

## **Accessibility works at St Mary's CE Primary School, Fownhope and Shobdon Primary School.**

**Decision maker: Director of Children and Families**

**Decision date: Wednesday, 1 September 2021**

**Report by: Special projects officer, Sufficiency Planning and Capital Investment Manager**

### **Classification**

Open

### **Decision type**

Non-key

### **Wards affected**

Arrow; Backbury;

### **Purpose**

To approve the proposed expenditure of up to £150k from the schools accessibility works 2021/22 budget to create a hygiene room at St Mary's CE Primary School, Fownhope and a changing space at Shobdon Primary School.

The schools accessibility works budget is intended for any accessibility improvement works identified to enable children with special educational needs to attend schools.

### **Recommendation(s)**

**That:**

- a) The Assistant Director Education Development and Skills be authorised to take all operational decisions necessary to implement the schemes at St Mary's CE Primary School and Shobdon Primary School within the approved schools accessibility works budget of up to £150k.**

## Alternative options

1. Do nothing. This option is not recommended. The council would fail in its statutory duty to place children with special educational needs and / or disabilities in schools.
2. Children are required to attend different schools. There is a statutory process which requires the council to arrange the admission of a child with a disability or an education health and care plan to the parent / carers preferred school, unless it can be shown that to do so would prejudice other children or it would be unreasonable to do so. The excessive financial cost of making adaptations could be considered unreasonable.

## Key considerations

3. All children in Herefordshire should have a good start in life and be safe. Children with special educational needs or a disability may need extra help and support to make the most of educational and learning opportunities.
4. Special Educational Needs (SEN) is a legal term. It describes the needs of a child or young person who has a difficulty or disability which makes it harder for them to learn than the majority of others of the same age.
5. A disability is a physical or mental impairment which has a substantial long term negative effect on a person's ability to do normal daily activities. Not all children and young people with a disability have SEN but there is an overlap.
6. The Equality Act 2010 sets out the legal obligations that schools, early years providers, post 16 institutions, local authorities and others have towards disabled children and young people.
7. Section 19 of the Children and Families Act 2014 makes clear that local authorities, in carrying out their functions under the Act in relation to disabled children and young people and those with special educational needs, must have regard to certain aspects, these include:
  - a. The views, wishes and feelings of the child or young person, and the child's parents;
  - b. The importance of the child and his or her parent, or the young person, participating as fully as possible in decisions relating to the exercise of the function concerned;
  - c. The importance of the child and his or her parent, or the young person, being provided with the information and support necessary to enable participation in those decisions.

- d. The need to support the child or young person, and the child's parents, in order to facilitate the development of the child or young person and to help them achieve the best possible educational and other outcomes, preparing them effectively for adulthood;
8. All children and young people are entitled to an appropriate education, one that is appropriate to their needs, promotes high standards and the fulfilment of potential.
9. The child's parent or the young person has the right to request a particular school be named in their Education Health and care Plan (EHCP).
10. If a child's parent or a young person makes a request for a particular nursery, school or post 16 institution in these groups the local authority must comply with that preference and name the school or college in the EHCP unless:
  - a. It would be unsuitable for the age, ability, aptitude or SEN of the child or young person, or;
  - b. The attendance of the child or young person there would be incompatible with the efficient education of others, or the efficient use of resources.
11. Where a local authority is considering the appropriateness of an individual institution, 'others' is intended to mean the children and young people with whom the child or young person with an EHCP will directly come into contact on a regular day-to-day basis.
12. The council has a planning duty to improve physical accessibility of school buildings over time. The council strategy has been i) improvement of physical access for known pupils in the system, ii) investment to create a geographical spread of accessible schools.
13. A system of physical accessibility ratings has been devised, based on the council's expected standards of accessibility. The accessibility of all schools was audited in 2015 using these criteria, and 78% of county schools were found to be fully or mainly accessible.
14. A capital investment strategy for the school estate was published in 2016. One of the aims of this is to improve the standard of physical accessibility alongside planned capital investment.
15. The Children's Act 1989 places a duty on councils "to safeguard and promote the welfare of children within their area who are in need" and to provide services designed to minimise the effect on disabled children within the area of their disabilities, to give them the opportunity to lead lives which are as normal as possible.
16. The Chronically Sick and Disabled Person's Act 1970 also places a duty on councils to arrange for one or all of a wide range of services where they are satisfied that they are necessary to meet the needs of permanently disabled persons resident in their area. This includes "the provision of assistance for that person in arranging for the carrying out of any works of adaptation in his home or the provision of any additional facilities designed to secure his greater safety, comfort or convenience".

17. The delivery of equipment and adaptations work is in accordance with the council's strategic approach, which aims to achieve seamlessness across a range of education, health and care services that children with disabilities may need.
18. The council has a duty to ensure that any child with special educational needs attending a mainstream school can be reasonably accommodated.
19. The contracts will be procured in line with the council's contract procedure rules. Procurement will start immediately with target to complete on site at Fownhope as near to the start of the Autumn school term 2021 as possible and Shobdon in the October 2021 half term.

## **Community impact**

20. Schools are a key part of communities. Parents are encouraged to choose a school suitable for their child.
21. Using the resources available to the council to ensure that Herefordshire's school buildings are fit for purpose supports the council's County Plan Ambition to strengthen communities to ensure that everyone lives well and safely together and the Children & Young People's Plan Pledge of helping children and young people succeed – be amazing. The proposed works will include mitigation of potential health and safety risks and will benefit all children with special educational needs or disabilities who attend the school in the future including looked after children and care leavers. The schemes fit in with the schools capital investment strategy which sets out the council's approach to delivering the legal duty to ensure there are enough school places for the children in its area. In Herefordshire this will be done in a way that supports the delivery of high quality education and contributes to the attractiveness of the county as a place to live and work.
22. The recommendation also supports the Council's priority of 'securing better services, quality of life and value for money'.
23. Commissioning equipment and adaptations work will assist the council in meeting its duties regarding disabled children, and will support the children themselves to live as normally as possible, at home, and with their peers at school.

## **Environmental Impact**

24. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
25. Environmental measures will be considered as part of each scheme to support the council's Carbon Management Plan's target and areas of work for projects and schools

and academies. Each scheme will be looked at independently to assess what additional features can be integrated into the scheme to improve the environmental performance of the school.

26. The development of this project has sought to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.

## **Equality duty**

27. 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;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
28. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Contracts within the Children and Families directorate require providers to monitor and report on how they are meeting the equality duty.
  29. The Equality Act 2010 sets out the legal obligations that schools, early years providers, post 16 institutions, local authorities and others have towards disabled children and young people and progressing this work demonstrates that the local authority takes its Equality duty seriously and these works will support all the key aims of the Equality act (as stated above).

## **Resource implications**

30. The procurement of services to deliver these two projects including contingency and professional fees is set out below:

<b>Capital cost of project</b>	<b>2021/22</b>	<b>2022/23</b>	<b>Future Years</b>	<b>Total</b>
	£000	£000	£000	£000
Construction Costs	95.0			95.0
Contingency	26.0			26.0
Project Management Fees	9.5			9.5
Professional Fees	19.5			19.5
<b>TOTAL</b>	<b>150.0</b>			<b>150.0</b>

<b>Funding streams (indicate whether base budget / external / grant / capital borrowing)</b>	<b>2021/22</b>	<b>2022/23</b>	<b>Future Years</b>	<b>Total</b>
	£000	£000	£000	£000
Borrowing	150			150
<b>TOTAL</b>	<b>150</b>			<b>150</b>

31. Council's receive no dedicated funding for adaptation, improvement or alterations at any schools. It remains the case therefore, that central funding for accessibility improvements related to pupils joining or transferring to an individual school is funded by the council.
32. The funding of adaptations to schools for children with special educational needs has been discussed in the Children & Families Capital Programme Board, chaired by the Director of Children & Families, where it was agreed with finance that funding requests should be made for children requiring these adaptations.
33. The proposed adaptations will cost up to £150k. They will be funded from the £240k already approved in the capital programme for schools accessibility works. The remaining budget will be spent in line with future decision reports.
34. The projects will be managed in accordance with the council's project management guidelines.
35. Any revenue implications of maintaining the rooms/equipment will be the responsibility of the school and there is no impact on the council's revenue budget.

## **Legal implications**

36. There is a variety of legislation which sets out the various legal obligations and duties of the Local Authority, which are set out in the above sections. These provisions should be considered, together with the remainder of the report, when making a decision. It

should be noted that failure to comply with the legislative provisions, as set out above, can have serious consequences for the Local Authority.

## Risk management

37. The following risks have been identified against the projects:

Risk / opportunity	Mitigation
Funding is not available to carry out objectives of project	Schools would have to manage without the required facilities or the Children relocated (not an option)
Delay in works awaiting funding and Governance	Fast track works through Hoople with target to complete Fownhope as near to the start of the Autumn school term 2021 as possible and Shobdon in the October 2021 half term.
The projects could cost more than the delegated authority to spend limit	The project costs will be monitored within the council's corporate project management structure. Where there are variances to the works or tender process, these will be subject to the council's governance arrangements.

38. This project will be managed through the council's corporate capital project management structure, reporting through the project and programme boards set up to manage the project.

## Consultees

39. The Cabinet Member for Children & Families has been consulted and is supportive of the proposals.
40. The Cabinet Member for Commissioning, Procurement and Assets has been consulted and is supportive of the proposals.
41. The funding of adaptations to schools for children with special educational needs has been discussed in the Children & Families Capital Programme Board, chaired by the Director for Children & Families, where it was agreed with finance that funding requests should be made for children requiring these adaptations.
42. The head teachers and governing bodies of both schools have been consulted upon the proposals and are supportive of the works being developed.

## **Appendices**

None.

## **Background papers**

None identified.

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Special Educational Needs (SEN)  
Education Health and Care Plan (EHCP).