

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**

- 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

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

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;

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

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.