

Report for: Cabinet

Cabinet

23rd June 2022

Subject:

School Organisation Up-Date Provision for Special Educational Needs

Key Decision:

Yes

Responsible Officer:

Peter Tolley - Interim Corporate Director, People Services

Portfolio Holder:

Councillor Hitesh Karia - Portfolio Holder, Children's Services

Exempt:

No

Decision subject to Call-in:

Yes

Wards affected:

All

Enclosures:

Equalities Impact Assessment

Section 1 – Summary and Recommendations

This report outlines the progress to date to increase special school provision from September 2022 and the creation of additional Additionally Resourced Mainstream school (ARMs) units in accordance with the Special Educational Needs and Disability (SEND) Strategy and the associated capital programme.

Recommendations:

Cabinet is requested to:

1. Note the progress on additional SEND provision planned in Harrow
2. Delegate authority to Corporate Director People Services, following consultation with the Portfolio Holder Children Services, and consideration of consultation responses, to publish the statutory notices that will enable the increase of SEND provision in Harrow in accordance with the SEND Strategy.
3. Delegate authority to the Corporate Director People Services, following consultation with the Portfolio Holder Children Services to determine the notices that will enable the increase of SEND provision in Harrow in accordance with the SEND Strategy.
4. Approve the commencement of all procurements that are required to deliver the programme.
5. Delegate authority to the Corporate Director People Services, following consultation with the Director of Finance, Portfolio Holders for Finance & Human Resources and Children Services to award contracts following each procurement

Reason: (for recommendations)

To enable the Local Authority to fulfil its statutory duties to provide sufficient school places in its area.

Section 2 – Report

Introduction

1. The Local Authority has a statutory responsibility to provide sufficient school places for its area. Like many boroughs, Harrow experienced significant growth in the pupil population and implemented strategies to manage the number of school places.
2. There has also been a significant growth in pupils with special education needs and requests for Education Health and Care Plans (EHCPs). Harrow's SEND Strategy 2019-2024 outlines the current context for SEND nationally and locally and guiding principles for four strategic priorities.

3. One of the key priorities is to increase local provision and reduce placements in schools outside of Harrow by implementing 2 main strands of development:
 - A 'Whole System Shift' model
 - Further expansion of the additional resourced mainstream school (ARMS) provision and specialist provision.
4. This report updates on the implementation of SEND strategy to increase provision in Harrow.

Options considered

5. To deliver the SEND Strategy priority to increase local provision, statutory notices to make prescribed changes to school's capacity and a school capital programme to provide sufficient and appropriate accommodation are required. To achieve the outcomes required the following options were considered:

Option 1: Do Nothing – this would not a viable option because to increase local provision changes to school organisation a capital programme is required. Without increasing local provision there would be an increase in out-borough placements.

Option 2: Complete statutory processes to increase school capacity and implement a schools capital programme to provide suitable and sufficient accommodation.

Background

6. The LA is working collaboratively with the four special schools in Harrow, two of which are designated Moderate Learning Difficulties (MLD), to explore and progress how best Severe Learning Difficulties (SLD) provision can be expanded across a 'Whole System Shift' model and subsequently how MLD provision can be expanded and developed within mainstream schools.
7. The engagement and commitment of the MLDs schools and mainstream schools to develop ARMS provision, to the 'Whole System Shift' model is critical to the LA's SEND Strategy and key priority to increase the number of SLD places. To further support the System Shift, it is necessary that the range of special educational need met in the two MLD schools widens, to include more pupils with complex needs. Since September 2020, both Alexandra and Shaftesbury Schools have admitted approximately 15 pupils with more complex needs who would previously not have been considered, including several pupils from Woodlands School. This creates additional capacity in the two schools designated as for pupils with SLD.
8. With the establishment of a 'Whole System Shift' model, pathway projections determine that approximately 48 secondary and 36 primary

ARMS places will need to be developed by 2026 to meet capacity of demand for MLD pupils who would have previously been offered an MLD special school place.

9. Analysis of data on primary categories of need and projection modelling has shown that there are now greater numbers of children and young people in Harrow with SEND who have increasing levels of complex need identified as SLD. Based on increasing actual pupil numbers with SLD provision, between 2016 and 2022, and the continued additional demand for special school places, officers have developed projections which indicate that 20-25 additional SLD places will be required year on year for the next five years. These projections will be reviewed and monitored annually. The table below shows the overall growth for pupils with an EHCP since 2016.

Harrow SEN2 Return	2016	2017	2018	2019	2020	2021	2022
Number of EHCP/Statement	1,336	1,477	1,610	1,645	1,799	1,896	1,974

Source: DfE 2022 SEN2 Statistical First Release - Based on figures in January of the year

10. These projections for SEN places are based the need for a special school place for children with severe/complex special education needs. Harrow's special schools currently mainly provide places for children with a Moderate Learning Difficulty (Alexandra School and Shaftesbury High School) and Severe Learning Difficulty (Woodlands School and Kingsley High School). The number of EHCPs have continued to significantly increase, which is being addressed by Harrow's SEND Strategy and the 'Whole System Shift' model, along with an increase in the demand for SLD places. These increases are occurring across the country, however places in Harrow's Special Schools are in high demand due to the Outstanding judgement from Ofsted of all Harrow's special schools.
11. The projections in this report are based on the demand for:
- Nursery & Reception places in our special schools and ARMS units (additionally resourced provisions in mainstream schools)
 - Harrow children currently in other authority special settings requesting a place in Harrow secondary special schools
 - Children who are initially accommodated on a short-term basis in a mainstream school or recent arrivals into the borough who are receiving tuition from the Pupil Referral Unit (The Helix Education Centre) who have been identified as suitable for a special school placement.
12. This combined demand has continued increasing over recent years, with special school capacity filling up rapidly, and resulting in the need for additional special school places, especially in secondary special schools.

13. Prior to 2020, the growth in SLD numbers has been largely accommodated in primary through two expansions at a primary SLD special school (Woodlands School) and the development of a primary SLD resourced provision in a mainstream school (Belmont School). These developments have managed demand in the primary sector but as pupils roll through this will create pressure in the secondary sector. To accommodate increased demand Harrow Council expanded Kingsley Special School, to its full capacity, from 96 to 102 places from September 2021, however for September 2022 and beyond additional places will be required.
14. This approach will reduce the pressure on the High Needs Block (HNB) of the Dedicated Schools Grant (DSG) created by expensive out of borough placements thus enabling spend to benefit the development of Harrow's school provision for Harrow pupils. In addition, this approach will secure diversity in the provision of schools and increase choice for parental preference.

Current situation

15. Whilst there has been some progress in implementing the system shift model, as outlined in the SEND strategy, this has been delayed during the COVID pandemic, as schools had to focus on covid recovery and return of children and young people to education. As a result, there is a need to increase provision for SLD secondary places for September 2022. It is proposed that there is a temporary expansion of Kingsley High School by a maximum of 24 places pupils. This will allow Kingsley High School to have the capacity to admit the Year 7 pupils moving up from Woodlands school.
16. Kingsley High School is an Outstanding Special School and popular with families. It provides 102 places for pupils aged 11 to 19 years of age, Year 7 to Year 13.
17. Officers have been working with Kingsley High School to explore ways to meet this demand. Given the site constraints of Kingsley High School, it is not possible to provide more accommodation for increased pupil numbers and therefore an additional site is required. There are very few immediately available sites in Harrow and therefore a short-term temporary solution has been sought. This will enable officers to continue exploring options for a permanent increase in SLD Provision with the school. As a temporary solution it is proposed that the expansion will be located at Weald Rise Primary School.
18. Weald Rise Primary School was rebuilt in 2016/17 under the Priority Schools Building Programme and expanded to 4 forms of entry (FE) to accommodate the increasing projected demand for school places at the time. Due to a range of factors, e.g., welfare change, Brexit, falling birth rates and Covid the trajectory has changed. The overall impact of

this has been that even though the number of pupils in primary schools has increased, they did not rise to the levels that were projected. A decreased demand for school places in the primary phase has been experienced across London. As a result, the school is currently operating at a lower capacity and therefore has available space to accommodate a small number of Kingsley High School's pupils. The Weald Rise building with minor remodelling has sufficient capacity to establish a self-contained temporary satellite provision.

19. The accommodation will comprise three classrooms, access to a sensory space, staff room, office, separate staff and pupil's toilets and access to outdoor space. This will accommodate the additional 24 pupils from Kingsley. Kingsley pupils will travel to school using council provided special needs transport. The routes will need to be planned but it is expected to be a combination of mini-buses and taxis. The pupils who will be moving to Kingsley already have access to SEN transport, so it is not envisaged that there to be an increased demand on the transport budget by creating this provision.
20. Weald Rise Primary School has experience operating with another school on its site as Hujjat Primary School occupied a small area of the school for a term in 2020. Funding for the resource provision will accommodate the cost of any additional costs e.g. utilities and other costs to ensure none of the schools have any additional costs as result of this satellite provision.
21. Officers have met with the Governing Bodies at Weald Rise Primary School and Kingsley High School. Both schools have agreed in principle to work together with the Local Authority to open a temporary satellite provision. A task and finish group will be established to plan the provision and its operation at Weald Rise and ensure that the details are communicated with staff, families and pupils. This will be a time limited group and will transition into an operational group from September 2022. The group will be supported by senior officers from the Education Directorate.
22. Officers are working with the Governing Bodies to finalise the revenue requirements to ensure that the proposals are cost effective and do not create additional financial pressures for either school. Providing local provision will mean that the cost to the Council overall will be less than having to send pupils to special schools outside of the borough.
23. The details for the opening and operation of the expansion are being finalised. In the event of delays to the delivery of the required capital programme, interim arrangements will be made to ensure that pupils have access to suitable education from the beginning of September.
24. These proposals are subject to Statutory Notice processes including consultation with families and Harrow residents. Any decisions will be made after the consultation process. The statutory notices process is outlined in the next section.

Statutory Proposals and Consultation

25. Statutory Notices were published on Monday 6th June in accordance with DfE Guidance for making significant changes ('prescribed alterations') to maintained schools. The Notices are published in the local paper and details sent to interested parties including parents with children at both schools to invite comments on the proposals. Sessions for parents and staff at both schools are also planned.
26. The Statutory Notices are published for four weeks and will close on Monday 4th July. Officers will then review the comments received and prepare a report for the Corporate Director to consider in consultation with the Portfolio Holder to determine the notices.

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with modifications, having consulted the LA and/or GB (as appropriate); or
- approve the proposal, with or without modification – subject to certain conditions (such as the granting of planning permission) being met.

Once the notices have been determined the outcome will be shared with the schools. The decision is based on the outcome of the consultation.

Update on other SEND Projects

27. To increase provision in mainstream schools for pupils with moderate learning difficulties (MLD) there are a series of proposals and associated capital projects to create additional capacity during the academic year 2022/23. Discussions are in progress with the Governing Bodies and feasibility studies are beginning undertaken to create suitable and sufficient accommodation at the following schools:

- Pinner Wood Primary School
- Stanburn Primary School
- Grange Primary School
- Canons High School

Name	Need	Number of places
Grange Primary School	MLD	12
Grange Nursery	Complex needs	12 part-time places (6 FTE)
Stanburn Primary School	MLD	12
Pinner Wood Primary School	MLD	12
Canons High School	MLD	12

28. Once the feasibility studies have been completed, a capital programme provided and final costings agreed with the local authority and schools,

statutory notices will be published in accordance with DfE Statutory Guidance to make prescribed changes to schools.

29. Feasibility studies are also being developed to increase capacity at Shaftesbury High School to increase the provision for pupils with SLD and to replace accommodation at Woodlands Primary School to maintain the capacity.
30. During 2022/23 Phase 3 will need to be developed in accordance with the SEND Strategy.

Ward Councillors' comments

31. No comments have been received from Ward Councillors.

Performance Issues

32. Schools in Harrow perform well in comparison to national and statistically similar local authorities. The vast majority of primary schools and secondary schools are judged 'good' or 'outstanding' by OfSTED. As at 31st January 2022, 93% of Harrow's primary and secondary schools are judged 'good' (49%) or 'outstanding' (44%), in line with 93% in London (63% Good, 30% Outstanding) and above 87% nationally (68% Good, 19% Outstanding) (Source: Ofsted Data View).
33. The Education Act 2011 maintains a focus on driving up standards in schools, and places more of the responsibility with the schools directly for their improvement. The role of the Local Authority in measuring performance and driving improvement has changed significantly and is reduced from its previous level.
34. The Local Authority continues to monitor key education indicators. The indicators are used locally to monitor, improve and support education at both school and local authority level. They are also used within information provided to the Department for Education.

Environmental Implications

35. Harrow Council passed a motion to declare a climate emergency on 18 July 2019, with the aim to make Harrow a carbon neutral organisation by 2030. This is a very challenging ambition and Harrow Schools are expected to adopt a more proactive approach to minimise their energy wastage and carbon footprint in line with the borough and central government's carbon reduction targets and objectives. The heating and power requirements of the borough's maintained schools are a significant part of the overall carbon footprint that is attributable to the Council's estate. Reducing emissions from schools is therefore a vital component in meeting the Council's target.

36. In expanding existing schools, consideration should be given to delivering building works in a way that minimises the greenhouse gas emissions associated with the project, including in the selection of materials. Of particular importance will be the use of low carbon technologies – particularly for space heating – and these will need to be thoroughly investigated during the design phase. Council run procurement processes will also be required to actively test prospective suppliers on their ability to deliver greenhouse gas emissions reductions, in accordance with the Council's Low Carbon Procurement Policy adopted by cabinet in March 2022.
37. For many of the projects in the school expansion programme, planning applications are required, and part of the application is a school travel plan. Through this process and the development of the solutions for the schools, the impact of the additional pupils and their travel modes will be addressed.

Data Protection Implications

38. There are no data protection implications with this proposal.

Risk Management Implications

39. Risks included on corporate or directorate risk register? Yes, this is included in the directorate risk register
40. Separate risk register in place? No, there will be a risk register for each capital project which will be developed when the programme is implemented.
41. The relevant risks contained in the register are attached/summarised below. Yes
42. The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
The School Roll Projections are under or overstated leading to an under or over provision of SLD within the Borough	The Council has used the GLA roll projections and they have been reliable in the past	Green
Overspend of HNB by £27m by 2025 (There are number of reasons why this overspend is projected e.g. historic under funding, please see Financial	Creation of additional in-borough provision reduces the future pressures on the HNB. The average cost of an out of borough independent/non maintained specialist provision is in the region of £50k-£80k per	Red

Risk Description	Mitigations	RAG Status
Implications for further details)	academic year depending on the complexity of need. There will also be costs avoided to the SEN Transport budget which is funded by the General Fund if a child can be prevented from being placed out of borough.	
Breach of s14 of the Education Act 1996 if insufficient school places on offer	The proposed expansion will ensure the that the Act is not breached.	Green
Delays in the delivery and completion of the capital programmes	The projects will be managed by a Project Manager responsible for monitoring the delivery of the scheme and liaising with the schools and officers. If there are delays alternative arrangements will need to be made to ensure pupils receive appropriate education during the period of delay.	Amber

Procurement Implications

43. The procurement team will support the delivery of all procurement associated with this programme. Procurement will be undertaken consistent with the Public Contract Regulations 2015 and the Council's own Contract Procedure Rules. As outlined in October 2021 and September 2020 Cabinet Reports.

Legal Implications

44. The Council has a statutory duty under the Education Act 1996 to ensure the provision of sufficient schools for the provision of primary and secondary education in their area.
45. Under s.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.
46. In meeting this duty, a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

47. The expansion of a maintained special school to increase the number of pupils by 10% or more than 20 pupils and a change in the type of special educational needs for which a maintained special school is organised to make provision is a prescribed alteration for which statutory proposals must be published and approved in accordance with section 19(1) of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
48. In accordance with the regulations to open a satellite provision it needs to be demonstrated that a new school is not being opened. It is the view of officers that the background to the proposals as set out in this report demonstrates that the proposals are genuine expansion proposals and not proposals for a new school pupils and staff at Kingsley High School. Governance, leadership and management arrangements will be put in place to oversee the new site by the Head Teacher and Governing Body of Kingsley High School. Pupils and staff will have access to both sites as and when required, to ensure that the needs of the pupils at both sites of the sites of Kingsley High School are met. This is a temporary solution. It is also noted that Weald Rise Primary School already has some experience of operating with another school on its site. The temporary site will serve the same community as the existing school which provides for pupils across Harrow. Staff will transfer across the sites according to needs.

Financial Implications

Capital Funding

49. Capital works associated with the increased provision will be funded from the Special Provision Capital Fund grant provided by the DfE to ensure there are sufficient good school places for those with SEND. LAs can use the funding to improve and expand special provision for children with EHCPs. The total funding available is £5.433m and has so far been allocated as shown in the table below. These costings are prior to procurement of a contractor.
50. These schemes were agreed by the Council's Capital Programme by Cabinet in February 2021.

Scheme	Estimate Cost £'000	Balance £'000
		£5,433
Woodlands	£295	
Pinner Wood ARMs	£610	
Shaftesbury	£1,500	
Stanburn ARMs	£450	
Grange ARMs	£590	
Weald Rise Kingsley	£389	
Canons High School	tbc	
Total	£3,833	

Uncommitted		£1,600
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51. There will also be a further allocation of grant funding from the High Needs Provision Capital fund of £1.749m in 2022-23 and £4.147m in 2023-24 which is addition to the funding identified in the table above.

Revenue Funding

52. The DSG is a ring-fenced grant of which the majority is used to fund individual school budgets in maintained schools, academies and free schools in Harrow. It also funds Early Years nursery free entitlement places for 2-, 3- and 4-year-olds in maintained council nursery classes and private, voluntary and independent (PVI) nurseries as well as provision for pupils with High Needs including those with Education Health & Care Plans (EHCPs) in special schools and special provision and mainstream schools in Harrow and out of borough. The DSG is split into blocks: schools block, early years block and high needs block.
53. At the end of March 2022 there is a cumulative deficit on the High Needs Block of £4.007m which has built up over the last three financial years.
54. Any deficits an authority may have on its DSG account is expected to be carried forward and does not require to be covered by the authority's general reserves. This is a temporary arrangement until 2022-23 beyond which LAs must demonstrate they have sufficient reserves to cover the deficits.
55. With effect from 2019-20 the DfE has tightened up the rules under which local authorities have to explain their plans for bringing the DSG account back into balance.
56. The DfE will require a report from any LA that has a cumulative DSG deficit of more than 1% at the end of the financial year. The 1% calculation will be based on the latest published DSG allocations for 2021-22 compared with the deficit shown in the authority's published draft accounts.
57. The final deficit at the end of 2021-22 of £4.007m represents 1.67% of the overall DSG allocation (including academy funding). The recovery plan has been drafted however and discussed with Schools Forum. However, the following points should be noted.
58. Despite the significant proposals and measures planned over the next ten years, this will not mitigate the deficit. This is due to the following contributory factors:
- historical underfunding
 - current budgets being based on historical budgets rather than historical spend
 - extension of age range to include 0-5 and post 19

- current and projected formulaic funding which does not keep pace with demand
 - significant historical and projected growth in number of EHCPs
 - continued growth in complexity of pupils' needs
 - limitations about creating cost effective provision in borough due to capacity and site limitations
59. Creation of additional in-borough provision reduces the future pressures on the HNB. The average cost of an out of borough independent/non maintained specialist provision is in the region of £50k-£80k per academic year depending on the complexity of need.
60. It is anticipated that a place at special school in Harrow would be cost £25k-£35k and a place at an ARMS provision would cost £20k-£25k per academic year.
61. There will also be costs avoided to the SEN Transport budget which is funded by the General Fund if a child can be prevented from being placed out of borough.

Equalities implications / Public Sector Equality Duty

62. Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to (1) eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act, (2) advance equality of opportunity and (3) foster good relations between persons who share a protected characteristic and persons who do not share it.
63. Harrow's schools are successful, inclusive and provide a diversity of provision. The school expansion programme will ensure sufficient school places for the increasing numbers of children in Harrow and will build on the successful provision that already exists in Harrow's schools. By acting to ensure all children in Harrow have access to a high-quality school place, Harrow is promoting equality of opportunity for all children and young people.
64. Equalities impact assessment has been carried out and there are no negative impacts arising from these proposals.

Council Priorities

65. The recommendation supports the Council Priority of Putting Residents First by consulting families on proposals to increase provision for pupils with special education needs in local schools.

Section 3 - Statutory Officer Clearance

Statutory Officer: Jo Frost

Signed on behalf of the Chief Financial Officer

Date: 10 June 2022

Statutory Officer: Helen Ottino

Signed on behalf of the Monitoring Officer

Date: 10 June 2022

Chief Officer: Peter Tolley

Signed by the Interim Corporate Director

Date: 10 June 2022

Head of Procurement: Lisa Taylor

Signed on behalf of the Head of Procurement

Date: 10 June 2022

Head of Internal Audit: Susan Dixon

Signed by the Head of Internal Audit

Date: 10 June 2022

Mandatory Checks

Ward Councillors notified: NO, as it impacts on all Wards

(Harrow Weald Ward Councillors have been informed because these proposals relate to two specific schools. However, pupils attending Harrow's Special Schools, including Kingsley High School, live in all parts of the Borough and travel to school)

EqIA carried out: YES

EqIA cleared by: Shumaila Dar

Section 4 - Contact Details and Background Papers

Contact: Rajeshree Parmar, Head of School Organisation, Admissions and Attendance, People Services, email:

raj.parmar@harrow.gov.uk

Background Papers: None

Call-in waived by the Chair of Overview and Scrutiny Committee

NO