

WEST NORTHAMPTONSHIRE COUNCIL CABINET

TUESDAY 14 JUNE 2022

CABINET MEMBER FOR CHILDREN, FAMILIES and EDUCATION – CLLR FIONA BAKER

Report title Proposal to establish a new 250 place, ‘all-through’ special educational needs and disability (SEND) School for pupils with autistic spectrum condition (ASC), with speech, language and communication needs (SLCN) and severe learning difficulties (SLD) at Tiffield St John’s site, Tiffield, West Northamptonshire.

Report author Chris Kiernan, interim director of children’s services Chris.Kiernan@westnorthants.gov.uk

Contributors / checkers / approvers

Monitoring Officer	Catherine Whitehead	06/06/2022
Chief Finance Officer (S.151 Officer)	Martin Henry	06/06/2022
Other Director/SME	Chris Kiernan	05/06/2022
Communications lead	Becky Hutson	06/06/2022

List of Appendices

Appendix 1 – Free school presumption ‘school specification’ document

1. Purpose of report

- 1.1 The purpose of this report is to make members aware of the current and predicted demand for SEND places across West Northants in the coming academic years. The report will outline the impact this will have on the council’s ability to fulfil its statutory obligation of providing a sufficiency of SEND places and the steps the council intends to take to address this issue.

2. Executive summary

2.1 This report contains:

- details relating to the demand for SEND places and lack of available capacity within specialist settings in West Northamptonshire that is currently being experienced;
- details relating to the impact this situation is having on children and young people in receipt of an education, health and care (EHC) plan that reside in the area and the impact this has on WNC education budgets;
- further details relating to the future demand for SEND places and that the current trend of increasing demand is forecast to continue in future school years;

- WNC's plans to address the issues caused by the increasing demand for SEND places and the specific benefits that could be realised via the provision of a new 'all through' special school that will provide 250 new SEND places;
- details relating to the Department for Education (DfE) 'free school presumption' process that all local authorities are legally obliged to conduct when seeking to establish a new school; and
- reasons as to why the site at Tiffield St John's has been identified as the prospective location for the required new school.

3. Recommendations

3.1 It is recommended that the cabinet:

- a) Notes the current deficit of SEND places that is being experienced across West Northamptonshire and the projected demand for places in coming academic years set out in paragraph 5.10-5.12.
- b) Agrees to the 'free school presumption' process being progressed to identify an academy trust to operate the new 'all-through' special school.
- c) Delegates responsibility to the Interim Director of Children's Services, in consultation with the Portfolio Holder for Children, Families and Education to take any necessary decisions to progress the 'free school presumption' process and to confer 'preferred bidder' status upon the academy trust that is selected (subject to DfE approval) to operate the new school.
- d) Notes that all matters relating to the capital cost required to deliver the required new school will be subject to further reports to Cabinet once the expenditure required to deliver the new school has been finalised.

4 Reason for recommendations

4.1 The proposal will:

- help to ensure that the council is able to fulfil its statutory obligation of providing a sufficiency of SEND places within West Northamptonshire in future academic years;
- provide an increased number of SEND places and will help ensure that children with additional needs are able to access education in a provision that is best placed to meet their needs; and
- establish a new 'all-through' special school, which can be considered a benefit all West Northamptonshire's mainstream primary and secondary schools as it will reduce the need for mainstream school settings to provide places to children with additional needs where that provision is not best placed to meet very high-level, low incidence needs;

4.2 The recommended course of action is the most cost-effective and will reduce pressure on the high needs block (HNB) element of the dedicated schools grant (DSG) via a reduction in the number of children being required to be placed in more expensive out of county and independent provisions to meet their individual needs.

5 Report background

Current demand for specialist places in West Northamptonshire

- 5.1 All current specialist provisions located within West Northamptonshire have reached or exceeded their notional capacity figures i.e. the total number of children and young people that should be attending any given provision.
- 5.2 As a result of this, WNC has been forced to utilise out of county and independent specialist provisions to ensure that it has been able to fulfil its statutory obligation of providing a sufficiency of SEND places. However, demand has dictated that, with very limited exceptions, all capacity within the independent sector that are used by WNC has now been consumed.
- 5.3 The result of this increase in demand and the filling of all available SEND capacity is as follows:
 - a clear and immediate risk that WNC will be unable to fulfil its statutory obligations of providing a sufficiency of SEND places in the area.
 - pupils are being forced to be maintained within an education setting that is not best placed to meet their individual needs (such as a mainstream school setting).
 - pupils are unable to access an education setting in a timely manner and are without a school place.
- 5.4 The biggest individual drivers of the increased demand for places within a specialist setting are primary aged pupils with a primary need of autistic spectrum condition (ASC) and secondary aged students with a primary need of social, emotional and mental health (SEMH).
- 5.5 Action is required to address the wider shortage of specialist places and specifically to provide more specialist places that will cater for the needs and cohorts of pupils detailed above.
- 5.6 The placement of pupils and students with an EHC plan in an out of county or independent provision is more costly than placing a child or young person within a specialist provision in the LA maintained or academy sector. This is placing an increasing pressure on the high needs block (HNB) of the dedicated schools grant (DSG).
- 5.7 The HNB of the DSG is forecast to overspend by £2.5m in the 21/22 financial year (subject to finalising the provisional outturn) and action is urgently required to address this particular issue and reduce spend against the HNB. The most efficient and effective way of doing this is via the provision of additional SEND places in the LA maintained and academy sector within West Northants that reduces the requirement to use places within the independent sector.
- 5.8 The £2.5m overspend identified was thought to be structural. However the amended growth of ESFA grant to 12 per cent from 8 per cent - an additional £2.2m – is close to the structural expenditure level, especially given the savings achieved in expenditure that will recur.
- 5.9 As of January 2022, WNC had been required to place 174 pupils in an independent specialist setting, this number of placements represents an annual cost to the HNB of the DSG of £11,200,000 annually at an average cost of £56,778 per place.

Future demand for specialist places within West Northamptonshire

- 5.10 Pupil projection forecasts relating to the future demand for SEND places within West Northants indicate that the total number of pupils and students in receipt of an EHC Plan will increase by 521 pupils (25%) from 2,126 to 2,647 in the period between January 2020 and 2025.
- 5.11 The number of pupils in receipt of an EHC plan with a primary need of ASC is forecast to increase from 756 to 1055 pupils (299 pupils or 40%) in the same period. Pupils with a primary need of ASC will be the biggest drivers of future demand for specialist places in the period ending January 2025.
- 5.12 The provision of additional specialist places catering to pupils with a primary need of ASC will be essential in terms of WNC's future ability to fulfil its statutory obligations in respect of providing a sufficiency of SEND places within the area and to reducing pressure on the HNB of the DSG.

Future plans to provide additional specialist places

- 5.13 To address the current and future shortage of specialist places within West Northants, WNC has plans to deliver in excess of an additional 500 new SEND places across the area in the coming academic years. This is through the 'SEND sufficiency strategy', which is intended to be delivered in two phases.
- 5.14 The first aims to deliver up to 259 new SEND places by September 2023 and aims to address the current deficit of specialist places. This phase will comprise the establishment of SEND units attached to mainstream schools and extensions to existing special schools located within West Northants. This is in the approved 22/23 capital strategy and the capital funding required will be provided entirely via capital grant allocations provided by the DfE specifically for the purpose of creating new SEND places.
- 5.16 The proposed second phase will – if agreed – comprise the delivery of a new, 250 place, 'all through' special school for West Northamptonshire. The aim is to deliver this new provision by September 2024.
- 5.17 The capital funding required to deliver the required new 'all through' special school will be partially provided via remaining grant funding that is specifically provided for the provision of new SEND places and other DfE grant funding sources, such as 'Basic Need' grant funding. However, there will be a need for the council to identify alternative funding sources, such as capital borrowing to finance the delivery of the new school.
- 5.18 Once the capital funding has been identified, full business cases relating to the request for additional funds will be submitted via WNC's internal financial governance processes prior to a further report being subject to cabinet approval for the required expenditure. For the avoidance of doubt, no capital costs will be incurred prior to this approval being given.

The 'free school presumption' process

- 5.19 Under section 6A of the Education and Inspections Act, 2006 (the 'Free School Presumption') where a local authority identifies the need to establish a new school it must, in the first instance, seek proposals to establish an academy. This report identifies the need to establish a new special school with places for pupils on the autistic spectrum continuum (ASC), with speech, language and communication needs (SLCN) and severe learning difficulties (SLD), to open in September 2024.
- 5.20 Under the 'free school presumption' process any LA must conduct a competition under which academy trusts are invited to submit bids to operate the new school. All bids that are submitted are assessed by

a panel of relevant professionals following which the LA then confers 'preferred bidder' status upon the academy trust that it believes is best placed to operate the new school.

- 5.21 The 'preferred bidder' decision is then communicated to the regional director for schools, whose responsibility it is to appoint the academy trust that will operate the school, on behalf of the secretary of state for education.
- 5.22 The interim director of children services is seeking to publish the 'school specification' attached as appendix 1 to this report from 15 June 2022, to invite proposals from academy trusts to run the school.

6 Issues and choices

- 6.1 Do nothing: this option would result in the failure of WNC fulfilling its statutory obligation of providing a sufficiency of SEND places in West Northamptonshire in future academic years. It would also result in the requirement to utilise places in increasingly distant and more expensive places within the independent sector, which would place a further strain on the HNB of the DSG and revenue general fund home to school transport budget. If WNC cannot demonstrate that it is able to manage its DSG allocation in a balanced position (or have plans to do so) this would result in intervention by the DfE. This option would have also prevented WNC from addressing issues relating to the timely provision of places in an appropriate setting for pupils in receipt of an EHC plan. This option was discounted for these reasons.
- 6.2 Identify alternative site as the prospective location for the proposed new school: Tiffield is located approximately eight miles from Northampton town (from where the majority of the demand for SEND places arises). However, the site has excellent transport links to the south and west of Northampton town, Towcester, Silverstone and Brackley. There is a clear lack of SEND provision that caters to pupils with a primary need of ASC, SLCN or SLD in the former South Northamptonshire area and the Tiffield St John's site would resolve this issue, reducing journey times to and from school for children and young people who reside in the area and also reducing home to school transport costs for WNC.
- 6.3 Accordingly, the Tiffield site is an appropriate one for the location of the school. It is part of the 'free school presumption' process that any LA seeking to establish new school must identify a proposed location for that school as part of the associated 'school specification'. However, while a location must be identified the location specified is not legally binding and should any bid received as part of the process identify a suitable alternative site for the new school, the process allows for alternative sites to be identified, considered and progressed. As such, although the Tiffield St John's site has been identified, the process allows for other the school to be located elsewhere if appropriate.

7 Implications (including financial implications)

7.1 Resources and financial

- 7.1.1 As stated in section 5 of this report, further business cases and reports will be submitted via internal financial governance processes and to cabinet once the full capital cost of this proposal has been identified. These business cases / reports will contain full details relating to the capital and revenue costs of the proposal.
- 7.1.2 Future business cases and reports will set out in detail the potential financial benefits that the proposed new school would provide. These fall into two categories of 'cost reductions' that will be realised through phases one and two of the programme. These are **savings**, which will be realised in cases

where children placed in independent schools move to new resourced or special school places; and **cost avoidance**, where children who otherwise would have been sent to independent schools are provided for in the state sector.

- 7.1.3 The only costs that will be incurred prior to this are relating to the commissioning of a feasibility study for the new school (<£5,000), which will be funded from the school place planning team revenue budget. There are no resource implications associated with this proposal.

7.2 Legal

- 7.2.1 Under 6A of the Education and Inspections Act, 2006 (the 'free school presumption') the Council is required to seek bids to establish an academy where the need for a new school is identified. The process set out in the report conforms with the legislative requirements. Further legal steps and implications are set out in the body of the report.

7.3 Risk

- 7.3.1 There are no significant risks arising from a decision to begin the 'free school presumption' process relating the intent to establish a new special school at St John's, Tiffield. A comprehensive exploration of the risks associated with this proposal will be provided to cabinet as part of the future report that will seek approval for the full capital costs that are associated with this proposal.
- 7.3.2 There are significant risks attached to a decision not to proceed with this proposal. These risks would relate to a failure of the Council to fulfil its statutory obligations to provide a sufficiency of SEND places from September 2024 onwards and compromise its ability to allocate specialist school places to pupils in receipt of an EHC plan in a timely manner from the same date. It would also prevent the cost avoidance benefits to the HNB of the DSG identified in section 7.1.2 being realised.

7.4 Consultation

- 7.4.1 As part of the 'free school presumption' process required by section 6A of the Education and Inspections Act 2006, the Council conducted an informal period of consultation on this matter during May 2022. All responses received were broadly supportive of the need for a new special school in West Northamptonshire.

7.5 Consideration by Overview and Scrutiny

- 7.5.1 The proposal has not been considered specifically by overview and scrutiny. However the need for the new specialist places formed a part of the SEND report to the committee in January 2022.

7.6 Climate impact

- 7.6.1 The proposal to invite academy trusts to bid to become the operator of the planned new school has no climate impact in itself. The climate impact relating to the construction of the new school will be explored more fully in subsequent reports to Cabinet.

7.7 Community Impact

- 7.7.1 The proposal to invite academy trusts to bid to become the operator of the planned new school has no distinct community impact in itself. The proposal to establish a new special school, that will help

provide a sufficiency of SEND places across West Northamptonshire in future years can be considered to represent a huge community benefit, once delivered.

7.8 Communications

7.8.1 The communication of the consultation was through a web-based page (see [here](#)), and promoted via the council's multiple channels including social media, media releases and newsletter. Any procurement will be put onto the council's and DfE's websites.

Attachments and background papers

Attachment: the draft procurement document, inviting academy trust to bid to operate the school;

Background paper: 'The Free School Presumption' (November 2019) DfE guidance document – see [here](#).