

## Summary Sheet

### Name of Committee and Date of Committee Meeting

Cabinet – 17 December 2018

### Report Title

Proposal to make prescribed alterations to the Willows School

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

Yes

### Strategic Director Approving Submission of the Report

Jon Stonehouse, Strategic Director of Children and Young People's Services

### Report author(s):

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### Ward(s) Affected

Borough-wide

### Executive Summary

This report seeks approval to commence a period of statutory consultation in relation to proposals to make prescribed alterations to the Willows School in line with the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 by increasing the number of places available and changing the age range of the school.

### Recommendations

1. That approval be granted to commence a period of statutory consultation by the posting of a public notice in relation to making prescribed alterations to the Willows School.
2. That a further report be submitted in due course detailing the outcome of the consultation and seeking determination.

### List of Appendices Included

None

**Background Papers**

Report to Cabinet of 19<sup>th</sup> February 2018

Special Educational Needs and Disability (SEND), Sufficiency and Increase in Educational Provision - Phase 1.

Equalities Impact Assessment, 30<sup>th</sup> November 2017 - Proposal to increase SEND provision sufficiency in the Borough.

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Proposal to make prescribed alterations to the Willows School**

### **1. Recommendations**

- 1.1 That approval is granted to commence a period of statutory consultation by the posting of a public notice in relation to prescribed alterations to the Willows School.
- 1.2 That a further report be submitted in due course detailing the outcome of the consultation and seeking determination.

### **2. Background**

- 2.1 Following a period of consultation with stakeholders, Cabinet approved a report on 19<sup>th</sup> February 2018 - Special Educational Needs and Disability (SEND), Sufficiency and Increase in Educational Provision – Phase1. The report outlined proposals to increase the number of SEND places available in the Borough by an additional 125 places between 2018 and 2021 (minute number 110).
- 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. Stakeholders were consulted in relation to the type of need and provision and the outcome of consultation informed the proposals to increase capacity and the locations for expansion.
- 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 the 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.
- 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 Within the report to Cabinet of 19<sup>th</sup> February 2018, 10 additional places were identified as being required at the Willows School to meet the needs of pupils with complex learning disabilities / Autism spectrum disorder (ASD) which have subsequently been provided and an amount of £200k capital spend was approved to provide an additional classroom at the school within the 2018/19 financial year, to ensure sufficient capacity for the 120 pupils now on roll.

- 2.7 The Willows School is a Local Authority maintained school and is rated as a good school by Ofsted. The school currently has 120 pupils on roll with a range of moderate learning difficulties. The school is currently registered for 100 pupils with an age range of 7 to 16 and is oversubscribed.
- 2.8 This report seeks approval to commence a period of statutory consultation on proposals to formally increase the registered number of places from 100 to 120 by prescribed alteration to reflect the number of pupils now on roll at the school (120). The prescribed alteration will address current oversubscription by 20 places of which 10 of the oversubscribed places are referred to in section 2.6 of this report.
- 2.9 The report also seeks approval to commence a period of statutory consultation on proposals to change the upper age limit at the school from 16 to 19, by prescribed alteration, to enable continuity of education.
- 2.10 Should the proposals be approved after consultation, these will be formally made under the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and the Secretary of State for Education would be notified accordingly.

### **3. Key Issues**

- 3.1 The additional classroom approved for installation within the 2018/19 financial year will address the current capacity shortfall issues and enable parents / carers to access their preferred school for their child in future years.
- 3.2 As outlined in the report to Cabinet of 19<sup>th</sup> February 2018, the proposal will also support the positive impact on the Councils Home to School Transport budget and provision, as the proposal would reduce budget pressures as the increased number of permanent places in borough, would reduce reliance on out of authority placement and the additional transport costs incurred longer term.

### **4. Options considered and recommended proposal**

- 4.1 **Option 1:** Maintain the registered number of places at the school at the current level. However as the school is already oversubscribed, 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.
- 4.2 **Option 2 – Recommended:** approve a period of statutory consultation on the proposal to Increase the number of registered places at the school on a permanent basis and increase the upper age limit at the school by prescribed alteration to enable the Governing Body to forward plan long term with sufficient capacity to accommodate future cohorts and provide continuity of education post 16, reducing pressure on the High Needs Block of the Dedicated Schools Grant.

## 5. Consultation

- 5.1 The proposal falls within the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 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) and to change the upper age range of the school from 16 to 19 which is expected to be in place for more than 2 years (as this is considered a permanent increase).
- 5.2 There is a strong expectation that Local Authorities will consult interested parties, in developing proposals prior to publication of a public notice, as part of their duty under public law to act rationally and to take into account all relevant considerations. This requirement has been met by the wide ranging consultation with stakeholders detailed in the report approved by Cabinet on 19<sup>th</sup> February 2018 - Special Educational Needs and Disability (SEND), Sufficiency and increase in educational provision.
- 5.3 The above consultation took place between 23<sup>rd</sup> October 2017 and 8<sup>th</sup> 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.
- 5.4 A 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.
- 5.5 The proposal must be published on a website along with a statement setting out:
- how anybody can object to, or comment on, the proposal;
  - the date that the representation period ends;
  - the address to which objections or comments should be submitted.

A brief notice which includes details on how the full proposal can be accessed (e.g. the website address) must also be published in a local newspaper.

Within one week of the date of publication on the website, the proposer must send a copy of the proposal and the information set out in the paragraph above to:

- the parents of every registered pupil at the school - where the school is a special school.

5.6 Where 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.

5.7 Once a decision has been made the school should make the necessary changes to the school's record in the department for Education's 'EduBase' system and must have done so by the date the change is implemented.

## 6. Timetable and Accountability for Implementing this Decision

17 December 2018	Seek Cabinet approval to commence a period of statutory consultation on proposals to make prescribed alterations to the Willows School.
January 2019	Publication of proposals and 4 week public notice and representation period. Submission of proposals to DfE.
18 March 2019	Cabinet determination of proposals.
29 March 2019	Formal notification of Cabinet determination to the Secretary of State for Education.

## 7. Financial and Procurement Implications

7.1 The estimated capital cost of the proposal to provide the additional 10 places at the Willows School is £200k. The new provision and prescribed alterations will enable young people to continue to be placed locally and avoid the need to place with high cost independent providers, the estimated cost saving to the Dedicated School Grant will be £30k per place, a £300k saving on full occupation.

## 8. Legal Implications

8.1 The Local Authority has a statutory duty under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007, to consult on the proposals set out in this report

8.2 Under the DfE Statutory guidance for proposers and decision-makers, deciding prescribed alteration and establishment and discontinuance proposals April 2016: 'Although there is no longer a statutory 'pre-publication' consultation period for prescribed alteration changes, there is a strong expectation that schools and Local Authorities will consult interested parties, in developing their proposal prior to publication as part of their duty under public law to act rationally and take into account all relevant considerations'. This requirement has been met by the wide ranging consultation with stakeholders detailed in the report approved by Cabinet on 19<sup>th</sup> February 2018 - Special Educational Needs and Disability (SEND), Sufficiency and increase in educational provision.

- 8.3 Under the DfE Statutory Guidance for proposers and decision makers - Making 'prescribed alterations' to maintained schools April 2016: 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 period, where a decision is not made within this time frame, the proposal must be referred to the Schools' Adjudicator for a decision.
- 8.4 The Education Act 1996 requires an English local authority to secure (as far as their powers enable them to do so) efficient primary, secondary and further 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.
- 8.5 The Equality Act 2010 imposes a public sector equality duty upon public (including local) authorities, (see section 11 below). The promotion of equality of opportunity includes the removal of a disadvantage suffered by persons with disability, or their carers. The current 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 alterations if implemented would minimise that disadvantage.

## **9. Human Resources Implications**

- 9.1 There are no Human Resource implications to consider from the Local Authority's perspective. Future rising cohort numbers may well lead to further employment opportunities at the school. This however would be for the Governing Body to determine.

## **10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 Implementation of the prescribed alteration in due course would give more children and young people the opportunity to access high quality provision closer to home to meet their educational needs in future years.

## **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 as reported to Cabinet on 19<sup>th</sup> February 2018. 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 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. A further Equalities Impact Assessment will be undertaken during the consultation period.
- 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 the proposal with the various interested parties cited in 5.3 of this report.
- 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 be no impact on other special schools within the area as the prescribed alteration supports the recommendations approved by Cabinet on 19<sup>th</sup> February 2018 to create an additional 125 SEND places in Borough to meet rising demand and to reduce current costly out of authority placements, reducing pressure on the High Needs budget within the Dedicated Schools Grant.

## **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 The Local Authority has a statutory duty under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, to ensure a sufficiency of school places in areas of current and future need.



**14. Accountable Officer(s)**

Jon Stonehouse, Strategic Director of Children and Young People's Services  
Pepe Di'lasio, Assistant Director of Education and Skills  
Dean Fenton, Head of Service - School Planning, Admissions and Appeals

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services	Colin Allen / Vera Njelic	25.09.2018
Assistant Director of Legal Services	Neil Concannon / Linton Steele	24.09.2018
Head of Procurement (if appropriate)	Lorna Byne	19.11.2018
Head of Human Resources (if appropriate)	Amy Leech	13.09.2018

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