

Supplement to the agenda for

Cabinet

Thursday 22 June 2017

2.00 pm

**The Council Chamber - The Shire Hall, St. Peter's Square,
Hereford, HR1 2HX**

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PUBLIC QUESTIONS TO CABINET – 22 JUNE 2017

No questions were received.

COUNCILLORS QUESTIONS TO CABINET – 22 JUNE 2017

Question 1

Question from Councillor E J Swinglehurst

Cladding on public buildings

The fire at Grenfell Tower highlighted potential risks inherent in using certain exterior cladding on high rise buildings. I understand this, and the adequacy of building control regulations, may be the subject of urgent review. If such cladding has been used in the refurbishment of housing or public buildings in Herefordshire what assessment has been made of the risks to residents, and what steps have been taken to reassure them?



Meeting:	Cabinet
Meeting date:	22 June 2017
Title of report:	16-19 Local authority commissioned special school
Report by:	Interim Director of Children's Wellbeing

Classification

Open

Key decision

This is a key decision because it is likely to result in 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.

Notice was served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. However the report was omitted from the agenda and therefore the special urgency provisions have been followed in accordance with Part 3, Section 11 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to enable the item to be considered by cabinet and meet the timetable for response set by government. The chairman of the children and young people scrutiny committee has been advised of the circumstances and agreed to the decision being taken.

Wards affected

Countywide with particular impact on Aylestone Hill ward.

Purpose

To seek approval to enable the local authority to develop a proposal to commission a special educational needs and disabilities (SEND) free school for young people aged 16-19 years old; and to recommend that approval be given to use an existing site within Hereford to accommodate the new school proposed

Recommendations

THAT:

- (a) **approval is given to progress to the next stage of the DfE Free School Special School initiative following the success of Herefordshire's expression of interest to commission a 16-19 SEND free school in accordance with the**

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- specification in appendix 1;
- (b) approval in principle is given to the allocation of the former Broadlands School site for the development of the 16-19 SEND free school subject to a satisfactory business case being approved and planning consent being obtained; and
 - (c) necessary feasibility works to further develop the business case and scheme to a maximum of £250k be approved and authority delegated to the director of children's wellbeing to take operational decisions necessary to inform a further decision.

Alternative options

- 1 Declining the offer from the Education Funding Agency (EFA) of commissioning a new 16-19 free school would forfeit opportunity to bring in additional funding for special school facilities to Herefordshire. Set against this the site would then be available for disposal or alternative developments.
- 2 Not retaining the former Broadlands school site, which was identified for disposal by cabinet at their meeting on 13 November 2014, would require an alternative site to be identified by the council for the EFA opportunity to continue. Through initial analysis of council owned sites in Hereford there are no suitable alternative sites available in the council ownership and a new site would require further council investment.

Reasons for recommendations

- 3 There is a need to provide places for pupils with SEND and current projects indicate that further places are required for 16-19 year olds by 2020.
- 4 The council has an approved school capital investment strategy (SCIS) which, under principle 10, has an objective of leveraging in funding from a variety of sources. Local authorities were asked to submit expressions of interest to a national pilot project for run by the department for education to develop free special school provision in November 2016. Herefordshire was well placed to make a submission following the SCIS consultative work and the EFA approved progression to the next stage for a very limited number of schemes nationally in April 2017 (20 local authorities in total). Further progress with the opportunity requires approval from cabinet and agreement to the use of a suitable site.

Key considerations

- 5 The total number of 16-19 year olds with SEND in Herefordshire in 2020 is expected to increase by 30 due to cohort population trends and the proportion of children currently attending special school provision.
- 6 The opportunity to bring in capital funding to support improvement to 16- 19 SEND provision through a new special school supports the SCIS and addresses some of the existing and future issues across the special school sector.
- 7 A new commissioned 50 place SEND free school would address some of the overcrowding in current provision, open places to children in neighbouring authorities and reduce the likelihood of placement in special schools out of the county which would be at increased revenue cost to Herefordshire. If the 16-19 provision was not created Herefordshire would still face the duty to provide places which would entail

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expansion of current provision and associated capital costs. The council may be able to bid for money from national government but it is not guaranteed.

- 8 A new free school would improve the current post 16 offer, and strengthen the opportunities to collaborate with mainstream 16-19 organisations, whilst also building more cohesive links into post-19 provision and into independent living. In terms of providing value to the wider SEN community, the LA would anticipate that the successful proposer would offer outreach support for teachers of SEN in mainstream 3-19 schools, and in addition would provide expertise to support SEN CPD in all schools within Herefordshire.
- 9 The school would work with the three existing special schools accommodating LD learners, to ensure that transition to the new school at 16 was smooth and effective for both young people, and also their parents. There would be a strong focus on cohesive transition into and out of the 16-19 school, with high quality IAG to ensure the development of high aspiration and strong pathways for young people with LD.
- 10 The former Broadlands site is within very close proximity to a campus of three good and outstanding FE colleges, in the City of Hereford, which is centrally placed for rail and bus travel, and would support current mainstream SEN learners as well as those placed in the new free school.
- 11 The site area of the former Broadlands School is 5.4 acres. The redundant buildings are sited on the higher level area but not all the land is considered suitable for development. Additionally a new access road may be needed and this would be a cost to the council. At this time the Broadlands site has been identified as the most appropriate site in council ownership in the city, but this will be confirmed via the business case.
- 12 The amount of capital funding required to build the special school is yet to be determined and will be dependent on the specification and tendering process. The Education Funding Agency (EFA) will fund the build for actual building including project development funding and a post opening grant. The pre-opening development grant or post opening development grant could be used to address some of project costs but these will be determined with the EFA. The programme is run by the DfE Free School Group. The process involves the following:
 - Submission of expression of interest by local authorities
 - Approval of expression of interest by DfE
 - Specification for the new school submitted by local authority and approved by DfE regional school commissioner
 - Competition run to determine the “proposer” – the body that will run the school
 - Local authorities assess proposers’ applications and recommend their preferred proposer to the secretary of state.
 - Schemes will only go forward if both the local authority and Secretary of State are in agreement that the proposal is of the required standard and the Secretary of State considers the capital costs are good value for money and affordable within available capital budgets. The new school also depends on an affordable site being identified and secured.
- 13 A draft specification was submitted on 16 June 2017, attached in appendix 1. The DfE is operating to very tight timescales and wishes to have specifications approved and the proposer competition process to have started before the school summer holidays

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in order for schemes to be delivered quickly to meet the need to provide places for pupils. The DfE wish to run the competition in a consistent way and therefore required all 20 local authorities to submit their draft specifications by the same date.

- 14 Herefordshire did respond to the request for the specifications to be submitted by informing the DfE that the considerations of purdah did mean that the cabinet could not consider the pilot project to meet the initial timescales. However, communication with the DfE established that unless Herefordshire submitted a draft specification then the chance to take part in the project would be lost. Herefordshire could then either run its own competition for a free school, but would have to fund all costs out of existing resources or defer. To defer would mean that Herefordshire could be considered for any further round of this project approach but there is no guarantee from the DfE that any further round would take place. It has therefore been necessary to submit a draft specification and to ask cabinet to consider this report as a matter of special urgency to provide the necessary governance for officers to take the proposal forward with the DfE and Secretary of State.

Community impact

- 15 The proposal would support the corporate plan's aim of keeping children safe and giving them the best start in life, including contributing to post 16 education options. The proposal would also support the aims in the Herefordshire Children and Young People's Plan, particularly in relation to priority six: children and young people with disabilities and the aim of developing education and learning opportunities for those aged 16 plus to reduce the need for residential placements. The recommendation would enable a central special education provision of high quality, which could include shared services for the wider SEND community. A high quality setting for therapies, the potential for a SEND assessment centre and the opportunity for in-service training for mainstream education staff could all be part of the strategic approach.

Equality duty

- 16 The recommendation ensures that children and young people with SEND are provided with the same high quality learning environment as Herefordshire aspires to for all children. It also supports and underpins equality of opportunity for all children and young people by encouraging links between mainstream 16-19 providers and SEND young people so that they are assisted in gaining an independent and integrated adult lifestyle and career opportunities.

- 17 Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 18 The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity;

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marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.

Financial implications

- 19 In the capital programme an allocation has been made for feasibility work. This report is a request for an allocation from that budget for feasibility work to be carried out up to £250k. It is unlikely that this would be recovered under the DfE scheme. The feasibility work will inform further financial implications.
- 20 The special free school will be established through the DfE central free school process and build/refurbishment costs and pre and post –opening start up grants will be provided by the DfE.

Legal implications

- 21 The expression of interest identified a proposal to establish a special free school which would be beneficial for SEN provision in Herefordshire.
- 22 The Council is not yet under a duty to secure this provision, the forecast being that this duty will arise in 2020. The decision to progress with this decision is therefore at this time discretionary.
- 23 The feasibility report is necessary to inform the decision making process.

Risk management

- 24 Using the former Broadlands site for this project would prevent the realisation of the site as a capital asset for the Council. However in mitigation, consideration should be given to the likelihood or not of Herefordshire Council being able to provide an alternative vacant site with city-centre proximity for the necessary special school rebuild, should the suggested site not be taken forward.
- 25 Consideration should be given to the opportunities to improve education provision for SEND children and young people have been described above and the following risks are identified;
 - There is likely to be need for a change in transport infrastructure serving the new school
 - There will need to be a full public consultation regarding the proposal
 - The governance of the new school would be determined by open national competition
- 26 We would manage the risks by;
 - Seeking a detailed traffic survey, both desktop and localised in order to provide the most cost-efficient solution to a manageable traffic flow – including the improvement of safe walking routes, phased pick-up and drop-off times, and improved traffic management, turning and parking solutions on the site itself.
 - Public consultation is already part of the process of the SCIS and would also be informed by the government free school programme procedure.
 - As part of the SCIS process, all school capital investments proposed within the strategy would be secured by a combination of bids to the council purse, bids

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for funds accrued by school site release, developer contributions, government grants and one-off project funds, and other stakeholder contributions (e.g. diocese etc.)

- 27 The risk to the council should the proposal be declined, is that the council will need to have an alternative proposal to meet the demand for places by 2020 which is currently unbudgeted for.

Consultees

- 28 Consultation has been undertaken with; Special School Head teachers and Governors and with cabinet members. The local ward member has been informed of the proposal.

Appendices

Appendix 1 – Draft specification

Background papers

Herefordshire council expression of interest to the DfE for a new special free school.



Department
for Education

Local authority commissioned Special free schools

**A template for local authorities to use
when seeking proposals to establish a
Special free school**

May 2017

Overview

Local authorities play a key role in placing pupils with statements or Education, Health and Care (EHC) plans, so it is important that they help shape the range of provision in their area. Previously, proposals to establish special free schools have only been taken forward in consultation with local authorities. The Department for Education (DfE) has recently provided a further opportunity for local authorities themselves to identify where a new special free school would benefit their area, inform their Regional Schools Commissioner (RSC), and seek proposals for the new school they want. This opportunity is intended to identify and meet untapped demand for special free schools as a supplement to LA's existing resources. If a strong proposal is received that both the local authority and the Secretary of State wish to take forward the (DfE) will provide capital funding and start-up grants subject to value for money assessments.

Information for proposer groups

Proposed timeline

The competition will launch on ****/**/****** and will run for 4 months, closing on ****/**/******.

Contact details and further information

If you would like any further information or would like to discuss your application, please contact:

Interim Director Children's Wellbeing
cbaird@herefordshire.gov.uk
Tel: 01432 260264

Please provide the name and contact details for the main local authority contact about the site.

Interim Director Children's Wellbeing
Email: cbaird@herefordshire.gov.uk
Tel: 01432 260264

RSC's office: West Midlands
Email: christine.quinn@education.gov.uk

Events

Event: Proposer Briefing
Date: TBC
Time: 09:30: overview and context of Herefordshire
10:00: outline of specification general questions and answers
11:00 – 13:00: prearranged individual briefings
14:00: Site visit and tour

Location: Herefordshire Council Offices, Plough Lane, Hereford

Section 1 - THE SCHOOL

This section lists key details of the school proposed. Your application must be for a school that has these key characteristics.

Which local authorities are committed to commissioning places?	Herefordshire Council
How many places have been commissioned and by which local authority?	50 Herefordshire
Type of SEN	Severe and complex learning difficulties and disabilities including autism.
Per-place funding you expected to be paid	£10k per place plus average top up tariffs of D (£9170) per student
Age range	16-19 year olds
Boys/Girls/Co-educational	Co educational
Total number of places.	50
Early years provision?	No
16-19 provision?	Yes, 50
Community use/shared facilities	Yes – space within the provision
Number of residential places	0

Herefordshire needs to commission a special free school for 50 young people aged 16-19 who have severe and complex learning disabilities including autism, on a site adjacent to the existing outstanding sixth form college and other local colleges serving the region. Current provision is already overcrowded, unsuitable and in poor condition and there are no further opportunities for expansion other than a new school. In line with other local authorities Herefordshire has seen an increase in numbers of young people with the most severe and complex learning disabilities and the forecasting suggests that this will increase by a further 30 places over the next 10 years. The new special school would absorb some of those who are currently placed where there is all through provision and capacity to organise and deliver suitable curriculum and learning opportunity for the age group is limited. Combining the places in the unsuitable and overcrowded provision with the expected growth (i.e. 20 + 30) will enhance the efficiency of the delivery arrangements for this age group.

The free special school would be a focal point supporting inclusion of young people into the adjacent colleges through time out facilities, advice and support for staff and multi-agency facilities.

The table below details the number of places that the local authority proposes for each year group at the point of opening until the school is full.

	No. of students in first year of opening	2018	2019	2020	2021	2022	2023	2024
Nursery provision								
Reception								
Year 1								
Year 2								
Year 3								
Year 4								
Year 5								
Year 6								
Year 7								
Year 8								
Year 9								
Year 10								
Year 11								
Year 12		15	20	25	25	25	25	25
Year 13			15	20	25	25	25	25
Totals			35	45	50	50	50	50

Section 2 - THE PROPOSED LOCATION AND SITE

This section describes the provisional site.

A suitable site adjacent to the existing 3 colleges in Hereford has been identified.

- This was previously Broadlands Primary School site, Hereford – Broadlands Primary School, Prospect Walk, Hereford, HR1 1NZ
- The total site area is 21,798m², or 5.4 acres but not all of it will be required for this provision and the amount to be used will be agreed with Herefordshire Council and subject to Herefordshire Council governance.
- The site available is owned by Herefordshire Council. It was previously used to provide primary school accommodation and therefore has education use as a planning designation. The primary school buildings were very poor quality and expensive to repair, maintain and run. The primary school was therefore relocated to a remodelled school building on a neighbouring high school site in September 2015. The original and now redundant primary site is currently 'mothballed'.
- Work towards project implementation on the identified site could be started with immediate effect.
- The site tenure would be made available on the basis of a 125 year academy lease from Herefordshire Council.

Section 3 – RATIONALE AND CONTEXT FOR THE SCHOOL

Herefordshire has been recognised for knowing its provision well and having ambition and a clear sense of purpose for children and young people with special educational needs and disabilities in the recent joint area inspection (October 2016).

Regular monitoring and examination of the profiles of needs currently requiring provision across the SEND spectrum and the known demand in the future are such that a new 16 -19 provision of 50 places for young people with the most severe and complex difficulties needs to be created.

There is an effective system of tracking and identifying the needs of children and young people with complex needs who will move into adult services. However, in terms of meeting the needs of 16-19 learners, we recognise there are still areas to develop. The current provision lacks cohesion (three settings and additional out of county placements), and does not fully exploit the potential for links to mainstream 16-19 provision. In the recent joint local area SEND inspection some parents felt that information about transition and post 16 providers and services and opportunities post 19 including housing employment for SEND learners could be improved.

The new commissioned SEND free school would accommodate some current places (20) and enhance opportunities, thus maximising the use of funding. Also it would provide capacity to accommodate the expected increase in places (30) needed over the next 5-10 years.

The proposed site is within very close proximity to a campus of three good and outstanding FE colleges, in the City of Hereford, which is centrally placed for rail and bus travel, and would support current mainstream SEN learners as well as those placed in the new free school.

Current 16-19 SEND provision does not provide a robust link to post 19 provision, to give maximum opportunity for SEND young people to develop independent self-supported lifestyles. A new free school for 16-19 learners in the City, would provide opportunity for efficient and effective transition to post 19 support. Herefordshire is the fourth most sparsely populated LA in England, and as such, the proposed free school would not attract large numbers of learners from neighbouring LAs, however, should the facility grow and develop quality and breadth, it may well be able to provide future attractive opportunities for young people with SEND in Worcestershire, Gloucestershire Powys and Shropshire. Initial discussions with these LAs suggest that all four of these LAs would be interested in commissioning places in principle, particularly Shropshire and Powys. However in the first instance, the new school would improve the current post 16 offer, and strengthen the opportunities to collaborate with mainstream 16-19 organisations, whilst also building more cohesive links into post-19 provision and into independent living. In terms of providing value to the wider SEN community, the LA would anticipate that the successful proposer would offer outreach support for teachers of SEN in mainstream 3-19 schools, and in addition would provide expertise to support SEN CPD in all schools within Herefordshire. The new free school could also become a hub for in-county SEN assessment at all ages, working with health and social care to facilitate early identification and referral where appropriate. The development of consistent high quality therapies at the school could lead to improvements in therapy work across all settings.

The school would work with the three existing special schools accommodating LD learners, to ensure that transition to the new school at 16 was smooth and effective for both young people, and also their parents. There would be a strong focus on cohesive dissemination of information for transition into and out of the 16-19 school, with high

quality IAG to ensure the development of high aspiration and strong pathways for young people with LD.

Herefordshire LA follows the national code of practice in relation to SEN and admissions. We have a central dedicated SEN team. We use parental preference and then consult with settings and professionals to ensure that the settings can meet the pupil's needs as detailed in their education, health and care plan. Proposed admissions from other local authorities would come through the same process, facilitated by the SEN team.

The school's funding would come from the application of the national schools funding formula and the use of the Herefordshire High Needs Block. Individual pupils are also funded via element three of the funding formula, determined via the application of Herefordshire's funding matrix in line with the pupil's education, health and care plan.

This section describes the rationale and the context in which the new school will operate.

Section 4 – VIABILITY OF THE NEW SPECIAL SCHOOL

The school would provide for 50 16-19 year olds of which 30 aged 16-19 students with severe and complex SEND including autism would be filled from expected future growth and 20 from the current overcrowded and unsuitable places on different sites across the county. Greater student/parental satisfaction would be achieved by being able to offer future learners provision in one setting in Hereford City. Students would be part of one school and experience more vibrant social interaction within larger groups. Bringing all of the provision under one roof in a new build close to FE colleges would be attractive to SEN learners 16-19 and have the potential to increase attendance and participation.

The total 16-19 year old student cohort in Herefordshire is predicted modest growth (5550 to 5680 between now and 2021). Using the current percentage of SEN 16-19 accommodated in special settings to predict demand, and known numbers in local special settings, gives a modest increase in places required in five years' time.

Proportions of SEN pupils in mainstream would not reduce as a consequence of the proposed new school. The intention would be to improve quality of transition, outcomes, and destinations for young people currently accommodated in special school settings, improve the coherence and breadth of provision, whilst ensuring that identified future demographic growth, including provision for small numbers of students from neighbouring LAs is fully supported by flexible and appropriate provision.

The funding model used to commission places for SEN children and young people in Herefordshire would remain the same. The high needs funding matrix assesses need based on a matrix of descriptors. Identified needs are scored and an indicative amount of top-up from the tariff applied. However, by bringing all of the appropriate students from the current three settings under one roof over time, economies of scale would be evident. Such economies would be anticipated in revenue spending, and also in maintenance avoidance and more efficient running costs. The wider value anticipated, would be the provision of a central hub for teacher CPD in a central location for the county and easily accessible for county school personnel.

Settings used at the moment present significant problems relating to size, suitability and location. Opportunity to commission a free school to help resolve future pressures and provide a single better and appropriately located setting for 16-19 SEN is exciting, and

would enable Herefordshire Council to move further and more quickly towards achievement of the aims within the schools investment strategy than without the prospect of central government investment

Section 5 – PUPIL DATA - TRENDS IN SPECIALIST PROVISION FOR ALL CHILDREN WITH EHC PLANS

	No. of Settings	Please indicate the no. of pupils with an EHC plan living in your local authority who are placed within these settings		
		2012	2016 (as at Sep 2016)	2020
Resourced provision and units inside LA				
Resourced provision and units outside LA				
Special schools (either maintained or academies) inside LA	2 for LD learners 16-19	21 (16-19)	55 (16-19)	80 (16-19)
Special schools (either maintained or academies) outside LA				
Independent / non-maintained special schools inside LA				
Independent / non-maintained special schools outside LA				
Mainstream schools inside LA				
Mainstream schools outside LA				
General FE colleges (if relevant) inside LA	3		36	40
General FE colleges (if relevant) outside LA	3		3	3
Specialist FE providers (if relevant) inside LA	1		4	4
Specialist FE providers (if relevant) outside LA	1		1	0

The total number of 16-19 year olds in Herefordshire is currently 5550. This is expected to rise to 5680 in 2020 (census plus 7.5% inflation of 396) an increase of 130. While this increase is small the factors associated with the overall increase in numbers in special schools and the raising of the participation age suggest the numbers are expected to increase from 55 – 80.

Taking the trend of % in special school places it is reasonable to forecast placement of 1.2% of the 16- 19 Herefordshire population in special schools. This methodology gives rise to a forecast of approximately 70 places. Give current practice of accommodating young people from across the borders it is anticipated that there will be an additional 10 students seeking places.

