

Summary Sheet

Name of Committee and Date of Committee Meeting

Cabinet and Commissioners Decision Making Meeting – 19 February 2018

Report Title

Special Educational Needs and Disability (SEND), Sufficiency and increase in educational provision - Phase 1

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Ian Thomas, Strategic Director of Children and Young People's Services

Report Authors

Paula Williams, Head of Inclusion

Dean Fenton, Head of School Planning, Admissions and Appeals

Steven Harrison, Strategic Commissioning Manager – CYPS

Robert Holsey (Children and Young People's Services Asset Manager - Regeneration and Environment)

Ward(s) Affected

All

Summary

This report outlines the outcome of the consultation and seeks approval in relation to the proposals to increase Special Educational Needs and Disability SEND provision across the Borough following the SEND Sufficiency report to Cabinet on 16th October 2017. Consultation was undertaken in line with the requirements of the Department for Education (DfE) – Special Provision Capital Fund guidance which states that Local Authorities need to plan how to invest their allocation and other funding to achieve the best outcomes for children and young people with special educational needs and disabilities.

Recommendations

1. That approval be given to the increase in educational provision for Special Education Needs and Disability (SEND) across the Borough following consultation.
2. That approval be given to the projects that are to be linked to the Capital Programme within the Formal Budget & Council Tax 2018-19 report.

List of Appendices Included

Appendix 1 – Consultation summary

Background Papers

Report to Cabinet on 16th October 2017 seeking approval to consult on proposals to increase capacity of provision across the Borough.

SEND Sufficiency report (appendix 1 to the above report)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Special Educational Needs and Disability (SEND), Sufficiency and increase in educational provision – phase 1

1. Recommendations

- 1.1 That approval be given to the increase in educational provision for Special Education Needs and Disability (SEND) across the Borough following consultation.
- 1.2 That approval be given to the projects that are to be linked to the Capital Programme within the Formal Budget & Council Tax 2018-19 report.

2. Background

- 2.1 Approval was given by Cabinet on 16th October 2017 to commence a period of consultation in relation to proposals to increase SEND capacity of provision across the Borough by 125 places by 2021.
- 2.2 The report outlined the growth in the general pupil population in recent years and the subsequent increased need for school places for pupils with a range of SEND needs.
- 2.3 The report further outlined that following completion of the SEND sufficiency report, an additional 125 SEND places will be needed across the Borough to meet current and expected future demand up to 2021. 75 places are required to reduce out of authority placements by half and 50 places to add additional capacity and provision within the Borough to support future increase in demand from population increase.
- 2.4 The implications of not having enough SEND provision in the Local Authority area are that there are rising numbers of Rotherham children with Special Educational Needs and Disabilities having their needs met in provisions outside Rotherham. This means some of the most vulnerable children have to travel the furthest distance to school. The number of pupils currently placed outside the Local Authority is approximately 150 which fluctuates fortnightly as a result of Education, Health and Care Plans being finalised following panel decisions.
- 2.5 The Dedicated Schools Grant (High Needs Budget) is significantly overspent in this area. Indications are that there will continue to be significant increases in out of authority placements should 'in authority' capacity not be increased, leading to further demand on high needs funding allocation as 'out of authority' placements are significantly more expensive than 'in authority' placements.
- 2.6 The Table below outlines the proposed projects required to create the additional 125 places needed to accommodate current demand for SEND places and reduce the financial burden on the high needs funding allocation in future years. The table also outlines proposals for moving forward to create additional places post 2021 for anticipated future cohort number increases and also outlines the project costs.

2.7 Key to acronyms:

ASC	Autism Spectrum Condition
EY	Early Years
CLD	Complex Learning Difficulties
SEMH	Social, Emotional and Mental Health
SLD	Severe Learning Difficulties
HNB	High Needs Block funding

Phase 1 – 2018 to 2021 SEND sufficiency of provision

Type of provision required and number of places	Location and rationale	Priority and Timeline for building works start	Cost and Funding Stream
10 primary ASC places	New Waverley Junior Academy Outlined in prospectus seeking a sponsor	New school scheduled to open in September 2020	Part of the Waverley new school capital project
10 SLD places	Cherry Tree House / Nexus Trust Building on existing expertise	High priority Year 1	£113k DfE Grant First £166k allocation
10 primary ASC places (replacement for Flanderwell)	Rowan Centre Refurbishment of existing building Building on existing expertise	High Priority Year 1	£50k DfE First £166k allocation
20 complex needs primary / secondary places	Abbey School Nexus Trust x 2 classrooms Building on existing expertise	High Priority Year 1	£3k DfE First £168k allocation £195k Capital Programme
15 High level SEMH therapeutic places (Primary and Secondary)	Rowan Centre Refurbishment of existing building Building on existing expertise	High Priority Year 1	£100k Capital Programme

10 secondary ASC places	Wales High School x 1 classroom Building on existing expertise	Medium Priority Year 2	£200k DfE Second allocation £166k + £34k Capital Programme
10 EY transition places	Newman Special school Refurbishment of existing building Building on existing expertise	High Priority Year 1	200k Capital Programme
15 High Level SEMH therapeutic places (Primary and Secondary)	Aspire Refurbishment of setting Building on existing expertise	Medium Priority Year 2	£75k Capital Programme
10 Complex Needs primary / secondary places	Milton School x 1 classroom Building on existing expertise	Medium Priority Year 3	£200k DfE Grant Third allocation £166k + £34k Capital Programme
10 Complex LD/ASC places	The Willows School x 1 classroom Building on existing expertise	High Priority Year 1	£200k Capital Programme
5 possibly 10 commissioned places for highest level of SEMH provision	Private provider Sub -regional forum to offer security of place funding to the settings Commissioned specialist places	Medium Priority Year 2	Commissioned places from high needs funding
32 place SEMH special provision	CLPT Sub -regional forum to offer security of place funding to the settings Building on existing expertise within the Trust	Medium Priority Year 3	Local Authority to support a free school bid from Central Learning Partnership Trust to create a provision for the region

Post 16 provision Commissioned place provision	Private providers Commissioned specialist places	High Priority Year 1	Commissioned places from high needs funding
Total funding			£500k – DfE Allocations (over 3 years) £838k a bid for inclusion in the Capital programme

3. Key Issues

- 3.1 The increase in SEND provision within the Authority is necessary due to the increased pupil population since 2010 as outlined in section 2.1 of the report approved by Cabinet on 16th October 2017.
- 3.2 The creation of additional in borough provision will lead to a longer term saving on high needs funding as in borough placements cost on average £17.5k per annum as opposed to an out of authority placement which costs £35K on average but can rise significantly up to £60k and beyond per annum dependant on the type of provision required.
- 3.3 Due to a national rise in Education, Health and Care Plans (EHCP's), the sufficiency plan will be reviewed annually. With this in mind a review of the current figures from the December 2016 report has taken place which revises the number of new SEND places required, upwards by 13 (to 138 places) as of December 2017. This will be reviewed and monitored annually to assist forward planning in relation to the phase 2 identification of additional provision needed from 2021 onwards.
- 3.4 Partnership working with schools and a government agenda to support mental health needs in schools, is likely to affect the ability of the education sector to better support children in schools. This will mean that in the coming years the volume of requests for EHCPs should reduce in this area, so affecting the number of planned special provision places needed.

4. Options considered and recommended proposal

- 4.1 The report approved by Cabinet on 16th October 2017 considered options available including the recommended option to consult on proposals to increase provision in borough to ensure pupils are able to access high quality provision close to home reducing the longer term demands on the high needs block was approved.
- 4.2 Following a period of consultation, section 2.7 of this report details the recommended options to create in Borough solutions to the need for additional high quality SEND provision and also create longer term savings on the demands being placed on the high needs block of the Dedicated Schools Grant.

4.3 Beyond the financial benefits to the high needs budget there are additional benefits to creating further high quality SEND provision within Rotherham:

- Less travelling for our most vulnerable children
- Greater involvement in quality assurance of provision
- The opportunity for dual placement and inclusive opportunities for young people with their locality mainstream school where appropriate

5. Consultation

5.1 As the individual projects outlined in section 2.7 of this report fall below the threshold for completion of 'prescribed alterations', under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 a period of consultation with relevant stakeholders is required to be completed to ascertain the views and opinions of stakeholders on proposals. This is also required as part of the SEND grant funding allocation from DfE of £500K referenced in section 7.1 of this report and the consultation requirements set by DfE are outlined in the quoted guidance below in section 5.2 and 5.3 of the report.

5.2 DfE - Special provision capital fund Guidance (extract):

Local authorities need to plan how to invest their allocation and other funding to achieve the best outcomes for children and young people with SEN and disabilities.

Local authorities will need to:

- **Consult with parents and carers.** *Effective engagement with parents and carers is crucial in building and implementing a strategy that develops support for changes. This helps local authorities ensure that services will meet the needs of children and families.*
- **Consult with schools, FE colleges and other institutions, which offer special educational provision.** *Local authorities should work with providers to identify how capital investment can best improve the quality of provision available for children and young people with EHC plans.*
- **Consider how to invest revenue and capital funding strategically** *to maximise the benefit of both in the context of the current infrastructure and programmes. This might include looking at how to expand participation in an existing learning programme by making capital adjustments so that children and young people with SEN and disabilities can also attend.*
- **Collaborate with other local authorities** *to form partnerships to work effectively across borders.*

5.3 DfE - Special provision capital fund Guidance (extract):

Before receiving the SEND funding allocation, local authorities need to:

- *Consult with parents and carers of children with SEN and disabilities and young people with SEN and disabilities.*
- *Work with education providers to agree how the capital can best be targeted.*

- *Fill in the short plan template, confirming that the requirement to consult with parents, carers and young people has been met and including information about the other groups that they have consulted.*
- *Publish a plan on their local offer page showing how they plan to invest their funding, before the deadline specified below.*

Note:

- *Where local authorities work collaboratively on projects, these must be listed on each local authorities' plan with an explanation of which other local authorities they have collaborated with and how.*
- *Where a project will both create additional places and improve facilities for current and future pupils, local authorities should show on the plan how much funding will be spent on each of the two objectives. This may involve estimating how much of the project's investment would go towards each of these two aims.*

*Local authorities do **not** need to send the completed form to the Department for Education.*

*Local authorities **should not** include costings where this would have a negative commercial impact. Where not all costings are included in the first publication of the plan, local authorities should re-publish the plan as soon as it is no longer commercially sensitive to publish this information.*

5.4 Consultation took place between 23rd October 2017 and 8th December 2017 and consultees included:

- SEND specialists including Autism Communication Team, Inclusion Support Services, Educational Psychology Service, Special School leadership, Mental Health Services and the Children's Disability Team.
- Focus / parent groups, specialist groups, Parents and Carers and children including - Rotherham Parents Forum, SEND Information and Advice Support Service, Rotherham Private, Voluntary and Independent Consortium, Young Person's Consultation Forum and Autism Stakeholders Group.
- Elected Members including Borough Councillors, Parish Councils and Members of Parliament for the three Rotherham Area constituencies.
- Schools, Further Education Colleges and private providers within the Borough.
- Neighbouring Local Authorities.
- Other interested parties and stakeholders.

5.5 The purpose of the consultation was to raise awareness of the proposal to increase the number of SEND school places and provide an opportunity to all interested stakeholders to contribute, with the aim of establishing any concerns and issues affecting the local community and the longer term development of the SEND provision.

- 5.6 The range of responses received during the consultation process were broadly very positive and supportive. Responses were received from The Parents forum, Young People’s forum and 12 individual responses were received via email from Schools, members of the public, neighbouring local authority, private providers and specialist support service. The responses were used to inform the provision requirements and locations to maximise existing synergies and expertise.
- 5.7 Stakeholders were consulted directly via email as well as Parents Forum and Young Persons Forum. Responses were noted and included in the Consultation report at Appendix 1.

6. Timetable and Accountability for Implementing this Decision

6.1 Timeline for implementation (as set by DfE in their guidance)

By Wednesday 14 March 2018	Local authorities must publish the short plan on their local offer page (template provided)
Summer 2018	local authorities that have published the plan and consulted with parents, carers and young people will receive the first tranche of funding
March 2019	local authorities should update and republish their plan to show what they have spent on so far
Summer 2019	local authorities will receive the second tranche of funding
March 2020	local authorities should update and republish their plan again
Summer 2020	local authorities will receive the second tranche of funding
March 2021	local authorities should update and republish their plan a final time, to show how all money was eventually spent

- 6.2 Individual capital projects will be project managed by the Council’s Asset Management Service with accountability for delivery to the Strategic Director of Regeneration and Environment.
- 6.3 Project implementation work with respective schools and Academy Trusts to implement the proposals will be led by Officers in Education and Skills and overseen by the Strategic Director of Children and Young People’s Services.

7. Financial and Procurement Implications

- 7.1 A new grant funding allocation of £500k in total has been allocated to the Council from the Department for Education and payable in 3 equal instalments for the 2018/19, 2019/20 and 2020/21 financial years to support the development of SEND strategies and provision, subject to meeting the requirements to consult on and publish proposals as outlined above.
- 7.2 The total cost of the projects as detailed in paragraph 2.7 is £1,338k and this is forecast to be split between the three years £863k, £275k and £200k respectively. It should be noted that the initial indicative costs of £1.2m in the report to Cabinet on 16th October 2017 has increased by £138k following more detailed analysis of individual projects. The £500k grant will be applied evenly across the three-year period leaving a shortfall of £696k, £108k and £34k, a total of £838k.

- 7.3 The October Cabinet report also made reference to using £240k of funding from the Special Educational Needs capital grant allocation. However additional works required within the capital projects for the redevelopment of the SEND hub and SEMH provision mean that this allocation has now been fully utilised.
- 7.4 To address the £838k shortfall in funding, the Budget & Council Tax 2018-19 report to Cabinet and Council in February recommends that the scheme is added to the Capital Programme with the balance of funding to be met from corporate capital resources.
- 7.5 The projected annual savings on the High Needs budget made possible from this programme of spend is estimated to be in the region of £3.5m. These savings will offset spend allocated to the Dedicated Schools Grant (DSG) High Needs budget and will not fall on the Council's revenue budget. The savings will be achieved in two ways. Firstly, through reducing the need for high numbers of newly assessed children and young people to be educated outside Rotherham, and being able to offer high quality provision in borough. Secondly, for those children and young people currently placed in provision outside Rotherham, investigation with families about whether a child's needs can be better met in a Rotherham provision at annual review of the Education Health and Care plan. This will significantly reduce the escalating costs to the Dedicated Schools Grant High Needs budget.
- 7.6 The proposals would also have a positive impact on the Councils Home to School Transport budget and provision, as the proposals and the proposed changes to transport provision would reduce budget pressures as the increased number of places in borough, would reduce reliance on out of authority placement and the additional transport costs incurred.

8. Legal Implications

- 8.1 None of the individual proposals meet the requirement threshold to complete a full prescribed alteration under, the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (guidance dated April 2016). The regulations however require a minimum period of 4 weeks consultation with relevant stakeholders be undertaken when proposals are below the threshold.
- 8.2 The guidance is set out to ensure that alterations can be made quickly where they are needed; that Local Authorities and governing bodies do not take decisions that will have a negative impact on other schools in the area, and that changes can be implemented quickly and effectively where there is a strong case for doing so.

- 8.3 The specific proposals set out in this report are limited changes which fall outside of the statutory process. Despite this, however, part 4 of the guidance requires Local Authorities and / or governing bodies to adhere to the usual principles of public law. They must:
- act rationally;
 - take into account all relevant and no irrelevant considerations; and
 - follow a fair procedure.
- 8.4 Section 14 Education Act 1996 requires a local authority to have regard to securing SEN provision is made for pupils with SEN Needs. Following enactment of The Children and Families Act 2014, the local authority retains responsibility for commissioning services for vulnerable children and young people with SEN and to keep such provision for children and young people with SEN and disabilities under review including its sufficiency (s.315 Education Act 1996), and to promote wellbeing and improve quality, working in concert with parents, young people, and providers. The Act is clear that, when considering any re-organisation of provision, decision makers must be clear how they are satisfied that the proposed alternative arrangements will lead to improvements in the standard, quality and/or range of educational provision for children with SEN.
- 8.5 Consultation has taken place with relevant stakeholders and a summary of consultation outcomes has been published on the Local Offer website as a requirement by the DfE as part of the SEND grant funding allocation.

9. Human Resources Implications

- 9.1 The proposals will create teaching and learning and support staff employment opportunities and recruitment to these posts will be required following Rotherham Metropolitan Borough Council recruitment procedures for Local Authority maintained provision and Academy Trust recruitment procedures where proposals are linked to Academy status schools.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 The additional SEND places created within the borough will give more children and young people the opportunity to access high quality provision closer to home to meet their educational needs.

11. Equalities and Human Rights Implications

- 11.1 Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to:
- i. eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act,
 - ii. advance equality of opportunity and
 - iii. foster good relations between persons who share a protected characteristic and persons who do not share it.

- 11.2 An Equalities Impact Assessment has been undertaken on the proposed increase in SEND provision. The assessment has not identified any potential for unlawful conduct or disproportionate impact and concludes that all opportunities to advance equality are being addressed. The increase in SEND provision within Rotherham will help to ensure sufficient provision for the increasing numbers of children within Rotherham and ensure that appropriate provision is made within mainstream education where this accords with parental preference. By acting to ensure children in Rotherham have access to a high quality school place, RMBC is promoting equality of opportunity for all children and young people.
- 11.3 The Council must ensure it meets its public law duties when making decisions, including meeting its public sector equality duty. It must consider all relevant information, disregard irrelevant information, act in accordance with the statutory requirements and make its decision in a fair and transparent manner. The Council has consulted on this strategy with the various interested parties cited above. When determining whether to approve the increase Cabinet must take account of these views.
- 11.4 The additional specialist provision will allow more parents and carers to access education for their child within the local area in future years, in an inclusive and innovative learning environment.

12. Implications for Partners and Other Directorates

- 12.1 There will need to be further involvement and engagement with Planning Department, Asset Management Services, Transport services, SEND Specialist Services, Finance Section and Schools and Academies, who will all be engaged and involved in the development of the new provision. This will be overseen by the Strategic School Organisation Group and SEND Board, reporting to the Strategic Director of Children and Young People's Services, Chief Executive and Elected Members as necessary and appropriate.

13. Risks and Mitigation

- 13.1 There are always risks and uncertainties when school place provision is considered, since future pupil numbers are based on estimations. Over provision at one school could influence pupil numbers at other schools. However, current provision is full or over-subscribed and this trend is set to continue, meaning that more pupils are being placed in provision out of authority increasing the financial burden on the High Needs Block.
- 13.2 Local Authorities are obliged, under the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, to provide sufficient education places, promote diversity and increase parental preference.

14. **Accountable Officer(s)**

Ian Thomas, Strategic Director of Children and Young People's Services

Approvals obtained on behalf of:-

	Named Officer	Date
Strategic Director of Finance & Customer Services	Michael Wildman	21.12.2017
		31.01.2018
Assistant Director of Legal Services	Ruairi Wilson Neil Concannon	12.01.2018

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