

Committee Name and Date of Committee Meeting

Cabinet – 19 September 2022

Report Title

Social, Emotional, Mental Health Free School (Elements Academy – Dinnington)
progress report

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

No

Strategic Director Approving Submission of the Report

Suzanne Joyner, Strategic Director of Children and Young People's Services

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

To provide Cabinet with an update on progress towards the opening of a specialist Social, Emotional, Mental Health (SEMH) Free School in Rotherham.

Recommendations

1. That Cabinet notes the progress and additional capital funding provided to support the opening of the specialist Social, Emotional, Mental Health (SEMH) Free School in the Borough.

List of Appendices Included

- Appendix 1 Rotherham SEMH Free School presumption
- Appendix 2 Part A Initial Equality Screening Assessment
- Appendix 3 Part B Equality Analysis Form
- Appendix 4 Environment Impact Review

Background Papers

SEND Sufficiency Phase 3 Cabinet Report – November 2020

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Improving Lives Select Commission – 26 October 2020

Council Approval Required

No

Exempt from the Press and Public

No

Social, Emotional, Mental Health Free School (Elements Academy – Dinnington) progress report

1. Background

- 1.1 In November 2020 Cabinet approved the proposal to develop a Social Emotional Mental Health (SEMH) Free School in the Borough and re-build Newman Upper School, as required to deliver both Rotherham SEND Sufficiency and Social Emotional Mental Health Strategies.
- 1.2 Cabinet approved the acquisition of Rotherham North Notts Group - Dinnington College Blocks A, B, C and D. With Block A/B to be used for the SEMH Free School and Block C/D to be utilised to host Newman Upper School to provide capacity whilst the rebuild of Newman Upper School is completed (projected completion date - July 2023).
- 1.3 In January 2021 the Council opened its SEMH Free School Presumption as guided by Department of Education (DfE). Following rigorous stakeholder selection process involving the DfE and key partners, the Regional School Commissioner (RSC) made the decision to award the Free School to a preferred Multi-Academy Trust (MAT).
- 1.4 During the due diligence process within the implementation stage of the Free School presumption, a decision was made not to progress with the initial Academy provider chosen by the RSC.
- 1.5 The Free School at Dinnington is a project based on refurbishment of an existing education building, differences between the chosen Academy provider and the Council Free School Presumption across building configuration, the additional capital requirement identified by the Academy and increased revenue funding implications informed the decision not to progress with the chosen MAT.
- 1.6 Due to the protracted period of due diligence with the initial MAT chosen by the RSC, there has been a delay in moving to the implementation stage of the Free School Presumption against the projected timeline of the project. The Council continued to work against the parameters set by the DfE to look at options to accelerate the implementation of the SEMH Free School. The DfE guided the Council to re-enter the Free School Presumption process to identify an appropriate academy provider to deliver the SEMH Free School in the Borough.
- 1.7 Following collaborative work between the Council and DfE, the RSC made the decision to award SEMH Free School to Ethos Academy Trust (EAT) in February 2022 with a view to the school opening in September 2022.
- 1.8 Following a period of wide ranging consultation, a decision was made to call the new Free School, Elements Academy. This was in part linked to a miners' education facility that has previously existed on the Dinnington college campus site.

- 1.9 A collaborative implementation programme has been developed with EAT in order to deliver the SEMH provision and transition of existing PRU provisions (Rowan Centre Pupil Referral Unit and Aspire Pupil Referral unit). This has worked at pace with significant resource committed across the Council to meet mobilisation milestones and timescales.
- 1.10 The following workstreams are in place to deliver the programme, which include governance, and oversight from RMBC SEND Sufficiency board, CYPs DLT Transformation Board and weekly project meeting with the DfE.
- HR – staffing, consultation, and training
 - Finance – Capital and revenue budgets, Contracts, and transport
 - Building – Adaptations, ICT, and furniture, legal
 - Education – Ofsted pre-opening inspection, curriculum, teaching
 - Engagement – Children and Young People (C&YP) / parents/carers, stakeholders, partners
- 1.11 In June 2022, a pre – opening Ofsted inspection was held at the Dinnington site. The inspection assessed the site suitability against the statutory school building requirements, health and safety and Ofsted assessed that all statutory policies and key curriculum requirements were in place from EAT. All requirements of the inspection were successfully met, and this was a key milestone against the schools projected opening.

2. Key Issues

- 2.1 As Dinnington is a refurbishment of an existing education building, the project had a number of elements that needed to be considered to deliver specialist SEMH Education provision which included the building meeting the requirements of the education delivery models of MATs delivering the Free School. Building adaptation works have been instructed across the following areas
- Refurbishment - Ceilings, doors, walls
 - Adaptations - Floors, new rooms, doors, ceilings
 - General items - Prelims, security, surveys
 - Services - M&E, utilities
 - Site Works - Externals, fencing, gates
 - Compensation events - Unknown events costed to contingency
 - Schedule of Variation - Variations following school-based feedback
 - Additional works - Additional requested works to support mobilisation
- 2.2 The costs identified for adaptation, condition, and refurbishment to support mobilisation have created a budget pressure and increase of capital investment to £3.043m from the original identified budget of £2.2m against a profile of:
- Increase in the costs of materials and labour due to external market conditions

- Increase in adaptation works needed to the building due to EAT requests to deliver their specific SEMH educational model
- Building issues, which were not known or identified at original budget setting due to building age and configuration.
- Increase in programme costs (prelims) due to delays in implementation caused by moving to alternative Academy provider

The impact on the budget is detailed in the financial implications section of this Report although increased capital was required in order to support the realisation of the project from the initial capital funding projected.

- 2.3 All costs submitted have been checked, challenged, reviewed and value engineered, by the finance workstream consisting of colleagues from CYPS, Finance and Asset Management.
- 2.4 The key area of importance for this project has been making sure that the Children and Young People who will attend the school, their families, staff, and stakeholders who will create the new school community have been fully supported across the transition to joining the new school. It has been essential that a co-productive approach has been taken to involve all key stakeholders across the span of this project. A full holistic implementation plan has been developed to support this key workstream.
- 2.5 All statutory consultations linked to the opening of SEMH Free School have been completed with a strong level of positive response supporting the creation of this type of education provision in the Borough. The final step ahead of proposed opening in September 2022, will be for DfE and EAT to enter into an academy funding agreement. RMBC assets and legal teams will be supporting all key processes linked to academy transfer and property requirements to support this agreement.

3. Options considered and recommended proposal

- 3.1 All key information is noted by Cabinet, this report notes progress on development of specialist SEMH education provision in the borough and opening in September 2022.
- 3.2 This is an update report and as such, no alternative options were required.

4. Consultation on proposal

- 4.1 All appropriate updates have been provided by Ethos Academy Trust and RMBC against statutory timelines which have been overseen by the DfE, key updates have also been provided to Schools Forum, School leaders forums, and associated partners. Listening events have been held with parent/carers involving RMBC, Ethos Academy Trust and School leaders with Rotherham Parent Carers Forum facilitating this. Children and Young People have been involved in key stakeholder decisions including selection of academy trust and naming new school.

5. Timetable and Accountability for Implementing this Decision

- 5.1 Proposed opening of the SEMH Free School – Elements Academy, is September 2022, this is subject to Ethos Academy Trust and DfE entering into a funding agreement, should this be delayed then proposals would support all parties moving into the Dinnington site as maintained schools ahead of this decision.

6. Financial and Procurement Advice and Implications

- 6.1 As a progress report there are no direct procurement implications. Procurement considerations were given at the time the contract was entered into for the works to take place to ensure compliance with the Public Contracts Regulations 2015 (as amended) and the Council's Financial and Procurement Procedure Rules.
- 6.2 The capital budget originally allocated for purchase, refurbishment, and adaptation of the Dinnington site was £2.205m, this was increased via the approval of a budget virement which was requested to support the delivery of this project with updated split as follows:

	Original Budget	Budget after 1 st Virement	Budget after 2 nd Virement
Purchase	£771,000	£738,800	£738,800
Demolition & making good (block B)	£309,090	£130,277	£130,277
Adaptation & Refurbishment	£1,125,310	£1,777,546	£2,173,470
Total	£2,205,400	£2,646,623	£3,042,547

The first virement of £384,325, plus school contribution of £56,898 reflect the increase in scheme of £441,223 to £2,646,623.

- 6.3 Following agreement of the first virement, capital costs on Adaptation and refurbishment further increased by £395,924 from £1.778m to £2.173m as a consequence of the factors outlined in the report.

The total cost of the scheme is now estimated at £3.043m, as outlined in the table above.

- 6.4 The capital budget originally allocated for the scheme was £2,205,400 and has increased by £837,147 to the latest estimate of £3,042,547.

The £837,147 is funded by a school contribution of £56,898 and using High Needs capital of £780,248.

- 6.5 The construction sector is currently experiencing significant market pressures with continual price increases in the cost of materials, increasing inflation, coupled with labour shortages. It is therefore understood that the requirement

for additional works over and above what were originally priced for, will now cost significantly more money.

It is essential that any agreed works / costs are appropriately captured in contractual documentation.

7. Legal Advice and Implications

- 7.1 The Council is obliged to provide suitable premises for the new special Free School. This is to be provided by a 125 year premium and rent free lease of the land and buildings.
- 7.2 Where staff are eligible to be transferred the legal requirements of the Transfer of Undertakings Protection of Employment (TUPE) Regulations will need to be observed by the current and prospective employers.
- 7.3 Before the transfer of children and young people with Education, Health, Care (EHC) Plans to the Elements Academy can be undertaken, each EHC Plan must be reviewed and if necessary amended. The precise legal framework and timescale set out in the Children and Families Act 2014, the SEN and Disability Regulations 2014 and the SEN Code of Practice must be observed. Failure to do so could result in legal challenge in the Courts. If the statutory framework is observed the parents of a relevant child or a relevant young person may challenge amendments to the EHC Plan with which they are dissatisfied with by way of an appeal to the First Tier Tribunal.
- 7.4 Children and young persons who transfer to the Dinnington setting may gain or lose entitlement to home to school transport.

8. Human Resources Advice and Implications

- 8.1 A full consultation with Trade Unions and staff at both Aspire and Rowan has been undertaken in relation to the TUPE process. Potential risks were identified in relation to travel, caring responsibilities that may impact on employees moving to the Dinnington site. Where it had been identified that it could be deemed as unreasonable for some staff to move to Dinnington separate one to one consultation meetings have taken place and redeployment opportunities explored and taken place in agreement with employees and Trade Unions. HR continue to work closely with Elements to ensure that all parties receive the appropriate HR information in relation to the transfer.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 Key considerations are referenced within the report.

10. Equalities and Human Rights Advice and Implications

- 10.1 Key considerations are referenced within the report, Children and Young People with SEND are disproportionately represented across a range of education and inclusion measures. The SEMH Free School aims to provide specialist education provision that supports this identified cohort with SEND

needs have enhanced education opportunities and provide a strong support in order that all pupils attend the school have the strongest possible preparation for Adulthood.

11. Implications for CO2 Emissions and Climate Change

- 11.1 All areas of SEND Sufficiency, Student placed planning (and educational placements have a direct environmental impact, consideration of this element is informed in provision development and provision enhancement in the Borough due to the direct impact this will have to limiting students travelling outside the Borough. This would support reduced emissions of CO₂.
- 11.2 Wider consideration of indirect implications or unintended consequence of work in this area has on CO₂ Emissions and Climate Change is considered across all partners as the council are committed to long term targets to mitigate these areas of concern in the Borough. An environmental impact assessment has been completed and is an appendix to this report.

12. Implications for Partners

- 12.1 Ongoing updates are provided to key stakeholders including Parent/carers forum, health leaders, school leaders, Schools Forum, and other associated stakeholders.
- 12.2 Development of specialist SEMH provision in the Borough will enhance SEND practice for this need type in the Borough and will support areas of focus to enhance SEND capacity across education system in Rotherham.

13. Risks and Mitigation

- 13.1 Across all areas of this project the council has adhered to guidance and advisory outline provided to Local Authorities undertaking Free School Presumptions.
- 13.2 Across all key decisions and internal processes decision making has had oversight of SEND Sufficiency Board which involves all key internal parties including legal, assets, HR, procurement, transport, finance, commissioning, and education specialists.

14. Accountable Officers

Nathan Heath, Assistant Director, Education, and Inclusion
Suzanne Joyner, Strategic Director, Children and Young People

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	05/09/22
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	01/09/22
Head of Legal Services (Monitoring Officer)	Bal Nahal	01/09/22

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