

Meeting demand for Children with Special Educational Needs and/ or Disability (SEND)

To: Children and Young People Committee

Meeting Date: 1 March 2022

From: Executive Director: People & Communities

Electoral division(s): All

Key decision: Yes

Forward Plan ref: KD2022044

Outcome: As a result of this report there will be an approved approach to securing places in specialist provision for children and young people with identified special educational needs and/or disabilities (SEND), thus ensuring the Council meets its statutory duties

Recommendation: The Committee is recommended to:

Approve the approach set out in the report for increasing the number of places offering special education provision for children and young people with Education Health Care Plans (EHCPs) who are currently awaiting placement.

Officer contact

Name: Clare Buckingham

Post: Strategic Education Place Planning Manager (Cambridgeshire & Peterborough)

Email: clare.buckingham@cambridgeshire.gov.uk

Tel: 01223 699779

Member contacts

Names: Councillor Bryony Goodliffe and Councillor Maria King

Post: Chair/ Vice-Chair, Children and Young People Committee

Email: bryony.goodliffe@cambridgeshire.gov.uk maria.king@cambridgeshire.gov.uk

Tel: 01223 706398 (office)

1. Background

1.1 Statutory Duties

The Council as the local Children's Services Authority, has a statutory duty to provide a school place for every child living in its area of responsibility who is of school age and whose parents want their child educated in the state funded sector. To achieve this, the Council has to keep the number of school places under review and to take appropriate steps to manage the position where necessary. The Education and Inspections Act 2006 also requires local authorities to adopt a strategic role, with a duty to promote choice, diversity and fair access to school provision.

- 1.2 Under the Children & Families Act 2014, the Council has a legal duty to identify and assess the special educational needs and/or disability (SEND) of children and young people for whom they are responsible. The Council becomes responsible for securing appropriate educational provision for a child/young person in its area when it becomes aware that the child/young person has or may have SEND. The Council must then ensure that those children and young people receive a level of support which will help them "achieve the best possible educational and other outcomes."

1.3 Current Position

During Covid-19 we have seen an unprecedented increase in numbers of children with SEND requiring a specialist placement. As of 8 February 2022, data gathered by the Statutory Assessment Team (SAT) indicated there were a total of 211 children in Cambridgeshire with an Education Health and Care Plan (EHCP), setting out their assessed and identified SEND and requiring placement in a special school or specialist provision attached to a mainstream school in the near future. This includes pupils who have moved into the County. These pupils are either currently on roll in a mainstream school or receiving tuition packages of alternative provision.

District	Total numbers awaiting placement	Total requiring area special school placement	Total requiring provision specialising in social emotional mental health (SEMH) needs
Cambridge City	39	20	14
East Cambridgeshire	33	23	4
Fenland	77	49	24
Huntingdonshire	28	12	11
South Cambridgeshire	34	21	7

- 1.4 This report sets out the actions which are being taken, or proposed, to commission new and additional places to meet this need through appropriate specialist educational provision across Cambridgeshire. On a wider, strategic scale, officers are also mapping future demand in order to develop a sustainable landscape of specialist provision for the future. That SEND Placement Planning Strategy focusing on the medium and longer term is being undertaken as part of the SEND Transformation work.

- 1.5 High Needs SEND benchmarking produced by the Department for Education (DfE) shows that Cambridgeshire is broadly in line with its statistical neighbours in terms of provision and the numbers of pupils who have an EHCP. See **Appendix 1**

2. Main Issues

- 2.1 The main areas of need, as summarised in 1.3 above relate to:

- primary phase children requiring Area Special School provision (102 children)
- secondary phase children requiring Area Special School provision (23 children); and
- a further 36 secondary aged children whose prime need is social, emotional and mental health (SEMH)

- 2.2 The following are the principal models proposed to address the immediate need for additional places:

- Expansion of existing Area Special schools:
 - o Provision of additional permanent accommodation, enabling those schools to increase the number of children able to be educated on their sites
 - o Creation of models whereby satellite, off-site classes can be managed and overseen by existing special schools
- Creation of dedicated provision, in line with an Enhance Resource Base (ERB)/Unit approach, attached to mainstream schools which will create opportunities for inclusion. Examples of these exist at Comberton Village College and Witchford Village College with a focus on supporting pupils with Autism.
- More efficient use of independent providers through negotiation of block contracts.

- 2.3 Officers are engaging with existing providers that have expressed an interest in supporting the Local Authority (LA), to commission the setting up of dedicated ERBs/Units where children with identified SEND can be placed alongside children from the host school. This model will essentially cater for children with SEMH or Autism. This will include guidance and criteria set by the LA to ensure that the children are suitably placed at the setting based on need and exit guidance both for the individual child and for the de-commissioning of the setting, if and when, the children move on to other settings.

- 2.4 There is a clear need for increased availability of area special school places in Fenland and officers are negotiating with Affinity Multi-Academy Trust to create 60 additional places at Meadowgate Special Academy in Wisbech. Planning permission to provide permanent, purpose-built accommodation in Wisbech for children and young people with Social Emotional and Mental Health (SEMH) (target opening date September 2023) will be determined on 24 February. Projects are also underway at Samuel Pepys Special School in St Neots, Granta Special School at Linton and Spring Common Special School in Huntingdon.

- 2.5 Proposed response to the need for additional provision

The following are all currently under consideration:

- all area special schools admitting up to 10% over their published admission number (PAN). Allocating satellite classrooms to support this would provide accommodation for a total of 120 additional places.
- block purchasing of places at a new independent secondary school specialising in SEMH for boys and girls, due to be opening in Huntingdonshire in September 2022, for the group of children currently awaiting specialist SEMH placement.
- extending and/or introducing block purchasing arrangements for up to 56 pupils at the independent providers in Cambridgeshire specialising in Autism and SEMH where the LA currently places children with these needs.

2.6 Financial Considerations and Principles

- 2.6.1 The initial priority is to identify/ create provision for those on the awaiting placement list with an accompanying funding model. All elements of funding will be considered, costed and approved by the SEND Transformation Board as part of the overall business case. The SEND Transformation Board brings together Education / 0 – 25 Operational and Commissioning officers and other corporate services to drive delivery of a system-wide approach to improvement, focusing on outcomes and impact for children and young people with SEND in Cambridgeshire. Where a capital project is required a parallel case will also be presented and approved by the Capital Programme Board, prior to commencement of any works, or agreements with providers.
- 2.6.2 Once approved a contract and/or Service Level Agreement (SLA) will be drawn up between the LA and the provider detailing the agreed provision, specification, outcomes, funding and timescales.
- 2.6.3 The table and explanations at **Appendix 2** set out the proposed approach for funding additional provision in schools (mainstream or special). Alternative approaches, such as block contracts, are being considered for independent provision where the market allows. Funding for High Needs Units / ERBs and Special Schools is subject to Education and Skills Funding Agency (ESFA) guidance.

2.7 Capital Implications

- 2.7.1 Initial investment of £2.5m was approved by the Capital Programme Board for inclusion in the Council's 2022/23 draft business plan (capital). The business plan was considered by the Strategy and Resources Committee in January 2022 before receiving final approval by full Council on 8 February 2022.
- 2.7.2 Outside those projects that already have scheme specific approval, feasibility work will progress ahead of final approval on other projects identified for development at risk as significant changes to the business plan are not anticipated at this stage.
- 2.7.3 It is also possible to progress detailed design of the early projects at risk. However, it is not proposed that any contract for construction works should be agreed until all legal, financial and property agreements for occupation by a third party are in place with the identified provider of the SEND services or places that are being commissioned.

- 2.7.4 **Appendix 3** lists the sites where agreement has been reached to pursue creation of additional places. This list is not exhaustive nor complete as there are multiple sites and buildings within both the schools' estate and the Council's corporate property portfolio which are being considered. A priority list of suitable sites/projects will be compiled once conversations with providers have been completed and initial feasibility work undertaken.
- 2.2.5 As the programme or package of works is established, officers in the Education Capital Team will work with colleagues in Finance and Procurement to minimise the timescales required to get individual projects to site/contract stage. This requires consideration of how potential contracts are packaged and whether exemptions can be sought to the Council's tender rules on the grounds of urgency or service need. This approach will be most likely to be required for those projects where a September 2022 completion is required.
- 2.3 Admission arrangements/allocation of newly created places on mainstream school sites
- 2.3.1 Decisions regarding admission to area special schools, or independent specialist provision are already made by the County Resourcing Panel. A similar process will be put in place in order to control and manage admission arrangements to the different forms of specialist provision created referred to throughout this report, including on mainstream school sites.
- 2.3.2 As part of the decision making process the panel determining admissions will take into account the following transport implications, seeking relevant information from the Social & Education Transport Team (SETT):
- Distance of the provision from the child's home
 - Cost of transport
- 2.3.4 In addition, SEND officers will also take the opportunity to review existing placements of children travelling long distances, in order to identify placements closer to where they live. The Council's Home to School/College Travel Assistance Policy states that journeys should not exceed 45 minutes for primary and 75 minutes for secondary age children/young people each way. Short-term disruption occasioned by a change of placement is generally preferable for a child and their family to years of travelling several hours every day to access education.
- 2.4 Governance
- 2.4.1 Internal governance processes within the Council which will apply when developing new places have been referred to in sections 1.9 and 2.2 above. Where new provision is commissioned on the site of an academy, the multi academy trust (MAT) will have its own governance procedures which it will need to invoke before entering into any agreements with the Council.
- 2.4.2 Where a proposal constitutes a '*significant change*' as defined in the DfE Guidance *Making Significant Changes to an Open Academy* e.g. satellite proposals (see section 1.6 above), a full business case is required. In circumstances where a consultation is also required this will need to take place before the request for a significant change is submitted by the Multi-Academy Trust (MAT) to the Regional Schools Commissioner.
- 2.4.3 All of the above will have an impact on the timeframe for securing agreements and offering placements.

2.5 Longer Term specialist provision options

- 2.5.1 As referred to in 1.4 above a separate SEND placement strategy is being developed focussing on the medium and longer term as a workstream reporting to the SEND Transformation Board.
- 2.5.2 A new 150 place area special school for the 3-19 age range, Prestley Wood Academy, at Alconbury Weald (Huntingdonshire) is scheduled to open in September 2023.
- 2.5.3 In the longer term there is provision of a site for a new area special school at the Waterbeach New Town development to the north of Cambridge (South Cambridgeshire). Under the terms of the section 106 agreement with the developer the trigger for the special school site to be released to the Council would not, on the current housing trajectory, be before 2032. Officers will continue to monitor housing development and demographic data across the county which will inform future plans including delivery of further new schools.

3. Alignment with corporate priorities

- 3.1 Communities at the heart of everything we do
Wherever possible every effort is made to place children in SEND provision as close to their local community as possible
- 3.2 A good quality of life for everyone
This corporate priority is explicit throughout the report as it relates to providing appropriate education placement for children with SEND to support them to learn, thrive and achieve.
- 3.3 Helping our children learn, develop and live life to the full
Appropriate educational provision is key to securing optimal outcomes for all children, as well as supporting their wellbeing and playing an important role in safeguarding them.
- 3.4 Cambridgeshire: a well-connected, safe, clean, green environment
Placement in appropriate local educational provision minimises the necessity for long school journeys
- 3.5 Protecting and caring for those who need us
This is reflected in section 1.2 of the report

4. Significant Implications

4.1 Resource Implications

Section 1.9 sets out details of these implications.

Capital

Section 2.2 set out details of these implications.

In addition, in the autumn spending review the government announced £2.6 billion of capital funding for new school places for children with SEND over the next 3 years. We are yet to see any detail on the allocations or basis for distribution but would obviously expect to

receive an amount appropriate to our level of need which would hopefully allow the Council to reduce borrowing.

Revenue

High Need Block

Any of the ongoing revenue costs to place young people in appropriate provision are met from the High Needs Block of the Dedicated Schools Grant (DSG). As reported to members previously, this funding stream is under significant pressure with current grant funding not sufficient to meet existing commitments. As part of this work by creating and placing young people in more appropriate local provision, it is hoped to avoid some of the more costly alternatives.

Schools Forum approved a 0.5% / £2.1m revenue block transfer from the Schools Block to support the wider SEND Transformation programme of which circa £1m has been identified to support the creation of new provision.

Transport

Transport costs are met from the LA budget and not the DSG.

The additional indicative transport costs of placing the 211 plus children currently awaiting placement is estimated to be £1.36m per annum based on average costs of current transport contracts to the types of in-county special school and ERB provision listed in section 2.2 above.

4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

Any new places developed will be commissioned in the usual way.

- New places will be allocated according to need
- Each provider will be issued with a contract that outlines the expectations of the LA and the setting.
- A clear entry and exit process will be put into place for each setting
- A process of monitoring and reviewing the provision will be put into place
- Funding will form part of the contract to be discussed with Finance colleagues

Any capital works required to secure additional special provision places will be undertaken through the Council's framework arrangements (schemes above £1m) or the minor works contractor framework.

The Design and Build contractor framework was recently re-tendered in accordance with the Council's procurement rules and successful contractors awarded a place on the framework in December 2021.

The minor works contractor framework is currently being re-tendered and has reached the evaluation stage. This tender exercise has also taken place in accordance with the Council's procurement rules.

The delivery programme for the early schemes may require the Council to use the direct award provisions in the framework. Any waiver required to use such a provision will be made within the Council's procurement rules

4.3 Statutory, Legal and Risk Implications

The following bullet points summarise the key risks:

- Reputational damage to the Council
- Adverse Office for Standards in Education (Ofsted) judgements
- Complaints from parents/carers and other stakeholders
- SEND Tribunal finding against the LA
- Complaints to the Local Government Ombudsman (LGO) and the LGO finding against the LA
- Judicial Reviews
- Unfavourable media coverage
- Pressure on SEND teams and associated impact on staff welfare and morale
- Pressure on SEND Information & Advice Service (SENDIAS)
- Further demand on High Needs funding Block

4.4 Equality and Diversity Implications

The Council is committed to ensuring that children with SEND are able to attend their local mainstream school where possible, with only those with the most complex and challenging needs requiring places at specialist provision.

4.5 Engagement and Communications Implications

All new school projects, whether initiated by the Council or via the central DfE process, are subject to a statutory process which includes public consultation requirements.

4.6 Localism and Local Member Involvement

Officers will ensure that local Members are aware of any proposals in their local area.

4.7 Public Health Implications

New schools will have an impact on the Public Health commissioned services such as school nursing, vision screening, National Childhood Measurement Programme, school-based immunisation programmes.

New special schools will also increase demand on Clinical Commissioning Group (CCG) commissioned services for children with EHCPs and the CCGs should be informed about new special schools, or satellites of these opening, so that the required arrangements can be made to meet the health needs of these children.

4.8 Environment and Climate Change Implications on Priority Areas

4.8.1 Implication 1: Energy efficient, low carbon buildings.

Neutral Status

While new provisions not using existing infrastructure will be delivered in line with current planning policy around energy efficient and low carbon buildings, they will still result in increased energy demand. On balance, this is a neutral status.

4.8.2 Implication 2: Low carbon transport.

Negative Status:

Wherever possible children attending specialist provision travel sustainably in shared minibuses or taxis to minimise additional vehicles/journeys but the commissioning of new provision will have associated new journeys.

4.8.3 Implication 3: Green spaces, peatland, afforestation, habitats and land management.

Neutral Status:

The planning applications for new schools include landscape designs and will be in line with planning policy to create some green space. Any trees removed and replanted as part of site clearance will be addressed through the planning application process and will be in line with current policy.

4.8.4 Implication 4: Waste Management and Tackling Plastic Pollution.

Negative Status:

The construction process will generate some unavoidable waste; however, this will be minimised as far as possible and robust waste management strategies implemented throughout the construction process. Waste generated by new schools/specialist provisions will be subject to normal recycling facilities being provided on site. Other services operating from the school, e.g. early years provision by a third party, will adhere to policies on recycling.

4.8.5 Implication 5: Water use, availability and management:

Neutral Status:

The planning application for any new school or temporary accommodation at existing schools will be submitted in line with planning policy. The statutory consultees include the Council's Floods team.

4.8.6 Implication 6: Air Pollution.

Neutral Status:

The planning application for any new school, permanent expansions for or temporary accommodation will be submitted in line with planning policy. Air pollution will be addressed as part of this process.

4.8.7 Implication 7: Resilience of our services and infrastructure and supporting vulnerable people to cope with climate change.

Neutral Status:

Any new school proposal is designed to deliver education provision in the local community but will also facilitate sport and community activities through the school's letting policy. The services provided are not specific to climate change, however, local provision makes access easier. On balance, the impact on this implication is neutral.

Have the resource implications been cleared by Finance? Yes

Name of Financial Officer: Martin Wade

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the Head of Procurement? Yes

Name of Officer: Clare Ellis

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law? Yes

Name of Legal Officer: Fiona McMillan

Have the equality and diversity implications been cleared by your Service Contact? Yes

Name of Officer: Jonathan Lewis

Have any engagement and communication implications been cleared by Communications?
Yes

Name of Officer: Simon Cobby

Have any localism and Local Member involvement issues been cleared by your Service
Contact? Yes

Name of Officer: Jonathan Lewis

Have any Public Health implications been cleared by Public Health?
Yes

Name of Officer: Raj Lakshman

If a Key decision, have any Environment and Climate Change implications been cleared by
the Climate Change Officer?

No

Name of Officer: Emily Bolton

5. Source documents guidance

5.1 [Making significant changes to an open academy \(January 2022\)](#)

6. Accessibility

6.1 Accessible versions of the appendices are available on request from
Clare.Buckingham@cambridgeshire.gov.uk