

<b>MAYOR AND CABINET</b>			
<b>Report Title</b>	Delivering additional school places for Children and Young People with Special Educational Needs and Disabilities (SEND) – Permission to consult		
<b>Key Decision</b>	Yes	Item No.	
<b>Ward</b>	Whole Borough		
<b>Contributors</b>	Executive Director for Children and Young People		
<b>Class</b>	Part 1	Date:	19 July 2017

## **1. Summary**

- 1.1 This report sets out the need for Special Educational Needs and Disability (SEND) places for Lewisham children and young people, following on from the SEND review that was conducted in 2016 along with the Place Planning Strategy 2017-2022 that was approved in March 2017.
- 1.2 The report then requests the permission of the Mayor for officers to conduct an initial informal consultation 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 Officers will then report back to Mayor and Cabinet with the results of the consultations and proposed next steps before the end of 2017.

## **2. Purpose**

- 2.1. The report requests the Mayor's permission to undertake 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.

## **3. Recommendations**

- 3.1. The Mayor is recommended to agree that officers should conduct initial informal consultations on the following proposals to;
  - 3.2. expand Greenvale School from 117 places to 210 places
  - 3.3. expand Watergate School from 108 places to 167 places
  - 3.4. extend the age range of New Woodlands School to accommodate KS4 pupils

- 3.5 And that officers should report back to Mayor and Cabinet by the end of 2017 with the results and next steps.

#### 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 priority identified 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 Indeed the strategy highlighted the need to re-asses 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 ensure that there is not an enforced 'stop' to local provision at the end of KS3
  - 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 the inability to place young people with SLD needs in either of the two existing

Lewisham SLD schools. As a result, the CWCN service are having to commission places outside of the Borough, often in expensive independent provision. This is also happening for young people with SEMH needs, and is exclusively happening 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, or indeed regarding the often extensive amount of travel time (often in isolation). The ability to cater for our young people and their families close to home to allow the wider range of support systems to function in the best interests of those young people and their families is paramount.
- 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 are currently exploring how the following educational sites can help to provide those additional places; Watergate School site and surrounding facilities; Greenvale School site; New Woodlands School site; Ladywell Children with Complex Needs unit; old Brent Knoll School 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 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. Clearly an invest to save model would be a valid argument for any future decisions, but consideration must be given at this time as to how that additional capital resource can be provided. Officers will put together a business case regarding future revenue savings alongside the capital information once feasibilities have been completed.

## **6. Financial Implications**

### **Capital Financial Implications**

- 6.1 This report recommends that consultations are undertaken on the 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. Further work needs to be completed regarding feasibility studies to help identify the costs of the changes.

- 6.2 The School Places capital programme is forecast to have available resources of £15.2m for 2017/18 (comprising Basic Need grant of £10.6m and S106 contributions of £4.6m), £14.1m for 2018/19 (Basic Need grant) 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**

- 6.3 While pupil numbers 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 within 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. Financial and policy strategies will need to be devolved alongside the consultation to ensure that the high needs expenditures remain within the resources available. Further proposals to match resources and expenditures will be agreed with the Schools Forum over the coming years before they are presented back to the Mayor.

### **7. Legal Implications (Troy please check)**

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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.
- 7.5 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.

- 7.6 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.
- 7.6 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**

- 7.7 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.
- 7.8 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.
- 7.9 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.
- 7.10 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.
- 7.11 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](http://www.equalityhumanrights.com/en/advice-and-guidance/equality-actcodes-practice)

[www.equalityhumanrights.com/en/advice-and-guidance/equality-acttechnical-guidance](http://www.equalityhumanrights.com/en/advice-and-guidance/equality-acttechnical-guidance)

- 7.12 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

- 7.13 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](http://www.equalityhumanrights.com/en/advice-and-guidance/public-sectorequality-duty-guidance#h1)

- 7.14 A further report will be brought to the Mayor by the end of 2017 detailing the results of the consultations and full legal implications associated with any future proposals will be set out in the relevant future reports.

## **8. Crime and Disorder Implications**

- 8.1 There are no crime and disorder implications.

## **9. Equalities Implications**

- 9.1 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.
- 9.2 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.

## **10. Environmental Implications**

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

## **11. Background documents**

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>

If there are any queries on this report, please contact Matt Henaughan, Service Manager, School Place Planning on 0208 314 8034