

MAYOR AND CABINET			
Report Title	Delivering additional school places for Children and Young People with Special Educational Needs and Disabilities (SEND) – Consultation Feedback and Permission to move to next stage		
Key Decision	Yes	Item No.	
Ward	Whole Borough		
Contributors	Executive Director for Children and Young People		
Class	Part 1	Date:	6 December 2017

1. Summary

- 1.1 This report feeds back on the initial informal consultations regarding the proposals to expand Greenvale School from 117 places to 210 places, expand Watergate School from 108 places to 167 places, and extend the age range of New Woodlands School from KS1-3 to KS1-4.
- 1.6 The report then seeks permission from Mayor and Cabinet to move forward with the statutory process and to publish the relevant proposals and conduct the period of representation, the results of which will then be provided to the Mayor for a decision before the end of March 2018.

2. Purpose

- 2.1 The report feeds back on the three initial informal consultations on the proposals to expand Greenvale School and Watergate School and extend the age range of New Woodlands School to enable the council to better meet the need for specialist SEND places within the borough.
- 2.2 The report then seeks Mayor and Cabinet permission to move to the next stage of the statutory consultation process.

3. Recommendations

- 3.1 The Mayor is recommended to note the results of the three initial informal consultations
- 3.2 The Mayor is recommended to agree:-
 - 3.2.1 that officers should proceed with the statutory consultation process, specifically the Publication of the following proposals to;
 - expand Greenvale School from 117 places to 210 places
 - expand Watergate School from 108 places to 167 places
 - extend the age range of New Woodlands School to accommodate KS4 pupils

- 3.2.2 that officers report back to Mayor and Cabinet by the end of March 2018 so that the Mayor as statutory decision maker can make a decision on the proposals.

4. Policy Context

- 4.1 The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Sustainable Community Strategy policy objectives:
- ***Ambitious and achieving*** – where people are inspired and supported to fulfil their potential.

The proposed recommendations are also in line with the Council's corporate priorities:

- ***Young people's achievement and involvement*** – raising educational attainment and improving facilities for young people through partnership working.
 - ***Protection of children*** – better safeguarding and joined up services for children at risk
 - ***Inspiring efficiency effectiveness and equity*** – ensuring efficiency, effectiveness and equity in the delivery of excellent services to meet the needs of the community
- 4.2 The Local Authority has a duty to ensure the provision of sufficient places for pupils of statutory school age and, within financial constraints, accommodation that is both suitable and in good condition.
- 4.3 In aiming to improve on the provision of facilities for education in Lewisham which are appropriate for the 21st century, the implementation of a successful school places strategy will contribute to the delivery of the corporate priority *Young people's achievement and involvement: raising educational attainment and improving facilities for young people through partnership working*.
- 4.4 It supports the delivery of Lewisham's *Children & Young People's Plan (CYPP)*, which sets out the Council's vision for improving outcomes for all children and young people, and in so doing reducing the achievement gap between our most disadvantaged pupils and their peers. It also articulates the objective of improving outcomes for children with identified SEN and disabilities by ensuring that their needs are met.

Place Planning Strategy 2017-22

- 4.5 A recommendation in the 2016 Lewisham Education Commission Report was for the Council to develop a new 5 year Place Planning Strategy that succeeded the Primary Strategy for Change. Officers reviewed what had gone on before and what needs to be achieved in the future, and the draft strategy went through a public consultation process. The strategy was approved by Mayor and Cabinet on 22 March 2017.
- 4.6 Within the new strategy the council committed to constantly review its forecasting to ensure that the necessary supply of educational places was as accurate as possible, as both undersupply and oversupply can have knock on effects on school standards and finances (both the schools and the councils).

- 4.7 The strategy highlighted the need to re-assess SEND place planning, and identified that this should be an immediate action within year 1 of the new strategy.

School Organisation Requirements

- 4.8 Proposals to either establish additional provision on a permanent basis, and/or to extend the age range of a school, must comply with the provisions set out in *The Education and Inspections Act 2006 (EIA 2006)* and *The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2013*. These set out the statutory process for making changes to a school, and statutory guidance on making changes to a maintained school indicates 4 stages to making a prescribed alteration to a maintained school.

These are:

- 1) Publication of a Statutory Notice
- 2) Representation period
- 3) Decision making
- 4) Implementation

- 4.9 However, it is seen as good practice to have a period of more informal consultation before publishing a statutory notice, to enable officers to have a proper conversation with the local community regarding possible changes and to enable the Mayor to have a fuller understanding of local opinion prior to entering into the formal statutory process.

5. Background

- 5.1 The council conducted a SEND review in summer 2016. This review confirmed the growing SEND population within the Borough and highlighted four key areas around place planning which should be further explored regarding existing provision;
- An Autistic Spectrum Disorder (ASD) review, both regarding the high instance rate, and also how young people with ASD needs are catered for across the whole Mainstream and Specialist provision
 - Additional Severe Learning Difficulties (SLD) places, to cater for the increased in number of children and reduce the need to place out of Borough
 - A widened Social, Emotional and Mental Health (SEMH) provision, to address the lack of provision in KS4
 - Moving the Primary PRU out of the current New Woodlands SEMH setting, to ensure that both cohorts are accommodated in suitable environments fit for their requisite needs
- 5.2 Following this review, further analysis has been conducted by the Children with Complex Needs (CWCN) service to better understand what exactly the place requirement is, but also how best to meet it. In completing this analysis, the CWCN service have considered how the system currently works, what best practice looks like, where young people are currently being placed and how the rise in young people with SEND relates to population growth.
- 5.3 From this analysis the following place needs have been identified;
- An additional 55 Primary SLD places
 - An additional 93 Secondary SLD places
 - A need to provide KS4 SEMH provision
- 5.4 The need for a number of these places already exists, as can be shown by existing demand to place young people with SLD needs in the two existing

Lewisham SLD schools which are full and in effect oversubscribed. As a result, the Council is having to commission places outside of the Borough, often in expensive independent provision. This is also happening for young people with SEMH needs for those in KS4 as there is currently no existing in-borough provision.

- 5.5 An initial desktop exercise has found that the additional costs incurred by the council to procure out of borough provision for those young people with SLD needs (that could be accommodated within our two schools were they larger) is £23k/pupil/year. The exercise has also found that the additional costs to procure out of borough provision for those young people with SEMH needs is £40k/pupil/year. This is a cost that the council cannot afford to continue to resource from the High Needs Block and will result in substantial year on year overspends if not tackled as a matter of urgency.
- 5.6 Additionally, it should be noted that placing young people in provision that is further afield does not benefit the young person in terms of social inclusion, a sense of community. There is often extensive amount of travel time (often in isolation) which is disadvantageous also. The ability to cater for our young people and their families close to home will allow the wider range of support systems to function in the best interests of those young people and their families.
- 5.7 Regarding the opportunities to provide this additional provision, officers are considering the opportunities to extend Watergate School (Primary SLD), Greenvale School (Secondary SLD) and New Woodlands School (SEMH), and have been engaging with the schools and their governing bodies about this.
- 5.8 Officers have conducted feasibility studies of the available educational sites and these show that the extra provision can be provided alongside a rationalisation of the educational estate. Specifically; Watergate School can be extended within a wider site redevelopment scheme; Greenvale School can be extended via an annexe on the old Brent knoll School site; and New Woodlands can accommodate KS4 pupils within its existing site.
- 5.9 Whilst there is capital funding available from Basic Need, S106 and the new SEND Capital Grant, it is unlikely that this will cover the full cost of creating additional places. However, given the increasing revenue pressure associated with commissioning yet more out of borough placements (at high costs) officers believe that providing more in-borough places makes financial sense long-term.

6. Consultation Results

- 6.1 The consultations were held over a six week period from 8 September 2017 through to 20 October 2017. Local residents in the neighbouring streets as well as parents and staff from the schools all received letters alerting them to the consultation, inviting them to comment.
- 6.2 Public meetings were held at each of the schools during October at which interested parties had the opportunity to hear more about the proposals from Governors, Head Teacher and Lewisham officers.
- 6.3 By the end of the consultation period we had received the following responses;

School	Online response	Email response	Written response	Total number of responses
Watergate School	4	0	0	4
Greenvale School	10	0	0	10
New Woodlands School	3	1	0	4

6.4 Taking each proposal in turn;

Watergate School

6.5 Of the 4 responses received, 2 were in support of the expansion, 1 was unsure and 1 was against (fuller details can be found in Appendix 1).

6.6 Of those in support of the expansion, respondents made the following comments;

- The school is outstanding and therefore it makes sense to be expanded to provide for more young people given the need for additional places
- Any expansion should include the ability to provide nursery age provision again
- Expansion must not be to the detriment of current pupils

6.7 Of those against the expansion, respondents made the following comments;

- 108 children is too many, the school doesn't have the space for more.
- Could we consider additional resource bases instead, or an annexe elsewhere in the borough.

6.8 Officers believe that all of the responses are valid points and concerns. The school is outstanding and there is a need for additional places (including nursery), hence the desire to expand the school. The feasibility exercise has shown that the school can be expanded within the confines of the wider site whilst improving access, safeguarding and better designated outdoor spaces. Where possible we would always look to expand a school in a single location as the management is significantly easier, and given this site can accommodate that approach, this remains the preferred option. Sadly the needs of the young people catered for by the school (including the facilities required) mean that utilising additional resource bases in mainstream schools is not a viable option. As a result, officers recommend that the Mayor agree to move forward to the next stage of statutory consultation.

Greenvale School

6.9 Of the 10 responses received, 6 were in support of the expansion, 1 was unsure, 2 were against and 1 was a duplicate submission (fuller details can be found in Appendix 2).

6.10 Of those in support of the expansion, respondents made the following comments;

- The school has the expertise and knowledge
- The school is outstanding and young people should have the opportunity to attend
- The current site is not large enough to take any more pupils
- A split site with more specific accommodation would be helpful to meet the needs of the pupils, which has grown in its complexity over the years.

6.11 Of those against the expansion, respondents made the following comments;

- There are already too many buses and cars picking up and dropping off, the road can't take more
- 6.12 Officers believe that the overwhelming response has been in support of expanding the provision provided by Greenvale School. The main cause for concern highlighted by the consultation relates to traffic and parking issues on Waters Road, which would only get worse. However, due to the constrained nature of the present site, the feasibility work carried out has identified that an annexe at the old Brent Knoll School site on Mayow Road is the best option – as a result the traffic and parking issues on Waters Road should not worsen and may improve. Officers note however that these issues need to be addressed regarding the proposed annexe as well. As such officers recommend that the Mayor agree to move forward to the next stage of statutory consultation.

New Woodlands School

- 6.13 Of the 4 responses received, 1 was in support of the change in age range, 1 was unsure and 2 were against (fuller details can be found in Appendix 3).
- 6.14 The responses in support of the change in age range made the following comments;
- Parents need a choice, presently pupils either remain in mainstream schools that don't meet their needs or are sent out of borough.
 - Extension of age range however should not impact on those currently in the school
- 6.15 Of those against the change in age range, respondents made the following comments;
- Current pupils are badly behaved, and older pupils will be even worse
 - Parents currently park all over the road, including in front of driveways and in disabled spaces
 - The school is very noisy already, this will get worse.
- 6.16 Officers believe that the responses firstly highlight that at present there is an absence of provision in the borough for young people with SEMH needs over 14 years old. Respondents also highlight that the school currently caters for young people with "bad behaviour" and suggest that parents behaviour is a problem too. Any such school is a challenge to manage but the change in age range is unlikely to make a significant difference. Officers also note the issues with parking and would suggest that working with parking enforcement would be a prudent action. Overall, officers still believe that this change in age-range is a positive step and recommend that the Mayor agree to move forward with the statutory consultation.

7. Financial Implications

Capital Financial Implications

- 7.1 This report recommends that the statutory consultation process is undertaken with regards to proposals to enlarge both Watergate School and Greenvale School and extend the age range at New Woodlands School. Any capital costs in delivering these changes would be primarily funded from the School Places capital programme, with recent feasibility work identifying a current shortfall of

secured capital funding. The Council's Regeneration and Capital Programme Delivery Board is leading on the Council's annual capital bidding process which will consider how the wider council capital programme can accommodate this shortfall.

- 7.2 The School Places capital programme is forecast to have available resources of £12.3m for 2017/18 (comprising Basic Need grant of £10.4m and S106 contributions of £1.9m), £16.9m for 2018/19 (Basic Need grant of £14.1m and S106 contributions of £2.8m) and £0.2m for 2019/20 (Basic Need Grant). There has also been a recent announcement about a further £2.3m of specific SEND capital funding that the council will receive over 3 years from 2018-2021.

Revenue Financial Implications

- 7.3 While the pupil numbers with SEND are expected to grow, the funding from central government is not expected to increase in line with this. Alongside the schools National Funding Formula a separate proposal was put forward on how the High Needs funding contained with the DSG is allocated between Local Authorities. Special schools funding is met from this funding source. It is expected that Lewisham's funding will be protected in the first instance but it is not sure how long this protection will last and further details are awaited. The likely revenue consequences of this consultation is in excess of 10% of the high needs block. However not creating these school places will place demand on the same budget for more costly independent special school places. Financial and policy strategies are being worked on alongside the consultation to ensure that the high needs expenditure remains with the resources available. Further proposals to contain expenditure will be agreed with the Schools Forum over the coming months and presented back to the Mayor.
- 7.4 There is no immediate impact on the General Fund. If in the future the High Needs Block overspent then this may fall on the General Fund. The Schools Forum have set up a sub-group to ensure that this does not happen.

8. Legal Implications

- 8.1 The Human Rights Act 1998 safeguards the rights of children in the Borough to educational provision, which the Council is empowered to provide in accordance with its duties under domestic legislation.
- 8.2 Section 14 of the Education Act 1996 obliges each local authority to ensure that there are sufficient primary and secondary school places available for its area i.e. the London Borough of Lewisham, although there is no requirement that those places should be exclusively in the area. The Authority is not itself obliged to provide all the schools required, but to secure that they are available.
- 8.3 In exercising its responsibilities under section 14 of the Education Act 1996 a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice. Local authorities should have regard to amongst other factors the need for securing special educational provision is made for pupils who have special educational needs.
- 8.4 The Education and Inspections Act 2006 places requirements on Authorities to make their significant strategic decisions concerning the number and variety of school places in their localities against two overriding criteria:
- to secure schools likely to maximise student potential and achievement;

- to secure diversity and choice in the range of school places on offer.

Section 19 of the Education and Inspections Act 2006 provides that where a local authority or the governing body of a maintained school proposes to make a prescribed alteration to a maintained school and it is permitted to make that alteration, it must publish proposals.

- 8.5 The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 provide that proposed enlargements of special school premises which would increase the capacity of the school by more than 10% or 20 pupils (whichever is the lesser), or changes to the age limit of a school are prescribed alterations which means that statutory proposals have to be published, and there must be a period of four weeks for representations before a decision is made. This does not apply to temporary enlargements where it is anticipated that the enlargement will be in place for less than 3 years, or a rise in the number anticipated lasting only one year.
- 8.6 In considering any reorganisation of special educational provision, proposers need to demonstrate how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for pupils with special educational needs. Decision makers will need to make clear how they are satisfied that this special educational needs improvement test has been met.
- 8.7 Before making any decision regarding the expansion of a school, or other prescribed change, proposers must ensure that necessary funding required to implement the proposal will be available. A proposal cannot be approved conditionally upon funding being made available

Equalities Legislation

- 8.8 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.9 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 8.10 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 9.8 above.
- 8.11 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with

protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

- 8.12 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

www.equalityhumanrights.com/en/advice-and-guidance/equality-actcodes-practice

www.equalityhumanrights.com/en/advice-and-guidance/equality-acttechnical-guidance

- 8.13 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
 - Meeting the equality duty in policy and decision-making
 - Engagement and the equality duty: A guide for public authorities
 - Objectives and the equality duty. A guide for public authorities
 - Equality Information and the Equality Duty: A Guide for Public Authorities

- 8.14 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

www.equalityhumanrights.com/en/advice-and-guidance/public-sectorequality-duty-guidance#h1

- 8.15 A decision report will be brought to the Mayor by the end of March 2018 detailing the results of the periods of representation and full legal implications associated with any future proposals will be set out in the relevant future reports.

9. Crime and Disorder Implications

- 9.1 There are no crime and disorder implications.

10. Equalities Implications

- 10.1 This report supports the delivery of the Council's Equalities programme by ensuring that all children whose parents/carers require a place in a Lewisham school will be able to access one.

10.2 Additionally, the report supports the aspiration that fewer children and young people should need to access specialist provision out of borough and further away from their home and local community than is absolutely necessary.

11. Environmental Implications

11.1 Every effort will be made to enhance rather than detract from school environments in the solutions to providing additional school places.

12. Background documents

Appendix 1 – Watergate Expansion Anonymised Consultation Responses

Appendix 2 – Greenvale Expansion Anonymised Consultation Responses

Appendix 3 – New Woodlands Change of Age Range Anonymised Consultation Responses

Delivering SEND Places M&C Report – 19.7.17

<http://councilmeetings.lewisham.gov.uk/documents/s51435/Delivering%20School%20Places%20SEND.pdf>

Place Planning Strategy 2017-2022 M&C Report – 22.3.17

<http://councilmeetings.lewisham.gov.uk/documents/s48786/School%20Place%20Planning%20Strategy%202017-2022.pdf>

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