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# **Executive Decision SEND Placement sufficiency: Placement sufficiency response – proposed next steps**

Decision to be taken by: Assistant City Mayor Education,  
Libraries and Community Centres

Decision to be taken on: 2 June 2023  
Lead director: Tracie Rees

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## Useful information

- Ward(s) affected: All
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- Report version number: 3

## 1. Summary

- 1.1 The purpose of this report is to present to the executive for consideration our response to managing placement sufficiency demands. As presented in September 2022, our refreshed SEND Pupil Place Planning model indicates that the demand for Special School places will exceed capacity over the next 10 years. (Appendix 1).
- 1.2 Currently there are over 260 students incorrectly placed based on their Education, Health and Care Plans (EHCPs), due to capacity issues and projections indicate numbers will continue to rise further. Alongside this refreshed planning data indicates that there will be a short fall of 148 placements by 2027/28.
- 1.3 If this surplus of placements is not met this will result in a significant increase in children and young people being placed outside of locality in independent/non maintained schools which could be up to £5.7m more expensive than placing in our own schools.
- 1.4 Following on from our recent DfE Special Free School application, a further scoping exercise was carried out into a range of options. From this it has been determined that a multifaceted response is needed if we are to generate a large number of additional specialist placements.
- 1.5 Managing current and future numbers will need to be done over a period of time to ensure we get this right for the longer term. All steps will take an extensive amount of planning, development and further capital to fund.

## 2. Recommended actions/decision

- 2.1 Agree that up to £210k be added to the capital programme to be funded from ring-fenced high needs grant in order to carry out feasibility studies across a number of special school sites (this may include identifying potential satellite sites also).
- 2.2 Agree that should our DfE Special Free School application be unsuccessful, the executive will welcome a further report detailing the need for a Special Free School funded by the Council/ Capital budget. This will include proposed costs and viable sites.

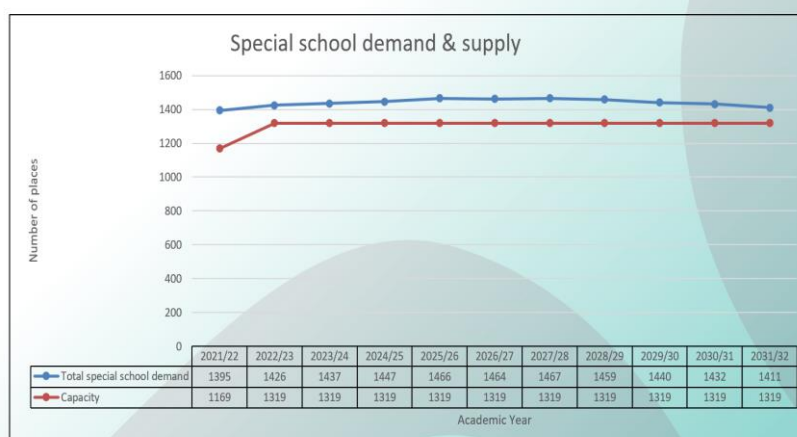
### 3. Scrutiny / stakeholder engagement

- 3.1 Commissioners presented proposed options to the City of Leicester Association of Special Schools (CLASS) and SEND support teams to gather feedback. A further feedback survey was completed by schools detailing their thoughts on these options and their own proposals for managing future need (Appendix 2).
- 3.2 SEND Pupil Place Planning data has been presented to the Parent Carer Forum (PCF) and will be presented to colleges later this month. SEND colleagues continue to work with stakeholders to ensure provision meets the needs of children and young people.

### 4. Background and options with supporting evidence

- 4.1 The refreshed SEND Pupil Place Planning model indicates that the demand for special school places will exceed capacity over the next 10 years. This is outlined in Appendix 1 and was shared with the executive on 01.09.22.

## Special school demand & capacity



- 4.2 The council has a statutory duty to ensure sufficient educational placements for CYP with SEND. Therefore, in response to the refreshed SEND Pupil Place Planning model, the SEND Service need to ensure a strategy is in place to manage this demand.
- 4.3 Our current investment and expansion has focused on further Designated Specialist Provisions (DSPs), resourced provisions in mainstream schools. In 2020 £8 million of capital investment was set aside to fund expansion works and to increase SEND places in the city by 228 children on a permanent basis by expanding existing Special Schools and a significant investment in the Designated Specialist Provision (DSP) programme. Broken down into phases we have been able to generate a number of further school placements.
- 4.4 Despite these developments, SEND pupil place modelling has indicated that the demand for Special School places will continue to exceed capacity, rising to

a shortfall of 148 placements by the academic year 2027/28. If this surplus of placements is not met this will result in a significant increase in children and young people being placed outside of locality in independent/non maintained schools. This is estimated to result in annual costs of £5.7m if additional places are not created to meet this demand.

- 4.5 We have scoped out several steps to manage this demand. This includes:
1. Expanding our existing special school capacity through capital development
  2. Developing a Free special school (DfE funded)
  3. Develop a new Special Free School (presumption) should our DfE Free School bid be unsuccessful
  4. Developing a joint provision with Leicestershire County Council.
  5. Reviewing alternative options for Post 16 SEND provision in the city, thereby creating capacity within our existing special schools.
- 4.6 A detailed breakdown of each proposed method provides an overview of benefits and risks associated. None of these proposed methods will resolve the current demand in the short term as all would require several years to fully deliver.
- 4.7 Given the ongoing pressures on the high needs block of the DSG the LA needs to continue to keep the use of expensive independent placements as low as possible.

## **5. Detailed report**

- 5.1 Following on from a previous report presented to executives in September 2022 an options appraisal has been completed to determine the best way forward to manage SEND demand.
- 5.2 Options have been considered to manage the long-term demand as set out in the SEND Pupil Place Planning model (Appendix 1). These options will likely not be in place until 2024/ 25. From these options it has been determined that a multifaceted response is needed if we are to generate a large number of additional specialist places.
- 5.3 A separate urgent review is currently underway to determine next steps in managing an additional 260 pupils currently in mainstream provision and awaiting a SEND placement. This review will help to ease current numbers on a short-term basis. A separate report detailing our immediate sufficiency response will be shared with the executive.
- 5.4 Alongside this a review of independent/non maintained provision is also underway. Although these proposed options won't decrease current numbers in independent placements it is envisioned that it will result in fewer children and young people being placed outside of locality in the future.
- 5.5 Social, Emotional and Mental Health (SEMH) needs also continue to rise especially in secondary school ages. A separate research project is underway and some of these recommendations may also be similar to those proposed in this report.

## Proposed response to placement sufficiency

### *Expanding current provision*

- 5.5.1 There is an opportunity to expand current provision further to ensure we are able to meet future demand (Appendix 4). Many of the special schools are keen to expand their current provision and have provided their own proposals including the number of places this could create.
- 5.5.2 A desktop exercise conducted by Estates and Building Services (EBS) has demonstrated that there are a number of viable sites that could be

Site	No. of Classrooms	No. of Children per Classroom	No. of Children on Site	Comments
Westgate	4	8	32	Original planning was for 4 more classrooms than was built Consider TMBs in the interim
Westgate	10	8	80	Further long-term expansion
Oaklands	10	8	80	Site will not support, requires satellite site
Keyham	2	8	16	Satellite site no. 1
Keyham	2	8	16	Satellite site no. 2
Nether Hall	4	8	32	Potential to develop on existing site Currently has TMBs
Ellesmere	5	8	40	Satellite or on existing site
Total number of places			296	

expanded. This initial exercise has indicated that by expanding or creating separate satellite sites in a number of special schools this could result in over 290 additional places. Below is a breakdown of proposed expansions.

- 5.5.3 Further work will need to be done to determine the full potential of these sites and additional conversations with schools will need to be carried out to ensure they can manage extra pupil numbers.
- 5.5.4 Proposed feasibility costs to determine the full potential of each site are estimated to be £35,000 (per site). This will include carrying out surveys and initial site design work to determine the sites viability. Therefore, we are recommending that these are done over two phases as depicted below.

Phase	School	Proposed	Timeline
Phase 1	Westgate	Develop on existing site	February – July
	Nether Hall	Develop on existing site/ TMBs (Proposed may fit in current cost of expansion programme)	February – July
	Keyham	Evaluating identified satellite site 1 (Suitable site has been located in the City Centre)	February – July
Phase 2	Keyham	Evaluate potential satellite site 2	August – January

	Oaklands	Evaluate potential satellite sites	August – January
	Ellesmere	Develop on existing site OR identify and evaluate satellite site	August – January

- 5.5.5 The current budget from the Nether Hall expansion programme is being reviewed to see if site studies can be included. A site has been identified within the City which is suitable as a new satellite site for Keyham, and work is underway to scope this further. However, a full feasibility study will need to be carried out for the Westgate site.
- 5.5.6 The proposed feasibility studies will take roughly 6 months to complete. A follow up report on the most viable sites will be shared with executives to review and consider.
- 5.5.7 In the meantime, it is proposed whilst the permanent and larger expansions are scoped further, short-term solutions may instead need to be put in place. This includes the implementation of a number of TMBs to be added to current sites to manage a small number of pupils on the waiting list.
- 5.5.8 By doing this in phases this will ensure that schools are not overwhelmed by an increase in pupils and that capital investment is used effectively.

***Special Free School (DfE funded) OR Free School (Presumption)***

- 5.5.9 Alongside this an application has been submitted to DfE and a final decision regarding successful LAs will be made in early 2023.
- 5.5.10 Although expanding current provision demonstrates that there is an opportunity to generate a large number of places, further consideration needs to be given in order to understand which schools can meet the primary need of SLCN and ASD.
- 5.5.11 Alongside this, current waiting list numbers continue to rise, and projected figures estimate a need of 150 additional places by 2027/28. Therefore, it is recommended that should our application be successful that we will move forward in implementing this new Special Free School into the City. Developing a new Special Free School would ensure that provision could continue to meet demand over the coming years.
- 5.5.12 Should our bid be unsuccessful we may still need to consider a Free School being implemented into the City if we are to manage future numbers. A further report detailing our proposal will be shared with members and executives.

***Developing a joint provision with Leicestershire County Council***

- 5.5.13 The options to implement a new free school into the City could also be achieved through a joint provision with Leicestershire County Council. There are currently 92 City living students in Leicestershire and Rutland special schools (Appendix 5). 64 students in Leicestershire and Rutland are currently placed in City special schools (Appendix 6).

- 5.5.14 Commissioning officers have met with colleagues from Leicestershire County Council and Rutland County Council to discuss the needs and demands across the local area. It is felt that a joint provision would not be suitable but neighbouring authorities are open to sharing places in their own provisions.
- 5.5.15 Further work is underway with County colleagues to determine if a joint provision or a framework with Independent Specialist Placement providers could be developed to meet need across the localities.

### ***Reviewing alternative options for Post 16 SEND provision***

- 5.5.16 There are currently 196 young people within Post 16 placements in 5 special schools. There is an opportunity to move these places into college provision. The average cost of a Further Education (FE) placement is **£13.6k** against that of a young person within a special school which is between **£23.2k - £37.1k** (Appendix 7). This would significantly reduce costs against the HNB budget if 16+ young people were placed in FE provision.
- 5.5.17 Ellesmere College currently work in partnership with Project Search who provide internships within roles in the Royal Infirmary. This continues to benefit young people and has resulted in a number of them moving into long-term employment.
- 5.5.18 In order to create spaces colleges will need to have the correct skills and facilities in place to manage further numbers. Therefore, additional funding will need to be provided to FE provisions with an outlook to decrease this as young people begin to settle into the placement. A review will progress forward to determine the future management of post 16 provision in the City. This will ensure that Colleges have the necessary facilities and skills to accommodate future numbers.

### **Managing current and future demand – next steps**

- 5.6 Current agreed expansions remain in place which will help to create places for those currently on the waiting list. Although proposed further expansions including the DSP programme will help to manage short term need this will not generate the large number of places needed.
- 5.7 Based on this, a number of steps will be undertaken to enable us to meet short term need whilst planning for the future. Further conversations with viable schools will need to be carried out to discuss proposed expansions and the needs of pupils.
- 5.8 Feasibility studies will also need to be carried out to determine the viability of sites and the potential cost of expansions. It is proposed that these studies are carried out, and a further report will be presented to executives once the cost of these expansions has been determined.

- 5.9 In addition, current agreed expansions will be reviewed to consider if this provision offer could be changed to create further places or to focus on a different need or age.
- 5.10 However, should our application to the DfE be unsuccessful it may still be necessary for the Council to fund a new Special Free School through the Capital budget. Commissioning officers will present a further report detailing the proposed building costs, available sites and timeline for this option.

## 6. Financial, legal, equalities, climate emergency and other implications

### 6.1 Financial implications

- 6.11 The increasing number of requests for EHC plans and subsequent placement in some form of provision, is a national issue. The most recent data for which we have comparatives (2021/22) shows that the number of pupils with EHC plans as a percentage of all pupils for Leicester was 3.4% compared with an England average of 4.0%. This percentage will increase given the rate at which requests are being generated (549 in 2019 pre pandemic, 788 in 2022).
- 6.12 The increase in EHC plans has meant that funding from the DfE for high needs has not matched demand, despite the DfE increased allocations in recent years. The resultant in year deficits have meant that the LA now has a cumulative deficit on its DSG reserves, drawing the attention of the DfE.
- 6.13 The DfE are expecting LAs to reduce their deficits by reducing expensive independent provision (ie minimising the overall average placement cost) alongside addressing demand management. The former requirement through the potential for in-house expansion is the subject of this report. Independent/non maintained places average £67k per place and special schools average £29k and therefore 150 additional pupils could cost £5.7m more in independent placements.
- 6.14 The immediate recommendation of the report is to add up to £210k to the capital programme for feasibility studies for expansion of our in-house provision, to be funded from existing ring-fenced government high needs capital provision grants intended to support additional SEND school places.

*Martin Judson, Head of Finance*

### 6.2 Legal implications

Pursuant to Section 14 of the Education Act 1996, the local authority has the legal responsibility to ensure that there are sufficient schools to provide primary and secondary education within the local area. Schools must be sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. When pursuing this duty, the local authority must have regard to the need for securing that special educational provision is made for pupils with special educational needs.

The report sets out a number of options to help the local authority determine the appropriate course of action to ensure the sufficiency duty in Section 14 of the Education Act is met.

It should also be noted that any proposals which seek to expand any existing special schools will be subject to the statutory process, which provides for consultation. The legal framework is contained in Chapter II, Part II of the School Standards and Framework Act 1998 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. This is supported by the statutory guidance *Making significant changes ('prescribed alterations') to maintained schools*.



If the local authority's DfE Special Free School application is unsuccessful, the local authority is not permitted to establish a new maintained school and therefore Section 6A of the Education and Inspections Act 2006 will apply. This imposes a duty on the local authority when it considers there is a need for a new school in its area of any type to seek proposals for the establishment of a free school.

It is recommended that legal advice is sought as proposals develop as advice/ input on commercial, property and/or planning legal matters are likely to also be required.

Julia Slipper, Principal Lawyer (Education & Employment). Tel ext: 6855

### 6.3 Equalities implications

Under the Equality Act 2010 (including the local authority and schools), have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

Schools are covered under Part 6 of the Equality Act 2010. Schools must not discriminate against a child by not offering a place or by only offering a place under specific terms and conditions. They must ensure that the child has full access to education, facilities and services. They must not subject 'the pupil to any (other) detriment' which means they must not subject the child to any form of disadvantage. Schools and education authorities have a duty to provide reasonable adjustments for disabled pupils.

Equality covers all aspects of school life enjoyed by children – teaching and learning, special educational needs and disabilities can affect a child or young person's ability to learn.

The report looks at several recommendations in managing placement sufficiency demands in the city and if these are agreed they would increase the number of school placements currently being offered and help to meet future predicted demand, the protected characteristic of disability is highly relevant. As part of the ongoing work in managing placement sufficiency demands and to demonstrate that the consideration of equalities impacts have been taken into account in the development of the options and as an integral part of the decision-making process, it is recommended that an Equality Impact Assessment (EIA) is undertaken.

Carrying out an EIA is an iterative process that should be revisited throughout the decision-making process and updated to reflect any feedback/changes due to consultation/ engagement as appropriate. The findings of the EIA should be shared, throughout the process, with decision makers to inform their considerations and decision making. Where any potential disproportionate negative equalities impacts are identified in relation to a protected characteristic/s, steps should be identified and taken to mitigate that impact. The EIA findings should continue to be used as a tool to aid consideration around whether

we are meeting the aims of the PSED, and to further inform the work being progressed on managing placement sufficiency demands.

Sukhi Biring, Equalities Officer, 454 4175

#### 6.4 Climate Emergency implications

Schools are a significant source of carbon emissions in the city, and tackling these emissions is a vital following the council's declaration of a climate emergency and its ambition to reach net zero carbon emissions. The development of any capital projects should therefore include consideration of opportunities for minimising carbon emissions from the start of the process, as appropriate to the option chosen. Potential measures could include the use of efficient insulation and lighting, low carbon heating and low carbon/renewable energy systems such as solar PV panels and heat pumps. These measure would also reduce energy bills and improve the level of comfort for occupants.

Any development will nonetheless be required to follow policy CS2 of the Adopted Leicester Core Strategy and relevant building regulations. A toolkit is also being developed to support the achievement of reduced carbon emissions in council capital construction and renovation projects, which could potentially be used to inform development.

Aidan Davis, Sustainability Officer, Ext 37 2284

#### 6.5 Other implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

#### **7. Background information and other papers:**

None

#### **8. Summary of appendices:**

None

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

No

#### **10. Is this a "key decision"? If so, why?**

No