 2010
- DCSF Guidance:
  - Establishing a new maintained mainstream school
  - Guide for people wishing to set up a new school outside a competition

## **13 List of appendices:**

None.