

Central Bedfordshire Council

EXECUTIVE

12 January 2016

Determination of the Proposal to Recommission Primary Specialist Provision for Autistic Spectrum Condition (ASC) in Dunstable

Report of: Cllr Mark Versallion, Executive Member for Education and Skills
(mark.versallion@centralbedfordshire.gov.uk)

Advising Officer: Sue Harrison, Director of Children's Service
(sue.harrison@centralbedfordshire.gov.uk)

Key Decision

Purpose of this report

1. To provide Executive with the outcome of the consultation by Ardley Hill Academy for its proposal to establish a new 8 place primary specialist provision for ASC at Ardley Hill Academy in Dunstable from September 2016.
2. To seek the Executive's approval of the proposal, subject to approval by the Department for Education (DfE), and for commitment to required capital expenditure.
3. The new provision is proposed to serve the Wards of Aspley and Woburn, Heath and Reach, Leighton Buzzard North, Leighton Buzzard South, Linslade, Eaton Bray, Dunstable Northfields, Caddington, Parkside, Houghton Hall, Dunstable Central, Dunstable Watling, Dunstable Icknield, Dunstable Manshead and Tithe Farm.

RECOMMENDATIONS:

The Executive is asked to:

1. **note the response received to the consultation by Ardley Hill Academy for the proposal to establish a new 8 place primary specialist provision for ASC at Ardley Hill Academy in Dunstable from September 2016, as set out in the report; and**
2. **approve the commencement of capital expenditure as set out in the report, subject to the approval of the proposal by the Education Funding Agency and subject to the grant of planning permission under Part 3 of the Town and Country Planning Act 1990.**

Children's Services Overview and Scrutiny

4. A report was presented to Children's Services Overview and Scrutiny Committee at its meeting on the 15 June 2015 and the Committee indicated its support for the proposal and for the commencement of the recommended consultation, the outcome of which is set out within this report.

Outcome of consultation

5. On 7 July 2015 the Council's Executive approved the recommendation to support a consultation by Ardley Hill Academy for the proposal to establish a new 8 place primary specialist provision for ASC at Ardley Hill Academy in Dunstable from September 2016.

The July report can be viewed at:

<http://centralbeds.moderngov.co.uk/ieListDocuments.aspx?CId=577&MId=4989&Ver=4>

6. The proposal was made with the support of the Council and its need to recommission primary specialist provision for ASC in Dunstable as a result of the closure of the 6 place specialist provision at Streetfield Middle School from August 2016 and demographic growth in the Dunstable, Caddington, Houghton Regis and Leighton Linlade area.
7. With the support of the Council the Academy's consultation commenced on 21 September 2015 and concluded on 19 October 2015. The consultation was undertaken to comply with DfE guidance published for Academies wishing to make significant changes. The consultation materials and minutes of a meeting held are attached at Appendix A to this report.
8. The consultation on the proposal received 17 responses. 11 respondents strongly agreed with the proposal and 5 respondents stated they agreed. Only 1 respondent recorded that they neither agreed nor disagreed.
9. The Academy has considered the outcome of its consultation and has agreed that they wish to proceed with the proposal. As a result they have submitted a significant change application to the DfE to secure approval for the addition to the Academy of the reserved provision for pupils with special educational needs and disabilities.

Design and procurement of the new provision

10. Working with their appointed education capital consultant and with support from the Council, the Academy has commissioned a feasibility study to develop cost estimated design proposals.

These have referenced Building Bulletin 102 which provides specific information and guidance about designing schools for disabled children and children with special educational needs.

11. The proposed scope of the new provision will include one additional teaching space, toilet facilities, kitchen, a meeting and intervention room and a small multisensory room. The new provision will be located to ensure integration of the specialist provision with the main school buildings.
12. The resulting cost estimates have indicated that the project is affordable within the total capital funding available. The Academy intend, with the support of the Council, to directly procure the project through a JCT Intermediate Building Contract. This will follow a procurement exercise which will be undertaken when planning approval has been secured, if the Executive approves the recommendations contained within this report.
13. The governance of the project will be provided through a board that will include Council officers from the School Organisation & Capital Planning Team who will control the release of funding aligned with the achievement of key project milestones.

Reason for decision

14. The consultation undertaken on the proposal to establish new specialist ASC provision at Ardley Hill Academy has complied with the 2014 DfE Guidance for making significant changes to an existing Academy.
15. The proposed project supports the Council's Policy Principle of investment in successful schools. Ardley Hill Lower School converted as an Academy on 1 June 2012 and changed its age range with approval of the Secretary of State to become a primary school from September 2014. The predecessor school was judged as 'Good' by Ofsted at its last inspection in October 2011.
16. As set out in detail in the July report to the Council's Executive, the completion of the proposed project outlined within this report will ensure that the Council continues to meet its statutory obligations to secure sufficient school places for children with special educational needs.

Council Priorities

17. The report supports Central Bedfordshire's Five Year Plan 2015- 2020 and the specific priority of Improving Education and Skills.

Legal Implications

18. Section 14 of the Education Act 1996 places a duty on councils to secure sufficient primary and secondary school places to provide appropriate education for pupils of statutory school age in its area and to have specific regard to the need to secure SEN provision for those children who have special educational needs.
19. The DfE referred to above was published in January 2014 for Academies wishing to make significant changes.

The Guidance can be viewed at:

<https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>

20. Academy Trusts are to exercise their own judgments in deciding whether a change is significant. The proposal for the establishment of a new 8 place Primary specialist provision for ASC at Ardley Hill Academy falls within the definition of 'significant change' as set out by 2014 DfE Guidance.
21. The process, set out in detail in the July report to Executive, is overseen by the Education Funding Agency (EFA) on behalf of the DfE and requires an Academy to undertake consultation, to obtain consent of the Secretary of State and to secure any capital required by the proposal before implementation.
22. The appropriate consultation has taken place for a period of 4 weeks and responses have been received from stakeholders. These responses have been largely in favour of the proposal.
23. The business case submitted by the Academy to the EFA must be rigorous enough for a decision to be made on whether the change is necessary. Details of minimum content are set out in the 2014 DfE Guidance.
24. It is noted that Secretary of State's approval has been obtained for the Schools Forum decision to use the Dedicated Schools Grant for capital purposes.

Financial Implications

25. On 21 October 2015 the Council secured approval from the Secretary of State to its application for a disapplication of the School and Early Years Finance Regulations to allow the use of Dedicated Schools Grant for the capital purposes set out in this report.

26. This implements the decision of the Schools Forum on 21 September 2015 to transfer £500k unspent balance of Dedicated Schools Grant from the High Needs Block allocation in 2015/16 to support capital development in specialist provisions. If the proposal set out within this report is approved the SEND capital programme within the Council's capital programme will be amended to reflect the increase of £500k secured for this project. There is no net capital cost to the Council of the projects outlined in this report.
27. The methodology for allocation of revenue funding to support specialist provision was outlined in the July Executive report and this proposal has been subject to a financial due diligence exercise undertaken by the Academy, supported by its own Human Resources and Financial advisors.

Equalities Implications

28. The DfE guidance for making significant changes to an existing Academy is clear that Academy Trusts should always discharge their public sector equality duty in proposing any changes.
29. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and to foster good relations in respect of the following protected characteristics: age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
30. This statutory duty includes requirements to:
 - i. Remove or minimise disadvantages suffered by people due to their protected characteristics.
 - ii. Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
 - iii. Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
31. As proposer of the establishment of the new specialist autistic spectrum condition provision the Academy Trust has considered that there are no race or disability discrimination issues that arise from the change being proposed.
32. The proposal will ensure that there is improved local provision for pupils with ASC enabling them to remain within and be educated in their local community rather than being offered "out of area" places.

33. This will also ensure continuity of ASC provision from primary to secondary across the Dunstable and Houghton Regis area. The new provision will be fully accessible to disabled students and the provision will also enable outreach work to be undertaken to support other pupils in their local school setting.

Risk Management

34. The proposal to establish the new ASC provision mitigates the risk on the Council of failing in its statutory duty to secure sufficient SEN provision for those children who have SEN.
35. Key risks mitigated by these proposals include:
- Failure to discharge legal and statutory duties/guidance.
 - Failure to deliver the Council's strategic priorities
 - Reputational risks associated with the non delivery of required SEN school places.

Staffing (including Trades Unions)

36. Staff and Trades Unions are consulted on all school organisation proposals related to changes to schools and Academies as part of the informal and statutory process required by regulations and DfE guidance.
37. The Academy will continue to have the support of its commissioned Human Resources (HR) Provider where the proposal requires changes in school staff structures or to terms and conditions of employment. The Council's Schools Statutory H.R. Team will lead TUPE consultations with existing specialist staff at Streetfield Middle School who are expected to transfer to the new provision, if the proposal is approved.

Appendices

The following Appendix is attached

Appendix A – Consultation materials and minutes of consultation meeting

Background Report

Report to Executive 7 July 2015 – Proposal to Recommission Primary Specialist Provision for Autistic Spectrum Condition in Dunstable – (Agenda Item 11)

<http://centralbeds.moderngov.co.uk/ieListDocuments.aspx?CId=577&MId=4989&Ver=4>