
Meeting: Executive
Date: 6 April 2010
Subject: Statutory proposals to merge Sunnyside and Hitchmead Special Schools
Report of: Cllr Mrs Anita Lewis , Portfolio Holder for Children's Services
Summary: This report requests that Executive approve the statutory proposals published on 15th January 2010 to discontinue Hitchmead Foundation Special School and make an enlargement by expansion to Sunnyside Community Special School, with effect from 31 August and 1 September 2010 respectively.

Advising Officer: Edwina Grant - Deputy Chief Executive and Director of Children's Services
Contact Officer: Martin Pratt – Deputy Director Children's Services and Assistant Director – Children's Specialist Services.
Public/Exempt: Public
Wards Affected: All as special schools serve populations beyond their immediate community
Function of: Executive
Key Decision Yes
Reason for urgency/ exemption from call-in (if appropriate) This item is exempt from call-in due to the duty on the Council to determine the Statutory Proposals within two calendar months of the expiry of the six week representation period, 26 April 2010; otherwise they must be referred to the Office of the Schools Adjudicator for decision. If approved, there is also then a legal duty on the Council to implement the proposals by the date stated and meet any associated costs.

CORPORATE IMPLICATIONS
Council Priorities: The proposals sit alongside the five Every Child Matters outcomes as listed within the Children and Young People's Plan which was adopted by Central Bedfordshire Council on the 24 September 2009. In addition the proposals are consistent with one of the Council's key priorities for the 2009-11 period: educating, protecting and providing opportunities for children and young people.

Financial:

The proposed merger would address the concern about the financial viability of Hitchmead School and the size of accommodation issue at Sunnyside School. It would secure efficient and effective delivery of special schooling in the east of Central Bedfordshire. The proposed merger would release £111,000 of revenue funding which relates to the lump sum allocated to each school, which would be redistributed through the funding formula. The availability of increased accommodation for Sunnyside pupils would enable more children to have their needs met locally who might otherwise be placed out of Central Bedfordshire at potential costs of up to £300,000 per year per pupil. The capital costs of the proposals relate to the security of the external play areas of the Hitchmead site and the requirement for better accessibility to the building and specialist toilet/changing facilities for those pupils with physical disabilities. It has been agreed that in the first instance the security works should be funded from the schools' devolved formula capital in 2010/11, and an estimated sum of £70k is required for the latter which is proposed to be funded from the Council's 2010/11 Schools' Access Initiative.

Legal:

There is a duty on the Council to determine the Statutory Proposals within two calendar months of the expiry of the six week representation period, otherwise they must be referred to the Office of the Schools Adjudicator for decision. The end of the six week representation period was 26 February 2010, hence the Council must determine the proposals by 26 April 2010. If approved, there is also then a legal duty on the Council to implement the proposals by the dates stated and meet any associated costs.

There are legal implications regarding the ownership of Hitchmead's site as it is a Foundation school and part of a Trust. However, upon the closure of Hitchmead, the Foundation school governors and the Trust will cease to have a legitimate interest in the premises. Furthermore, there are provisions within Education Law for the asset to be returned to the LA in the event of closure. In terms of the future use of the asset and as set out in the prescribed information, this would transfer to the governors of Sunnyside Community school for the benefit of the enlarged school.

Risk Management:

Failure to determine the proposals within the specified timescale by Council Executive would result in the proposals being referred to the Schools Adjudicator for determination, which could delay the implementation of the proposals.

In order to mitigate the risk of disruption to pupils and their families during the transition period, careful project management is required by the schools, the governing bodies and officers of Central Bedfordshire.

The proposed merger provides a solution to the identified financial risk of the current structure.

Were the Council to make no decision it may be at risk of failing in its duty to provide an efficient education for children and young people with special educational needs, which could result in damage to the Council's reputation.

Staffing (including Trades Unions):

Subject to approval of the proposals and prior to implementation, staff from both schools and professional associations are currently engaged in a consultation on a proposed staffing structure for the newly expanded school.

Equalities/Human Rights:

An Equalities Impact has been taken on the implications of this decision. It is attached as Appendix F.

Community Safety:

Not applicable

Sustainability:

The newly merged school will improve the quality of SEN provision for young people in the area and the community as a whole in an improved facility.

Summary of Overview and Scrutiny Comments:

- The Overview and Scrutiny Committee considered the proposed merger at their meeting on 1 December 2010. At the meeting it was resolved that, 'should the Executive approve the merger*', the Committee receives a further report following the 6 week consultation period, which will provide Members with the financial implications of the initiative and an outline implementation plan' The Committee received this report on 30 March 2010.

* This was as it was minuted. However it should have been "should Executive approve consultation on the merger.."

RECOMMENDATION(S):

That the Executive approve:

- (a) **The issue of the statutory proposals to discontinue Hitchmead Foundation Special School (Biggleswade) and make an enlargement by expansion to Sunnyside Community Special School (Biggleswade) with effect from 31 August and 1 September 2010 respectively.**
- (b) **the allocation of £70k capital funding from the 2010/11 Schools Access Initiative budget to enable the necessary modifications to be made to the Hitchmead premises to improve accessibility and the provision of more appropriate changing/WC facilities for disabled pupils.**

Reason for Recommendation(s): a) *There is a need for the Council to determine the proposals within two months of the end of the statutory representation period. The proposals are consistent with the Council's aims for improving the future of special schooling in the East of Central Bedfordshire and the development of area special*

schools to support the SEN/Inclusion programme as part of the Council's Education Vision.

- b) *An appropriate amount of capital funding has been identified as being required to enable improved ramped access to the site and to provide more appropriate changing and WC provision for disabled pupils.*

Executive Summary

This report requests that Executive approve the statutory proposals published on 15th January 2010 to discontinue Hitchmead Foundation Special School and make an enlargement by expansion to Sunnyside Community Special School, with effect from 31 August and 1 September 2010 respectively. It sets out the responses to consultation on this matter and the legal framework for making the decision.

Background

1. At its meeting on 23 June 2009 the Executive resolved to carry out a consultation on the options for the future of special schooling in the east of Central Bedfordshire.
2. The consultation was carried out between 14 September and 23 October 2009 and set out 5 possible options, with the fifth option being an opportunity to put forward any other suggestions. The process included broad circulation of the consultation documents and the online consultation, two public meetings, meetings with staff and professional associations, and a specially designed consultation with the pupils of both schools.
3. The outcome of this initial consultation was reported to the Executive at the meeting held on 8 December 2009. At this meeting the Executive resolved to publish statutory notices for the discontinuance of Hitchmead Foundation Special School and the enlargement by expansion of Sunnyside Community Special School.
4. Statutory notices were published on 15 January 2010 and a six week representation period for any comments or objections to be made within. A copy of the notice is attached at Appendix A and a copy of the prescribed information for the proposals at Appendix B.
5. The period for making representations ended on 26 February 2010. During this time 10 objections to the proposals were received, and 1 letter of support. Copies of these are attached at Appendix C (one letter has had the name of an officer redacted because the letter is placed in public domain through this process and several letters have had the personal details of responses from parents removed. This does not in any way change the meaning of the passage or obscure the intention of the writer.)
6. A formal response to the issues set out in Appendix C are attached in Appendix D

Impact of the proposals

7. A review of Special Educational Need was undertaken by Bedfordshire County Council in 2008, which recommended a number of actions to improve provision for SEN across the county. The review endorsed the concept that an Area Special School could meet the needs of children requiring special schooling in the local area. On 6 June 2008, the Central Bedfordshire Transition Task Force, considered and adopted the recommendations of this review. The consultation undertaken as part of this proposal was initiated as a consequence of falling numbers at Hitchmead Special School for pupils aged 7-16 with Moderate Learning Difficulties (MLD) and growing numbers at Sunnyside Special School for pupils aged 3-19 with Severe Learning Difficulties (SLD) and Profound and Multiple Learning Difficulties (PMLD).
8. As indicated, numbers at Hitchmead make the school potentially non-viable in terms of size and cost effectiveness. The small numbers make it very difficult to organise both the curriculum and appropriate learning opportunities for children in similar age groups. Sunnyside currently has more children on roll than the building is able to accommodate, with requests for placement increasing and this may result in children going out of authority unnecessarily. The proposals will address both of these issues and will help improve standards and meet the changing needs across the area.
9. It is proposed that merging Hitchmead with Sunnyside will provide improved continuity and stability for all pupils, including provision up to age 19 for Hitchmead pupils which the school does not cater for at present (at the time of consultation, Sunnyside had 27 post 16 pupils). Access to more space and resources, including specialist staff and access to satellite provision in mainstream schools have also been identified as additional benefits for all pupils.
10. At a time when it is difficult to recruit specialist staff to special schools, it would ensure that the expertise and experience of the current staff were retained to meet the needs of the provision. Staff have already been working together and have identified that many of their pupils have very similar needs.

Legal framework

11. The statutory representation period ended on 26 February 2010 and the comments and objections and a response to the issues raised are set out in Appendix C and D respectively.
12. Before judging the respective merits and factors of the proposals, the decision maker must first consider:
 - (a) Is any information missing?
 - (b) Does the published notice comply with statutory requirements?
 - (c) Has the statutory consultation been carried out prior to the publication of the notice?
 - (d) Are the proposals linked or “related” to other published proposals?

13. The necessary information is contained within the prescribed information attached as Appendix B, the Notices have been checked for compliance with DCSF guidelines, prior consultation. This was set out at in the report to the Executive on 8 December 2009 and the individual proposals for each school are linked to one another as set out in the statutory notice (Appendix A) and prescribed information (Appendix B).
14. In considering proposals, the decision maker must consider any comments and/or objections to the proposals and the response to these (including the SEN Improvement Test as set out in Appendix E).
15. The decision maker can then decide to:
 - (a) Reject the proposals
 - (b) Approve the proposals
 - (c) Approve the proposals with a modification (e.g. modifying the implementation date)
16. Executive is now invited to consider the proposals and make a decision.
17. If the Notices are approved there is then a statutory duty to implement the proposals in full or to publish further proposals to be relieved of the duty to implement previously approved proposals.
18. If it proves impossible to implement the proposals as approved, the proposers can seek a modification which may be made at any time before the implementation date. The most common modification is to the implementation date.

Conclusion and Next Steps

19. The proposals have reached a stage where a formal decision is required by the Council to decide the proposals or to refer them to the Office of the Schools Adjudicator.
20. Executive is therefore invited to consider the proposals set out in the Public Notices issued on 15 January 2010 to discontinue Hitchmead Foundation Special School and make an enlargement by expansion to Sunnyside Community Special School, with effect from 31 August and 1 September 2010 respectively for the reasons set out in the report.

Appendices:

Appendix A – statutory notice – published on 15 January 2010

Appendix B – prescribed information

Appendix C (a) – copies of letters of objection/responses to the proposals

Appendix C (b) – copy of letter of objection with name redacted

Appendix D – response to the issues set out in Appendix C

Appendix E – SEN Improvement Test

Appendix F – Equalities Impact Assessment

Location of papers: (The Council Offices, High Street North, Dunstable)