

Committee Name and Date of Committee Meeting

Cabinet – 18 October 2021

Report Title

Prescribed Alterations to Newman Special School

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

Yes

Strategic Director Approving Submission of the Report

Suzanne Joyner – Strategic Director, Children and Young People’s Services

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

Following increases in capacity and pupil numbers at Newman School, this report seeks approval to commence a period of pre statutory consultation on proposals to make prescribed alterations to Newman Special School under the requirements of the Department for Education School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.

Recommendations

1. That approval be granted to the commencement of a period of pre statutory consultation in relation to proposals to make prescribed alterations to Newman Special School.
2. That a further report be submitted in January 2022 outlining the outcome of pre statutory consultation and seeking approval to proceed to a period of statutory consultation.

List of Appendices Included

Appendix 1 Equalities Impact Assessment (Initial screening)

Appendix 2 Environmental Impact Assessment

Background Papers

The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013

School Organisation (Maintained Schools) guidance for proposers and decision makers (January 2014)

Special Education Needs and Disability (SEND) phase 1,2,3 capital projects reports approved by Cabinet.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Prescribed Alterations to Newman Special School

1. Background

- 1.1 Following Cabinet approval of the Special Education Needs and Disability (SEND) phase 1,2 and 3 capital projects programmes approved by Cabinet on 19th February 2018 (Minute No: 110), 16th September 2019 (minute No: 42 and 23rd November 2020 (minute No: 72) additional capacity was added at Newman Special School by the creation of additional teaching and learning spaces as an extension to the existing school building and by an offsite annex.
- 1.2 Permanent changes to the school fall under the requirements of the Department for Education (DfE) School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and as such statutory process should be completed to make the necessary amendments to the schools' registration by following the prescribed alteration process.
- 1.3 The school is a Local Authority maintained school and is rated as a good school by Ofsted. The proposal to make a Prescribed alteration falls within the Department for Education's agenda to expand successful (good and outstanding rated schools) and popular (demand led) schools where there is a need for more places.
- 1.4 The school is presently registered for 120 pupils and there are currently 159 pupils on roll. As part of the SEND phase 3 capital project, a new Secondary and post 16 phase annex site of Newman School is being created at the old Dinnington College site. This will give capacity for 180 pupils in total across both the Newman main school and Dinnington Annex sites. The Dinnington site is necessary on a temporary basis initially to support the facilitation of planned essential works and maintenance to parts of the Newman School site.
- 1.5 The school also has a current multiple designation list, and it is proposed to simplify the designation to complex SEND to cover all existing cohorts across a range of complexity of needs.
- 1.6 The statutory process for increasing the numbers of pupils that can be registered with the special school is activated where the numbers increase by 10% or 20 pupils, whichever figure is the lower, and where the increase is expected to persist for 2 years or more. This statutory threshold is now met. As there is little prospect of a reduction of numbers without resorting to out of area placements, it is proposed to follow the statutory process set out in the Regulations to create a permanent increase in permitted pupil numbers.
- 1.7 As the proposed annex at Dinnington will be on the same site as the new Social, Emotional and Mental Health (SEMH) school to be established under the Department for Education (DfE) Free School presumption process, the new school and the Newman annex will be completely segregated as separate campuses on the shared site with one campus being an SEMH school and the other campus the Newman School annex operating under separate DfE registrations.

2. Key Issues

2.1 Proposals brought forward meet the threshold for making prescribed alterations to a Local Authority maintained school and this report seeks approval to commence a period of pre statutory consultation on the proposal to:

- Increase the number of permanent planned places at the school from 120 to 180.
- Establish a permanent annex site.
- Amend the designation of the school.

3. Options considered and recommended proposal

3.1 **Option 1:** Maintain the current registered number of places at the school at the current level of 120. However, as the school is already oversubscribed and exceeds the above criteria, this would mean that in future years parents / carers would be unable to secure a place for their child as the schools current registered number is oversubscribed and pupil numbers would need to be reduced back to the registered number, which would not be achievable within a reasonable timeframe.

3.2 This would also impact on the school as without the annex arrangement, there would be insufficient space for all pupils to attend in the short term due to planned renovations at the Newman School site to address planned condition improvement and maintenance work required. The longer term proposal creates additional capacity to ensure children with Education, Health and Care Plans (EHCP's) requiring a Complex SEND placement can be accommodated in borough.

3.3 The impact of option 1 being that places would need to be sought at other schools or out of authority to meet demand as all special schools in Rotherham are full to their registered number and this trend is set to continue. This would have an impact financially as out of authority places can be more expensive and subsequent transport costs would be increased.

3.4 **Option 2: (Recommended Proposal):** Increase the registered number of places from the current 120 to 180 by incorporating the main school and annex by prescribed alteration to enable parental preferences for placements continue to be satisfied in the future avoiding the need to seek placement at another school or out of authority against the wishes of parents/carers.

3.5 The proposal will ensure pupils are able to continue to access current specialist therapies linked to their complex SEND needs and fulfils the aspirations linked to the Ofsted framework around inclusion.

4. Consultation on proposal

4.1 The proposal falls within the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 because the Local Authority proposes to change the number of pupils in a special school on a permanent basis by 10% or 20 pupils (whichever is the lowest), create a permanent annex site and simplify the designation.

- 4.2 There is a strong expectation that Local Authorities will consult interested parties (referred to within DfE guidance as pre statutory consultation), in developing proposals. A report should then be brought to Cabinet outlining the outcome of pre statutory consultation on proposals and seeking approval to commence a period of statutory consultation by the publication of a public notice as part of their duty under public law to act rationally and to take into account all relevant considerations.
- 4.3 The statutory proposal (public notice) must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change. The DfE sets out the minimum that this should include in the form of a template document. The proposal should be accessible to all interested parties.
- 4.4 Following the period of statutory consultation on proposals, a further report should then be brought to Cabinet and as the Local Authority is the decision maker, it must make a decision within a period of two months of the end of the representation period. Where a decision is not made within this time frame, the proposal must be referred to the Schools' Adjudicator for a decision.

5. **Timetable and Accountability for Implementing this Decision**

- 5.1 **October 2021** - Report to Cabinet seeking approval to commence a period of pre-statutory consultation on proposals.

November 2021 - (4 weeks minimum) period of pre-statutory consultation.

January 2022 - Report to Cabinet outlining the outcome of pre-statutory consultation and seeking approval to commence a period of statutory consultation by the publication of a public notice.

January 2022 - Notification to the Department for Education and submission of proposals being consulted upon.

February 2022 - Public Notice period (4 weeks minimum) commences.

April 2022 - Report to Cabinet outlining the outcome of statutory consultation and seeking a determination of the proposals.

April 2022 - Notification to the Secretary of State for Education of the determination of the proposals.

April 2022 – School makes the necessary amendments to their GIAS (get information about schools) registration in preparation for the commencement of the 2022/23 academic year.

6. **Financial and Procurement Advice and Implications**

- 6.1 There are no procurement implications linked to this proposal.
- 6.2 The prescribed alteration will enable young people with Complex SEND to

continue to be placed locally and avoid the need to place with high cost out of area / independent providers in the future.

7. Legal Advice and Implications

- 7.1 The Local Authority has a statutory duty under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, to consult on the proposals set out in this report.
- 7.2 The DfE statutory guidance for proposers and decision makers - Making 'prescribed alterations' to maintained schools (April 2016) provides that: Where a Local Authority is the decision maker, it must make a decision within a period of two months of the end of the representation (public notice) period, where a decision is not made within this time frame, the proposal must be referred to the Schools' Adjudicator for a decision.
- 7.3 The Education Act 1996 requires an English local authority to secure (as far as their powers enable them to do so) efficient education in their area (section 13(1); and so far as is compatible with efficient instruction and training and the avoidance of unnecessary expenditure a local authority must exercise its Education Act powers and duties having regard to the general principle that pupils are educated in accordance with the wishes of their parents (section 9). Provision for a permanent increase in pupil numbers at the school assists compliance with the section 13 duty; consultation assists compliance with the section 9 duty.
- 7.4 The Equality Act 2010 imposes a public sector equality duty upon public (including local) authorities, (see section 10 below). The promotion of equality of opportunity includes the removal of a disadvantage suffered by persons with disability, or their carers. The need to educate Rotherham children out of area because there is insufficient SEND provision within the Borough could amount to such a disadvantage, and the proposed prescribed alterations if implemented would minimise that disadvantage.

8. Human Resources Advice and Implications

- 8.1 There are no human resource implications for the Local Authority to consider as the school is resourced to support the cohort of pupils and any future additional recruitment of staff will be determined by the Governing Body paying regard to the school budget.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 Additional SEND places created within the borough give more children and young people the opportunity to access high quality provision closer to home to meet their educational needs and in line with parental wishes.

10. **Equalities and Human Rights Advice and Implications**

10.1 Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to:

1. eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act,
2. advance equality of opportunity and
3. foster good relations between persons who share a protected characteristic and persons who do not share it.

10.2 Equalities Impact Assessments were undertaken on the proposed increase in SEND provision across the borough as reported to Cabinet linked to SEND phase 1,2 and 3 proposals. The assessments did not identify any potential for unlawful conduct or disproportionate impact and concluded that all opportunities to advance equality are being addressed. The increase in SEND provision within Rotherham has helped to ensure sufficient provision for the increasing numbers of children within Rotherham and ensure that appropriate provision is made in accordance with parental preference. By acting to ensure children in Rotherham have access to a high-quality school place, the Council is promoting equality of opportunity for all children and young people.

10.3 A further Equalities Impact Assessment (initial assessment) in relation to these proposals was undertaken prior to this report being submitted and is *Appendix 1* to the report. The assessment will be kept under review during the period of the prescribed alteration process and a full equalities impact assessment completed as part of the process paying regard to responses to the pre statutory consultation.

10.4 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.

11. **Implications for CO₂ Emissions and Climate Change**

11.1 An impact assessment has been undertaken linked to the proposals contained within this report (Appendix 2). The assessment will be kept under review throughout the prescribed alteration process.

11.2 In relation to the pupils already on roll and attending the school, any changes to journeys to enable pupils to attend the Dinnington Annex are already in progress due to the necessary temporary arrangements required although journey planning arrangements remain under constant review by the Corporate Transport Department aligned to individual Education, Health and Care Plans (EHCP's).

11.3 In relation to any new pupils allocated a place at Newman School, transport implications are considered by Corporate Transport Department linked to the EHCP process.

12. Implications for Ward Priorities

- 12.1 The proposals will have a positive implication for ward priorities across the borough, as more children are able to continue to access specialist provision in line with their parents' wishes within Rotherham in future years.

13. Implications for Partners

- 13.1 This paper has been developed in partnership with colleagues from CYPS, R&E and Finance. An established SEND Project Board, with representation across Directorates and wider partners ensures the partnership continues to oversee SEND sufficiency projects and implications and all implications are considered and managed effectively. Education Partners will be fully involved with the development and implementation of plans where required and appropriate.

14. Risks and Mitigation

- 14.1. 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 SEND provision is full or over-subscribed within the borough and this trend is set to continue, meaning that more pupils would be placed in provision out of authority increasing the financial burden on the High Needs Block of the Dedicated Schools Grant.
- 14.2 The proposals seek to amend the registered number of places at the school from 120 to 180, establish a permanent annex and simplify the designation of the school to ensure the school remains compliant with statutory requirements.

15. Accountable Officers

Dean Fenton, Head of Service - Access to Education

Approvals obtained on behalf of Statutory Officers:-

	Named Officer	Date
Chief Executive	Sharon Kemp	04/10/21
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	28/09/21
Head of Legal Services (Monitoring Officer)	Stuart Fletcher	30/09/21

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