

WEST NORTHAMPTONSHIRE COUNCIL CABINET

13TH September 2022

**CABINET MEMBER RESPONSIBLE FOR CHILDREN, FAMILIES AND EDUCATION:
COUNCILLOR FIONA BAKER**

Report Title **Establishing 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.**

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Contributors/Checkers/Approvers

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List of Appendices

Appendix A – New free school specification

Appendix B – Free school presumption guidance

1. Purpose of report

- 1.1 This report follows the cabinet report of 14 June 2022, which highlighted the current and predicted demand for SEND places across West Northants in the coming academic years.
- 1.2 Subsequently, Cabinet approved progressing the new special school under the free schools presumption process (appendix b) with a planned opening date of September 2024. The school will cater for pupils on the autistic spectrum continuum (ASC), with speech, language and communication needs (SLCN) and with severe learning difficulties (SLD).

1.3 This report sets out the Council's procurement process for selecting an academy trust to run the new school and seeks approval for the estimated capital costs for procuring and funding the building works

2 Executive Summary

- 2.1 In accordance with 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 is required to seek proposals to establish an academy.
- 2.2 Council officers followed the government's statutory guidance on the procurement of an academy trust to open and operate the school. Following a consultation exercise, which opened on 4 May and closed on 10 June, proposals to establish and run the school were invited. The invitation was published on 17 June and closed on 29 July. The published specification is attached as appendix a.
- 2.3 During August, an assessment panel considered the proposals submitted by the deadline. The panel was observed by the DfE, and included an independent subject matter expert, the head teacher of a local maintained special school, a representative of the parent forum and five senior managers from the council's education service.
- 2.4 The panel advised the cabinet member for children, families and education, who had the delegated power to determine the council's preferred proposer. The final decision on the trust selected to establish and operate the school is made by the secretary of state for education. However, in practice the decision-maker is the regional director for the department's East Midlands region.
- 2.5 The cabinet member determined her preferred provider, having considered the advice of the assessment panel members, on 31 August 2022. The assistant director for education informed the regional director for the East Midlands about this preference the same day. We expect the regional director to inform us of the government's determination of the preferred bidder in late October or early November 2022. It should be noted that while we expect this to be the cabinet member's preferred bidder, the government has the power to put in place another trust – which does not have to be one that put in a proposal to the council.
- 2.6 Initial feasibility works carried out on the proposed land for the new school, St John Tiffield Site, suggests a scheme budget of £22.6m will be required for building works. This includes contingency funds of £555,000, which equates to 3% of the capital costs. The LA has existing capital grant funding available of £13m leaving a shortfall of just under £10m. As a result, £10m is requested as a borrowing amount to fund the building of the new school.
- 2.7 From the first year of its establishment, the new school will result in net cost savings and cost avoidance to the high needs block (HNB) of the dedicated schools grant (DSG), as a result of fewer children attending more expensive, independent placements. There will also be savings due to the following being reduced:
1. out of county placements requiring funding for residential provision due to the distance from home (rather than an educational need for residential provision)
 2. out of county placements requiring higher transport costs (although different funding source/budget)
 3. Council funding additional places over and above pre funded places at existing special schools when over PAN
- 2.8 A further paper will be presented to cabinet once the full feasibility work for building the new school has been completed. This is due by early September 2022. Details of the preferred St John site, and the

planned lease arrangement, are set out in the separate cabinet report, 'St John Tiffield property arrangements', for consideration by cabinet on the same date – 13 September 2022.

- 2.9 The provision of a new special school provides an extremely exciting opportunity for WNC families to have access to excellent and dynamic provision for children with ASC, SLC and SLD. The new school will enable these children to achieve their full potential and have access to valuable learning pathways that will enhance their entire futures. It will complement the expansion of five state-funded special schools and expanded and new resourced places in mainstream schools to provide over 500 new places by 2024.

3 Recommendations

3.1 It is recommended that the Cabinet/Committee:

- a) Note that the selection process for the new school involves the Council putting forward a recommendation to the DfE for the preferred trust, following a rigorous selection process.
- b) Note the linked paper, 'St John Tiffield property arrangements' on the use of the St John's Tiffield Site, St. John's Road, Tiffield, NN12 8AA for the new school.
- c) Agree in principle borrowing up to £10,000,000 to make up the shortfall for the cost of building the new school, which is up to £23m, with delegated authority to the s151 officer to amend the capital programme once full feasibility works are completed. Note that the remaining cost of the build will be met through capital grant funding received by the Council.

Note: the estimated building and capital required is subject to construction cost inflation. This has been estimated at one per cent **per month** currently. Compounded, this could be as much as 13-14 per cent a year. Delay in construction work will lead to further risk of cost rises.

4 Reason for recommendations

- 4.1 The proposed new school will help to ensure that the council is able to fulfil its statutory obligation of providing a sufficiency of ASC, SLCN and SLD SEND places within West Northamptonshire in future years. It will also provide new learners with access to excellent specialist provision that will significantly improve future lifelong outcomes.
- 4.2 The establishment of a new 'all-through' special school can also be considered a benefit to all of West Northamptonshire's mainstream primary and secondary schools. It will reduce placements at a mainstream school setting where a child's needs can only be appropriately met at a special school.
- 4.3 The new school will also 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 out of county and independent provisions to meet their individual needs. The average cost of an independent placement is £61,000 whilst the average cost at a non-independent school is £25,000 – a reduction on average of £36,000 per place.
- 4.4 Based on previous placements, around 50 per cent of the expected new school intake, would have been placed at an independent placement due to the lack of state-sector funded special schools or resourced provisions. Placements at the new school will result in approximate net cost avoidance of £4,000,000 once the school is full. A reduction in spend against the revenue general fund is also expected to be secured through reduced home to school transport costs as a result of fewer further away placements being made.

Note: cost avoidance is NOT the same as a cost-saving. It is not cashable as the council will be spending more money each year on the extra costs of pupils who have significant additional needs. For example, 100 pupils with the level of need requiring a place at the new free special school will cost approximately £2,500,000. This is an extra cost to the high needs budget. However, if these places are not available, independent schools places will be required, at a cost of £6,100,000. While this enables a large cost avoidance of £3,600,000, it is still additional expenditure.

- 4.5 The new free school will enable the Council to make savings where a child is currently placed in an independent or out of county school and the parent agrees to a transfer of their child to a state-funded special school. For every 10 who do this, a cost **saving** of £360,000 will be made (independent cost of £610,000 becomes a £250,000 cost in a state-funded special school).
- 4.6 The new free school should reduce the number of appeals lodged to the First-tier Tribunal (Special Educational Needs and Disability) by families in WNC requesting a special school place. In turn, this will reduce the cost of defending appeals.

5 Issues and choices

- 5.1 If the capital funding required to fund and build the school is not approved: this option would result in the failure of WNC fulfilling its statutory obligation of providing a sufficiency of ASC, SLCN and SLD SEND places in West Northamptonshire in future years. It would 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 the home to school transport budget, which is a strain on the general fund. 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 will prevent WNC from addressing issues relating to the timely provision of places in an appropriate setting for pupils in receipt of an education, health and care (EHC) plan. This option was discounted for these reasons.
- 5.2 It might be possible to site the school elsewhere. However, this is likely to be a more expensive option - potentially several million pounds – as there will be a significant capital cost attached to any alternative land. The St John’s Tiffield site will be run on a 125 year lease with no capital costs incurred through a site purchase.

6 Implications (including financial implications)

6.1 Resources and financial

6.1.1 The table below sets out the capital cost, capital grant funding and resultant borrowing required over the medium term as informed by initial feasibility studies. Final costs will be determined through the procurement process and will be detailed in the final feasibility study.

	2022-23	2023-24	2024-25	2025-26	2026-27	Total
	£000	£000	£000	£000	£000	£000
Total cost	1,150	17,250	4,600	0	0	23,000
Capital grant funding	0	-12,000	-1,000	0	0	-13,000
Borrowing requirement	1,150	5,250	3,600	0	0	10,000

6.1.2 The total interest costs on borrowing £10m over a term of 25 years is £4.1m. The revenue costs and cost avoidance to both the revenue general fund and the high needs block of the DSG over the medium term are set out in the table below.

	2022-23	2023-24	2024-25	2025-26	2026-27	Total
	£000	£000	£000	£000	£000	£000
Revenue General Fund						
Cost of borrowing						
Repayment of principal	0	0	0	153	156	309
Interest	37	203	313	302	289	1,144
Total	37	203	313	455	445	1,453
Dedicated Schools Grant						
Cost of new places			857	2,283	2,183	5,323
Cost avoidance through new places			-1,340	-3,840	-3,707	-8,887
Net position			-483	-1,557	-1,523	-3,563

6.1.3 The cumulative full year effect of the creation of 250 new special school places is £3,563,000 net cost avoidance to the high needs block of the DSG to be achieved by 2027-28.

6.1.4 There are also savings and cost avoidance anticipated on the home to school transport general fund budget because of fewer further away placements being made.

7 Legal

7.1 WNC has a statutory duty under the Education Act 1996: the sufficiency duty. Under section 14 of the Education Act 1996, a local authority shall secure that sufficient schools for providing primary and secondary education are available in their area. Sufficient means sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. Appropriate education means education which offers such variety of education and training as may be desirable in view of the pupils' different ages, abilities, aptitudes and for different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their different needs. In meetings this duty, WNC must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

7.2 WNC is required by section 6A of the Education and Inspections Act, 2006 (the 'free school presumption') to seek proposals to establish an academy where the need for a new school has been identified. The DfE guidance regarding the free school presumption states that under the presumption the local authority is responsible for providing the site for the new school, with the DfE's expectation that the site will be made available free or on a peppercorn basis by the local authority to the trust. The local authority is also responsible for meeting the associated capital and pre/post-opening revenue costs.

7.3 The decision on all free school proposals lies with the secretary of state (via the regional director). secretary of state approval is required as the secretary of state will enter into a funding agreement with the trust chosen to run the free school.

7.4 The process for which this report is seeking approval is in full compliance with this legislation and no further legal implications are associated with this decision.

8.0 Risk

8.1 If the borrowing request to part fund the school is not agreed, there would be a significant shortfall in the capital costs of building the new school leading to inadequate and insufficient provision for children with ASC, SLCN and SLD.

8.2 Failure of WNC to fulfil its statutory obligations of providing a sufficiency of SEND places from September 2024 onwards and compromise its ability to allocate specialist school places to pupils in receipt of an education, health and care (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.

9.0 Consultation

9.1 As part of the 'free school presumption' process required by section 6A of the Education and Inspections Act 2006, WNC 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.

9.2 Consideration by Overview and Scrutiny: 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.

9.3 In accordance with the DfE guidance, the chosen provider will conduct a statutory consultation period in the pre-opening phase.

10.0 Climate impact

10.1 The current Northamptonshire Climate Change strategy which runs from 2020 – 2023, has three objectives - Raising awareness of the issues of climate change and its impact on Northamptonshire; Reducing emissions of greenhouse gases across the County and; Planning for and adapting to the impacts of climate change. Since the formation of WNC, the more ambitious targets of net zero own emissions by 2030 and those of residents and businesses by 2045, have been set. It is therefore expected that this building will not adversely impact upon the net zero emissions target and will be designed in a way that enables adaptation to future climate change.

11.0 Community impact

11.1 An established and successful trust, running a new special school, will help provide a high quality and number of SEND places across West Northamptonshire in future years. This can be considered to represent a huge community benefit, once delivered.

12.0 Communications

12.1 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, DfE's websites and undertaken in accordance with the Public Contracts Regulations 2015 (as amended).

13.0 Background papers

No further background papers