



Additional School Places – SEND Place Sufficiency – Capital Development

Decision to be taken by: The City Mayor

Decision to be taken on: 4 July 2018

Lead director: Paul Tinsley and Matthew Wallace

Useful information

- Ward(s) affected: All

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- Report version number: FINAL

1. Purpose of report

The purpose of this report is to outline the situation regarding Special Educational Needs and Disability (SEND) specialist places in Leicester City over the coming academic year (2018-2019). Information and recommendations detailed in this report will provide the context in which decisions can be made to provide appropriate places for children and young people with SEND for 2018-19 and provide the context for a further paper outlining options for the provision of future SEND places in Leicester City.

2. Summary

There is a current and projected shortfall in specialist places for children with SEND and an Education, Health and Care Plan (EHCP). There is a lack of specialist places across the country. This is recognised by the DfE and, as a result, they are funding local authorities nationally an additional £250 million over the next three years to help with the issue. Current projections of the shortfall in Leicester amounts to approximately 60 places required for 2018/19. Further work is being undertaken to examine the projected increase from 2019 to 2025. A separate Executive Report will be circulated for approval at the end of June 2018.

There are currently approximately 45 children with an EHCP which indicates they have a need for a specialist provision agreed by the Local Authority but are not in specialist provision because there are no places.

The maintained special schools within Leicester City (including the special academy within the City) are all at capacity. Projections show there will be around 15 more young people requiring places in addition to the 45 already identified, resulting in the need for 60 places in the Autumn term.

Feasibility studies were undertaken in March 2018 to look at possible expansion options within existing school sites for the academic year 2018-19.

The report presents the options for consideration and approval of the City Mayor to meet the identified need.

2.1 Phase 1

It has been identified that 60 places are required or will be required by 2018/19 across all types of need. All providers have considered their capacity to develop their provision in readiness for the 2018-19 academic year. The following schools have agreed to accommodate places:

1. Ellesmere College – 15 new places.
2. Keyham Lodge and Millgate federation – 20 new places.

3. West Gate school – 10 new places.
4. Netherhall School – 5 new places.
5. Children’s Hospital School - Willow Bank school – this provision does not provide for students with EHCPs, but is an important provision for young people with mental health needs through medical referral, and requires 20 more spaces to be made available for.
6. LCC also requires 10 more places for children with communication and interaction needs and of primary age, who might well request or benefit from placement within Oaklands school. Possible solutions are currently being discussed relating to Oaklands offering ten places within an existing DSP (Designated Special Provision, or an enhanced resource), which exists within a mainstream provision.

2.2 Phase 2

In addition to the 60 additional places in 2018/19 we will require further 230 additional places across the city (special school and Designated Specialist Provision - DSP). This further expansion will be the subject of a second Executive Report.

3. Recommendations

That consideration be given to the options presented within this report with a view to adopting the option to expand existing special schools in Phase 1 of SEND place expansion and agreeing to supplement any capital shortfall with potential costs savings made by providing the 60 places within the City as opposed to contracting out.

3.1 Phase 1 development – Short term (academic year 2018-19)

It is recommended that agreement is given to the following school expansions:

Developments for 2018/19:

1. Ellesmere College – 15 new places.
2. Keyham Lodge and Millgate federation – 20 new places.
3. West Gate school – 10 new places.
4. Netherhall School – 5 new places.
5. LCC also requires 10 more places for children with communication and interaction needs and of primary age, who might well request or benefit from placement within Oaklands school.

To approve funding totalling £2.064m from the capital programme policy provision as detailed in section 5 of this report (£524,723 of allocation from the DfE for providing SEND places in 2018/19, will contribute towards this sum).

4. Background to SEND placements

4.1 National trends

Leicester City reflects a national trend for increasing special place requests. The increased demand is for special school places and Designated Special provision (DSP also known as Enhanced Resource Provision). This increase in is due to rising

numbers of school-aged children and young people, and increases in requests for statutory assessment since the introduction of the Children and Families Act 2014, part 3:SEND. The Department for Education (DfE) recognises this and have provided central government funding for SEND place expansion.

The position in Leicester City is that fewer children and young people with an EHCP are without the special placement they need than is the case nationally. Other factors include:

1. Three specialist provisions are currently judged “Outstanding” by Ofsted. A further four offer a “Good” standard of education, according to Ofsted. One school is currently in “Requires Improvement”; however, we are optimistic of a “Good” outcome at a forthcoming Ofsted inspection.
2. Consideration must be given to the expansion of provision across both mainstream and specialist providers to support the inclusion of pupils.
3. An Ofsted 2010 report ‘A Statement is not Enough’ suggested that the best outcomes for pupils with a Statement of SEN (now an EHCP) were secured through enhanced resourced provision attached to mainstream schools (also known as DSPs).
4. The UN Convention on the Rights of Disabled Persons warned in February 2017 that the English education system caused concern due to:
 - “The persistence of a dual education system that segregates children with disabilities to special schools, including based on parental choice; The number of children with disabilities in segregated education environments is increasing because the education system is not geared to respond to the requirements for high-quality inclusive education, in particular the information about occurrences of school authorities turning down enrolment of a student with disability who is deemed ‘as disruptive to other classmates’.

‘Additionally, the education and training of teachers in inclusion competencies is not reflecting the requirements of inclusive education.’”

 - Parental preference and the SEND First Tier Tribunal – parents can accept or reject a named school within an EHC Plan, and have the right to appeal to the SEND Tribunal, which can place a pupil at a school for a range of reasons.
5. In November 2017, the DfE published ‘Good intentions, Good enough?’ a report by Dame Christine Lenahan of the Council for Disabled Children, which looked at the cost of out of LA placements, and their longer term outcomes for children and young people placed there.
6. The report contains a series of recommendations for government and other agencies, focusing on:

- Ensuring children and young people with SEND get the services and support they need in their local community (in mainstream or special provision);
- Ensuring that local areas have planned and commissioned provision strategically, so that it is available when required;
- Ensuring the accountability and school improvement systems enable schools and colleges to achieve the best possible outcomes.

In making decisions regarding both the short-term and longer-term need for specialist places, the expansion proposals need to support the best educational and wider outcomes for children and young people with a SEND, which will prepare them for adulthood and employment, engagement and inclusion within the local city community.

4.2. Current context in Leicester City

There are 2200 children and young people with an EHCP in Leicester City. 1084 are in City special schools or DSPs. There are a further 94 pupils in Out of City (Independent non-maintained schools). This gives a total of 1,178. This means that the percentage of pupils with an EHCP that are in special schools/provision in Leicester is 53%. The DFE have recognised the pressure on SEND places nationally and have released funds to support local authorities to develop their SEND places.

4.3 DFE Special Provision Capital Fund Plan

4.3.1. Context for the Plan

Local authorities must ensure there are sufficient good school places for all pupils, including those with SEN and disabilities. The Government has committed £215 million of capital funding to help local authorities create new school places and improve existing facilities for children and young people with SEN and disabilities, in consultation with parents and providers. This capital is not ring-fenced and local authorities can use it as they see fit to improve special provision for children and young people EHCPs.

The allocation for Leicester City is £524,723 for each of the years 2018/19, 2019/20 and 2020/21, a total of £1,574,169.

4.3.2 Plans for development

There are two phases to the intended developments within Leicester City:

Phase 1 (outlined in this Executive Report) – responding to the immediate need for places in 2018/19, with a short-fall of approximately 60 places identified, due to increases in the City population, and also due to an increase in requests for statutory assessment and specialist places.

Phase 2 (to be outlined in a future Executive Report) – developing the longer-term places required in the City. Projections are based upon predicted population growth across the 5-19 age group (53,000 currently, to 64,000 by 2025), Leicester City Council predicts a need for a further 230 specialist places by 2025.

Findings from work-streams which have included mainstream and special providers, show that many schools are interested in increasing or further developing their provision and all special schools have indicated a determination to be involved in the solution to this increased demand for Autism Spectrum Conditions (ASC) and Social, Emotional and Mental Health (SEMH) needs.

The Parent and Carer Forum (PCF) is a key source of consultation and advice for decisions regarding developing provision, through the inclusion of parents and carers within work-streams, and within the SEND Strategic Board. The views of all parents and carers of children and young people with SEND, are being sought through a survey (see below). Young people are engaged through the Big Mouth forum, though further, wider consultation of children and young people is required for our longer-term plans. Children and young people also share their views within their EHC Plan (where they are able to do so) to indicate their views about intended outcomes and provision.

4.3.3. Consultation on the Leicester City Special Provision Capital Plan

This is the first stage of our plan; we are currently continuing to consult for the final decisions within the longer-term strategy, as we have an open consultation for parents and carers which can be found at: <https://families.leicester.gov.uk/send-local-offer/send-provision-places-survey/>

4.4 Phase 1 Options:

4.4.1 Option 1 – develop a further 60 places through expansion of existing provision

There have been discussions with current specialist providers regarding place expansion, where their school has specifically been identified by the EHC process itself, or through the predicted likelihood of place requests by children and young people under-going the 20 week EHCP assessment process, and the type of provision which is likely to be requested.

As a result, it has been identified that 60 places are required or will be required by 2018/19 across all types of need. All providers have considered their capacity to develop their provision for Phase 1. The following schools have agreed to the development of places in principle (should we wish to proceed with them):

1. Ellesmere College – 15 new places.
2. Keyham Lodge and Millgate federation – 20 new places.
3. West Gate School – 10 new places.
4. Netherhall School – 5 new places.
5. The Local Authority also requires 10 more places for children with communication and interaction needs and of primary age, who might well request or benefit from placement within Oaklands School, which is full and has not benefitted from the refurbishment or replacement which all other special schools in the City did, due to BSF supporting only secondary expansion. Possible solutions are currently being discussed relating to Oaklands offering ten places within an existing DSP (designated special provision, or an enhanced resource), which exists within a mainstream provision.

Advantages of this option:

- Significant revenue saving from phase 1 of £3.2m pa by reducing out of city placements through investing in improved capital assets (see below for detail);
- It builds on the expertise we already have in the city in our specialist provision;
- Minimal disturbance to existing education of those in special needs provision;
- Lessens the strain on mainstream school where some head teachers are already stating they can no longer accommodate those students with EHCPs naming special provision;
- Keeps children in the City – closer to home, families and communities and reduces the cost of transporting children to out of area schools;
- Further capital investment could be considered in the future to trade SEND services to other neighbouring counties. For example, Rutland has no SEND provision.

Revenue savings to the Council by educating SEND children in the City from 2018/19

By providing an extra 60 places within the City there would be a significant annual revenue saving against the alternative costs of educating the children outside of City.

Average Out of City costs for 60 SEND children:

60 x £75k = £4,500k (Education costs) plus 60 x 7.3k = £438k (travel costs by taxi) totalling £4,938k.

Average In-City costs for 60 SEND children:

60 x £25k = £1,500k (Education costs) plus 60 x 4.5k = £270k (travel costs bus/taxi) totalling £1,770k.

Therefore an annual revenue saving of **£3,168k.**

Disadvantages

- Increases segregation (at least numerically if not proportionately). This will be mitigated by the overall inclusion strategy which will increase the number of children and young people with SEND in mainstream placements in the long term.

4.4.2 Option 2 – Increase out of city placements

To meet the increasing need of special placements the Local Authority could use more independent non-maintained schools.

Advantage

- No need for the Local Authority to create additional places in-city.

Disadvantage

- Cost – as highlighted in option 1, this would be an additional cost of £3.2 million compared to educating the children in the City.
- Fracturing links between home and school. With an out of city placement the

parents/carers find it very difficult to meet with teachers and school, staff on a regular basis (mornings and after school) when information can be shared and potential difficulties sorted out before they become significant.

- Keeps children linked to their communities and enhances their ability to have school friends in the neighbourhood.

4.4.3 Option 3 – build a new “free” (generic) special school

It could be possible to build a 250 place special school. Under current government legislation the Local Authority cannot open a new maintained school. The school would need to be an academy or free school. This would be dependent on a number of conditions being met (demonstration that it would meet need and agreement by Regional Schools Commissioner/DFE).

Advantages

- It would meet the number of places required in the relatively short-term and longer-term.

Disadvantages

- Construction time to build the new school would still leave the Local Authority needing to find in excess of 100 temporary places whilst the plans were drawn up and building completed.
- Disruption to children and students. To fill the new school as generic special school students would have to be moved from existing placements. This may cause distress and parents and carers would have the right of appeal to the First Tier Tribunal to resist a move. This could potentially result in a costly and time consuming number of tribunal cases which would damage the excellent current relationships with parents and carers and ultimately may not achieve its aim.
- As the school opens the places would be available to neighbouring local authorities. They could place in the school resulting in Leicester City not having sufficient places for its own children.

4.5. To consider for all options

We will seek to develop, over time, a provision more widely across mainstream and special providers, including all specialist providers, and across schools, which have expressed an interest in developing enhanced resources or DSPs.

Children’s Hospital School – Willow Bank School

This provision does not exclusively provide for students with EHCPs, but is an important provision for young people with mental health needs through medical referral, and requires 20 more spaces to be made available for 2018/19. If these places were not available it is likely the pupils will not have their needs met. They may remain on the roll of a mainstream school but not attend. In addition, they may become challenging in the mainstream placement and require statutory assessment (and potentially an EHCP) and/or face exclusion. It is therefore important to include and consider the expansion of the Children’s Hospital School as part of the overall

expansion of SEND places.

5. Summary of Costs

The summary of costs for the Phase 1, 2018/19 works is set out as follows:

REF.	ITEM / DESCRIPTION	QUANTITY UNIT	RATE	TOTAL
001	Construction Works			
a	Barely Croft	1 item	17.03%	£191,400
b	Ellesmere College - Refurb & TMB	1 item	23.61%	£265,392
c	Millgate - Refurb	1 item	24.88%	£279,690
d	Nether Hall - Refurb	1 item	2.27%	£25,479
e	West Gate	1 item	32.21%	£362,031
Total Nett Construction Costs (Current Day)			100%	£1,124,000
002	Main Contractor Preliminaries	12.00%	£1,124,000	£130,000
003	Main Contractor Overheads & Profit	7.50%	£1,254,000	£94,050
Total Construction Costs (Current Day)				£1,348,000
004	Project / Design Team Fees;			
a	Professional Fees	10.00% item	£1,348,000	£134,800
b	Specialist Surveys & Investigations	2.5% item	£1,482,800	£37,070
c	Additional Fees	5.0% item	£1,519,870	£75,994
005	Risk Allowances;			
a	Risks - Design and Construction Contingency	15.00%	£1,595,864	£240,000
b	Accelerated Fees	10.00%	£192,110	£19,211
006	Inflation;			
a	Inflation to Start On Site	2.00%	£1,855,074	£37,101
007	Client Contingency	5.00%	£1,892,176	£94,609
TOTAL PROJECT COST (EXCLUDING VAT)				£1,987,000

Feasibility studies were undertaken in March 2018 in order to identify the proposed works and budget costs recommended within this report. The cost of the feasibility studies amounted to £76,800. It is recommended that provision is made for these costs along with the overall Phase 1 recommended option to invest capital into providing the 60 required pupil places for SEND children in the City.

Summary of Phase 1:

Finance would be required as follows for the recommended option for Phase 1:

Approved capital investment to complete Phase 1 £1,987,000

Approved feasibility study costs £ 76,800

Total approved capital investment Phase 1 £2,063,800

It should be noted that the DfE has allocated funding for 2018/19 in the sum of

£524,723 to improve special provision. This amount is within the capital provision and it is recommended that this sum is spent as part of the £2.064m.

6. Financial, legal and other implications

6.1 Financial implications

£2.064m of funding is being requested for release from the Education & Children's Policy Provision for the expansion of SEND places for 2018/19, which forms Phase 1 of the overall SEND expansion strategy.

£0.525m was allocated by the DfE for SEND places in 2018/19 (along with a further £1.049m over 2019/20 and 2020/21) to be spent accordingly. This forms part of the funding for Children's new school places in the 2018/19 to 2019/20 Capital Programme.

Option 1 generates annual savings of £3.2m compared to the original alternative of Out of City placements. With capital costs of £2m, this level of revenue savings gives a payback of less than one year. Given the ongoing pressures on the High Needs Block this option is favourable.

Simon Walton, Accountant (Education & Children's Services Finance)

6.2 Legal implications

Local authorities are required to ensure a sufficiency of places in their area under section 14 of the Education Act 1996, subject to consultation requirements in accordance with the relevant guidance. Other obligations apply specifically in regards to SEND provision whereby children with special educational needs and in receipt of an EHCP can challenge through the Tribunal the provision being offered by the LA, and can invite the Tribunal to "name" a type of institution contrary to the LA offer. . They may also bring a claim against the LA for disability discrimination. Works will also be subject to the appropriate planning and other consents being obtained and complied with. Procurement of works will need to be in accordance with the constitution and Public Contract Regulations 2015.

Emma Horton, Head of Law (Commercial, Property & Planning)

6.3 Climate Change and Carbon Reduction implications

There is insufficient detail of the construction proposals at this stage to be specific about the climate change implications. However, general points would be:

- The Schools estate, including academies, is included within the Council's carbon footprint, so any change in emissions from schools will affect the Council's trajectory for meeting its target to halve the footprint between 2008/09 and 2025.
- The phase 1 approach likely to have the lowest carbon emissions would be to accommodate the additional places as far as possible within the existing footprint of

the school buildings concerned, for example by reconfiguring uses of existing spaces.

- Where this cannot be done, any additional space required should achieve the best possible energy efficiency and exploit any opportunities for solar gain, PV and/or connection to existing heating and cooling systems where these are low carbon. Particularly the district heating system opportunities with the Learning Resource Centre at New College as part of West Gate School. High standards of energy efficiency will generally be more readily achieved by connecting any extensions to existing buildings rather than siting them as stand-alone units, and providing draft lobbies to any new entrances required.

Duncan Bell, Senior Environmental Consultant. Ext. 37 2249

6.4 Equalities Implications

The Equality Act 2010 requires that the Council, when exercising its functions, must have "due regard" to the need to eliminate discrimination to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Age and disability are the relevant protected characteristics affected under this proposal.

Our Public Sector Equality Duty is a continuous duty, and consideration as to potential equalities impacts should be considered throughout the process of developing a proposal and reaching a decision.

The consultation findings should help to inform the equalities considerations of each option and this will aid decision makers.

In relation to the preferred option, creating additional SEND spaces will help to meet the projected need for extra places for children, increasing mainstream and or specialist places can reduce placement and travel costs, increasing choice for families, reducing journey times, and increasingly supporting pupils to be part of their local community.

Schools must implement accessibility plans which are aimed at: increasing the extent to which disabled pupils can participate in the curriculum; improving the physical environment of schools to enable disabled pupils to take better advantage of education, benefits, facilities and services provided; and improving the availability of accessible information to disabled pupils.

Schools also have duties to make reasonable adjustments for disabled children and young people, to support medical conditions and to inform parents and young people if SEN provision is made for them.

Surinder Singh Equalities Officer Tel 37 4148

6.5 Other Implications

It is important to both secure the appropriate number of places for the City identified as required during the next five to seven years. Alongside this, it is of equal importance to develop inclusive practice within mainstream providers, as past trends (1980s/early 1990s) have indicated that when mainstream school budgets are under pressure and class sizes increase, more children exit mainstream and are referred to specialist provision. The UNRCDP warning cited above, gives an indication of the renewed focus upon inclusion, which both DfE and OfSTED have indicated that they will be supporting local areas to improve (DfE/CQC 'Local area SEND inspections: one year on' October 2017).

Some of this activity to develop capacity to meet need within mainstream providers has commenced with the implementation of the SEND whole school audit and peer review, jointly led by Leicester Education Strategic Partnership (LESP) and Ash Field/Rushey Mead teaching schools, funded by a SSIF application.

Outcomes should therefore include:

- a) Sufficient places for children and young people with EHC Plans to access specialist support in both mainstream DSPs and specialist providers;
- b) A focus upon inclusion, in partnership with teaching schools and providers, to ensure access to the Graduated Response which the Code of Practice for SEND 2015 advocates, creating more capacity to meet need within all schools and colleges;
- c) A reduction in out-city placements and associated costs;
- d) An improvement over time, in the preparation for adulthood, reduced NEET figures and improved longer term outcomes for children and young people with additional needs.

Joe Dawson, Head of Service SEND and Learning Services

7. Background information and other papers:

'Good intentions, Good enough?' a report by Dame Christine Lenehan of the Council for Disabled Children can be found at:

<https://www.gov.uk/government/publications/residential-special-schools-and-colleges-support-for-children>

8. Summary of appendices:

N/A

9. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

No

10. Is this a "key decision"?

Yes

11. If a key decision please explain reason

The result involves the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates.

The report is considered to be significant in terms of its effects on communities living or working in two or more wards in the City.