

Division(s): **Headington & Marston**  
Also affecting: **Barton & Churchill, Leys & Lye**

## **CABINET – 19 MARCH 2013**

### **FINAL REPORT ON RESPONSE TO STATUTORY NOTICE TO EXPAND WINDMILL PRIMARY SCHOOL, OXFORD**

#### **Report by Director for Children's Services**

#### **Introduction**

1. On 27 November 2012, following a public consultation, the Cabinet approved the publication of a statutory notice relating to the county council's proposal to expand Windmill Primary School.
2. The report summarising the responses received to the public consultation can be found on the [public website](#).

#### **The Proposal**

3. The proposal is to expand Windmill Primary School to become a 3 form entry school with an Admission Number of 90 permanently. This would bring the number of children on roll at the school up to a maximum of 630 children in F1 to Year 6 by Sept 2016.
4. The proposal is both in response to patterns of parental preference for the school which have resulted in it being significantly over-subscribed each year, and a consequence of an increased and sustained Basic Need pressure on primary pupil places in Headington and across the city. The possibility of Windmill Primary School being suitable to expand was first raised through the 2008 Primary Capital Programme locality review, when the county council notified the school of its intention to conduct a feasibility study into options. In January 2009, discussion was held with the school about the potential to expand either permanently or temporarily to 3 form entry from September 2009. The school was very reluctant to do so, and instead over the following two years sufficient capacity was agreed through increased intakes across thirteen other schools. However, it was necessary to return to Windmill Primary School, and agree intakes of 90 pupils for 2011 and 2012. At that time pupil forecasts indicated that this would be sufficient, but as pupil numbers continued to rise, in summer 2012 it was decided to initiate statutory processes to permanently expand the school.
5. The current forecasts predict average growth in Reception (F1) pupil numbers in Oxford schools of 2.7% pa over the next 4 years, which follows average

growth of 3.6% pa over the previous 4 years. The Education Act 1996 (Section 14) places a statutory duty on local authorities to secure sufficient school places in their area. To allow for fluctuation in demand, in-year movement and effective operation of parental preference, it is judged that 8% spare places are required across an urban area. On this basis, the number of Reception places needed over the next 4 years is shown in the table below.

<b>Year of Reception intake</b>	<b>Target number of Reception places</b>	<b>Target additional Reception places (cumulative)</b>
<b>2013</b>	1586	206
<b>2014</b>	1654	270
<b>2015</b>	1696	316
<b>2016</b>	1718	338

6. The county council's strategy to meet this increased need includes working with existing schools to expand their provision; forming constructive relationships with potential Free School providers to encourage the establishment of new schools in areas of need; and working with Oxford City Council to plan for new schools within significant housing developments. A number of proposals (detailed in paragraph 9) are still in the planning and approval process, which (excluding this proposal to expand Windmill Primary School) would secure 150 of the target additional places by September 2013, 165 by September 2014, and 225 by September 2016. The proposal to expand Windmill Primary School therefore forms an important element of the overall growth strategy.
7. The Statutory Notice (Annex 1) was published by the county council in the Oxford Mail on 9 January 2013 and expired following 4 weeks of formal consultation on 6 February 2013. In accordance with legislation the Notice was also posted at the school entrances and sent to the local library and main Oxford library for display. A copy of the full proposal (Annex 2) and the Notice were sent to the Governing Body and the Secretary of State and additionally made available on the Oxfordshire County Council website. Local childcare providers, nurseries, primary schools and relevant councillors were contacted and invited to participate, with a request to the childcare providers to pass this on to the parents of preschool children they care for. Cabinet members were given a copy of the Notice and the Headington community website and Gladstone Road Community Centre were contacted to help promote the publication of the Notice.
8. The decision-making power in terms of determining the Notice lies with the Cabinet. In meeting as 'decision-maker' the Cabinet must have regard to government guidance and statutory timescales otherwise a decision can be referred to the independent Schools' Adjudicator for reconsideration. The Cabinet decision must be made within 2 months of the close of the notice period; as a consequence, it is necessary for the Chairman of the Council to determine that the decision cannot be subject to 'call-in' as this would, in most

cases, prevent a decision being finalised within the required timescale and mean that the Cabinet's role would be negated by referral to the Schools' Adjudicator.

9. There are a number of proposals at different stages of development which will contribute towards the additional places required across Oxford, and this proposal for Windmill forms part of this strategy, specifically serving the Headington area of the city.

School	Additional Reception places	Target date	Status
St Ebbes Primary School	15	2013	Approved
Tyndale Free School	60	2013	Subject to DfE funding agreement, and Planning. Decision date unknown.
Windmill Primary School	30	2013	Subject to statutory process due to conclude March 2013
St Gregory the Great Catholic School	60	2013	Subject to statutory process, to conclude March 2013.
St Joseph's Catholic Primary School	15	2013	Subject to statutory process due to conclude July 2013.
Wolvercote Primary School	15	2014	Subject to statutory process due to conclude July 2013.
New Barton School	60	2016	Subject to timescale of major new housing development

**NOTE:** The decision on the Tyndale Free School Planning application has been deferred by Oxford City Council Planning Committee. The delay may mean that the building project to remodel the accommodation the Free School wish to use cannot start on time, and that the school may not be able to open in September 2013 as planned. If this is the case, 60 fewer pupil places in the Headington area of Oxford would be available than were hoped for, increasing the need still further for the provision of additional places at Windmill Primary School.

10. If this proposal to expand Windmill Primary School is not approved, then it is currently forecast there will be sufficient Reception places overall across the city for 2013, but by at least 2015 one or more other schools, not yet identified, would need to expand to provide sufficiency of places. Until then, although forecasts indicate overall sufficiency of places, the scarcity of primary capacity would mean that parents applying to school outside of the additional applications round would be less likely to secure a school place close to their home. It would also constrain the effective operation of parental preference, as if Windmill Primary School is not expanded, more parents each year would fail to secure a place at their first preference school.

11. The following table sets out the data from the admissions allocations in Oxford city in 2012.

Postcode of applicant	Number of applications in the postcode	Number of pupil places allocated	% applicants who gained a place at their 1 <sup>st</sup> preference school
OX1	151	147	93.2%
OX2	354	348	82.8%
OX3	522	514	75.9%
OX4	832	824	75.2%

Parents in OX3 and OX4 postcodes (Headington is OX3) have a significantly lower chance of securing their first preference school, and the lowest of any postcode district in the county.

12. Oxfordshire County Council has been working with the Headteacher and Governors to identify the key accommodation needs and agree options for how these needs can be met if this proposal is approved.
13. As objections in relation to the proposal have been received the decision is referred to the Cabinet. The proposed implementation date for the proposal is 1 September 2013.

### Representations

14. The formal representation (Statutory Notice) phase was from 9 January 2013 – 6 February 2013.
15. 126 representations were received in response to the Statutory Notice.
16. 15% (19) were in favour of the proposal in principle, all of which were parents of children already attending Windmill. 6 of these respondents also had children not yet at school. The main reasons for support were:
- More pupil places needed in Headington, as the population has increased.
  - A concern that local preschool age children might not be allocated a place at Windmill if it reverts back to an admission number of 60. A related concern that younger siblings of pupils attending Windmill will not be able to attend the same school.
17. 5% (5) were neutral or undecided about the proposal, seeing both advantages and disadvantages.
18. 80% (100) objected to the proposal. 29 of these did not object to the expansion of Windmill Primary School in principle, but instead objected because they were unable to view plans of possible future buildings. 31 of the respondents who objected had no children at the school. A significant number of the respondents

raised concerns with a uniform presentation. The concerns can be summarised within the following themes:

- Concern about increased traffic to the site (51%)
- Concern about the sufficiency and design of potential future buildings and outdoor space allocation, as the feasibility study had not yet reached the point of being able to provide a recommended building scheme for comment by the close of the Notice period. (67%)
- Concern about the sufficiency of funding for the potential future buildings. (50%)
- Concern about the proposal's effect on the ethos and standard of education at the school. (23%)
- Concern about the consultation process, in particular communication levels and some concern that a Notice was published despite strong opposition during the initial public consultation. (23%)

The above themes are repeated in the formal response by the Headteacher and Governing Body to the Notice, which was also copied to all parents and carers of pupils at the school, and to the Oxford Mail newspaper. This response is attached at Annex 3.

19. During the initial consultation, there were concerns raised regarding traffic. Since that time the architect and the rest of the feasibility team have worked in close consultation with OCC Transport & Highways to develop a scheme to include mitigation measures relating to the impact on traffic that the proposal may engender. The initial commentary from Transport & Highways was made available on the consultation's webpage during the Notice period.
20. At the time of writing, the expectation is that the feasibility team will soon be at the stage where it can share its recommended scheme for future additional buildings with the parents of children at the school. While it has caused some respondents understandable frustration that this point has not yet been reached, the work is being carried out thoroughly and in consultation with the school leadership team, which has been involved in identifying the need and possible options for meeting the need, and have been supportive of the feasibility team during their meetings.  
Points raised during both the public consultation and the subsequent Notice period have fed into this on-going process. The vast majority of expansions of schools proposed by the county council run concurrently with a feasibility study, partly so that this feedback can take place. The purpose of the statutory consultation process is to gain views on the *principle* of expansion, and is not a method for discussing a specific design of future buildings. Plans will be available to comment on by any interested party when they go through the Planning application process in the normal way, and will be available for the school leadership team to share with parents at the school.
21. The full proposal document published for this proposal indicates that an initial estimated £1.9m may be required in addition to the £250K already invested in the school's accommodation. It also makes clear that this is not a final figure because, as explained above, the design process is not complete. To ensure equitable and efficient allocation of capital investment across all schools

undergoing expansion, each school's existing accommodation is compared to the DfE Building Bulletin 99 guidelines for primary schools and to Oxfordshire's Primary School Brief, to identify what additional accommodation would be needed to operate at the expanded size. Accommodation solutions specific to each school's circumstances can then be identified. The capital implications of expansion therefore depend not only on the scale of expansion, but also on the school's existing accommodation.

22. A proportion of respondents raised concern about Windmill being a 3 form entry school and that this might impact on the level of education being provided. Other respondents expressed their confidence in the ability of the Headteacher and staff at the school to continue to deliver the same level of education if the school were to expand. The school has admitted two cohorts of 90 children for the past two years. Although there are no other 3 form entry schools in Oxford, there are three schools elsewhere in the county with intakes of 75 (equivalent to 2.5 form entry), two of which have indicated their intention to increase their intakes to 90 in response to local population growth. The school leaders have visited one of these as part of their research relating to this proposal and the Headteacher has spoken to the ex-Chief Education Officer in Birmingham, where 3 form entry schools and larger are common.
23. The statutory requirements for consultation have been met, as detailed in paragraph 7 above for the representation phase, and in the initial Cabinet report
24. Following publication of the Statutory Notice and the close of the formal four week representation stage, objections have been raised. Therefore, the decision on whether to implement the proposal is referred to the Cabinet.

### **Legal background**

25. School expansions are subject to statutory procedures, as established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 (as amended). Local authorities also have a duty to have regard to statutory guidance, in this particular case 'Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form', ("the Guidance"). When reaching a decision, Cabinet must have regard to The Guidance. Cabinet is referred in particular to pages 19 to 40 of The Guidance.
26. In terms of reaching a decision all proposals should be considered on their merits but the following factors should be borne in mind but are not considered to be exhaustive. The Decision Maker should consider the views of all those affected by the proposals. The Cabinet Member, as Decision Maker, must be satisfied that the statutory consultation has been carried out prior to the publication of the notice. Details of the consultation should be included in the proposals. The Decision Maker must be satisfied that the consultation meets statutory requirements. If the requirements have not been met, the Decision Maker may judge the proposals to be invalid and should consider whether they can make a decision on the proposals. Alternatively the Decision Maker may

take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposals as a whole.

27. **The effect on standards, school improvement and diversity.** The government aims to create a dynamic system shaped by parents that delivers excellence and equality, closing weak schools, encouraging new providers and popular schools to expand. Decision Makers should be satisfied that the proposals will contribute to raising local standards of provision and improved attainment and consider the impact on choice and diversity. They should pay particular attention to the effect on groups that tend to under-perform including children from certain ethnic minorities and deprived backgrounds. The decision-maker should consider how the proposals will help deliver the 'Every Child Matters' principles.
28. **School characteristics.** The Decision Maker should consider whether there are any sex, race or disability discrimination issues that arise and whether there is supporting evidence to support the extension and take into account the existence of capacity elsewhere. The Decision Maker needs to consider the accessibility of the provision for disadvantaged groups as the provision should not unduly extend journey times or cost.
29. **Need for places.** The Decision Maker should consider whether there is a need for the expansion and should consider the evidence presented for the expansion. There is a strong presumption that proposals to expand popular and successful schools should be approved. If surplus capacity exists in neighbouring schools the Decision Maker should ask how it is planned to tackle any consequences for other schools.
30. **Funding and land.** The Decision Maker should be satisfied that any land, premises and capital required to implement the proposals will be available.

### **Financial and Staff Implications**

31. The financial implications of this report are linked to the capital works that will be carried out should the proposal be approved. As stated above, detailed proposals are still being developed and costed at the time of writing but at this stage it is estimated that investment of approximately £1.9m may be required. Publication of a statutory proposal to expand a school requires confirmation from the county council that funds will be made available for the necessary capital costs. The Cabinet, sitting as the Capital Investment Board (CIB), has approved funding for the initial feasibility work to establish the preferred option for meeting the additional accommodation needs.
32. Developer contributions towards this expansion will be sought from any relevant future housing developments in the area.
33. There will be on-costs to the school for additional staff and for increased maintenance requirements. The day to day revenue costs for repair and maintenance and staffing costs must be met through the schools delegated budget as part of the Council's Fair Funding arrangements. Additional pupils will

be reflected in an adjustment in the school's funding formula which applies numbers of pupils on roll and their characteristics.

34. Resources for School Budget Shares are provided by government through the Dedicated Schools Grant, which will increase proportionately to increases in overall pupil numbers in Oxfordshire.

### **Equality and Inclusion Implications**

35. The Equality Impact Assessment of Oxfordshire's Pupil Place Plan (June 2011) identified that increasing school places at the heart of their communities has a positive impact on equalities through promoting social inclusion and minimising barriers to accessing education.

### **Decision**

36. In considering the proposals for a school expansion, the Decision Maker can decide to:
  - Reject the proposals;
  - Approve the proposals;
  - Approve the proposals with a modification (e.g. the implementation date); or
  - Approve the proposals subject to them meeting a specific condition (see the Guidance).

### **RECOMMENDATION**

37. **The Cabinet is RECOMMENDED to approve the expansion of Windmill Primary School with effect from 1 September 2013.**

JIM LEIVERS

Director for Children's Services

Annexes:

Annex 1: Statutory Notice  
Annex 2: Full proposal document  
Annex 3: Governing Body's formal response

Contact Officer:

Diane Cameron, School Organisation Officer,  
School Organisation & Planning, 01865 816445.

**March 2013**