

## **Cabinet – 14 December 2022**

### **Special Educational Needs Sufficiency**

**Portfolio:** Councillor Mark Statham

**Service:** Children's and Customer

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1 Aim**

To address the additional need for school places within special schools to ensure there are sufficient school places for resident children who want a school place.

A local authority has a general duty, under section 14 of the Education Act 1996, to secure that there are available, in its area, sufficient schools 'in number, character and equipment to provide for all pupils the opportunity of appropriate education'.

The aim of this report is to provide an overview of the current position and short, medium- and long-term options to support the Special Educational Needs and Disability (SEND) specialist provision planning within the Local Authority. The creation of these additional places will enable Walsall Children and Young People (CYP) to be fully supported within their home local authority.

#### **2. Summary**

This report looks at the need for specialist school places in Walsall over the next 5 years. These are places in Special schools and in Additional Resourced Provisions (ARPs) that are attached to mainstream schools for children and young people with Special Educational Needs and Disabilities (SEND).

There are short term pressures that need to be addressed for September 2023 and it is proposed that this is achieved through adaptations to schools and the creation of ARPs in mainstream schools.

In addition, there are longer term pressures to meet the forecasted shortfall of places in Walsall which also needed to be addressed.

### **3 Recommendations**

- 3.1 That Cabinet notes the potential increase in the numbers of Special Educational Needs (SEN) places in Walsall that is required.
- 3.2 That Cabinet approve providing additional SEN school places across the borough.
- 3.3 That Cabinet delegate authority to the Executive Director: Children's and Customer, in consultation with the Portfolio Holder for Education and Skills, to enter into agreements up to the values noted in 4.5 for the creation of Specialist Resourced Provision at mainstream schools at a cost of £2,480,000 and 4.11 and for feasibility studies for the permanent expansions at a cost of £500,000.
- 3.4 That Cabinet approve the creation of additional places within the Education Development Centre (EDC) as part of the Oakwood School by creating a satellite provision creating an additional 140 places at a cost of £1,140,000.

### **4. Report detail**

- 4.1 The ongoing focus of the school organisation service is to review the requirement for specialist SEND places across the borough in terms of pupil place planning and future proofing our place requirement. Working closely with the Inclusion Service, a five-year plan is being created to ensure our statutory responsibility for having sufficient school places is met.

The Council has seconded two primary school head teachers to support with the specialist provision planning and the requirements for additional pupil places across the borough.

Together with officers they have coordinated a specialist provision working group of head teachers and other professionals to develop an action plan for specialist provision across the borough.

The work of the special provision review group aims to improve current processes and reorganise current provision to support better outcomes for children and young people (CYP) with SEND in Walsall. The work within this action plan aims to offer short, medium, and long-term solutions. The expectation is that this work encompasses all sectors; education, health and social care and is co-produced with CYP and families working to the '*better together*' principle.

The action plan is divided into clear themes that all interweave and have equal importance to the overall vision of improving outcomes for CYP with SEND.



4.2 Each of these key strands of work can be grouped into two themes - the protocols to support inclusive practice and the review of specialist settings.

**Inclusive Practice:**

The equity of inclusive practice across the Borough is the highest priority. This is essential for the whole the education sector from early years to post 16 to ensure we are preparing our CYP adequately for adulthood. Much of this work will involve reinforcing the SEND Code of Practice (CoP) and establishing clear protocols, support, and pathways for all partners, including health and social care to support mainstream settings with the full inclusion of CYP with SEND. Working collaboratively with partners will allow greater opportunities to work in a more coordinated and efficient way.

**Review of Specialist Settings:**

Whilst our inclusive vision and the legal presumption is that all children including those with SEND have a right to mainstream education, we must ensure that children with significant and complex SEND can attend a specialist setting in a timely way. A review of current specialist places (special schools and resourced provisions) will focus on the immediate and future needs. An accurate picture of the data will enable provision to support the needs of CYP in the short, medium, and long term. This will also include a full review of out of borough places that are used for SEND placements.

The review looked at options based on the forecasted demand for places and included:

- Reviewing current gap in designation, type of need and age ranges of provisions ranges
- Exploring options for mainstream schools to establish specialist provision within their schools through resourced provisions and hubs
- Exploring satellite site provision for special schools
- Reviewing the number of pupils at out of borough provisions with aim of reducing that need
- Reviewing capacity of existing provisions and commissioned numbers and options to increase
- Ensuring equity across localities

The table below indicates different types of provision that could be further developed across Walsall over the next five years:

Special Resourced Provision (SRP)	Special Unit Provision	Satellite Provision	Hub Provision
<p>CYP remain on roll of the mainstream school.</p> <p>Commissioned numbers are agreed.</p> <p>SRP tend to provide for a specific need such as speech, language, and communication needs (SLCN), hearing or visual impairment (HI/ VI) or autism.</p> <p>In SRP pupils spend most of their time (usually over 50% of their timetable) in mainstream classes.</p>	<p>CYP remain on roll of the mainstream school.</p> <p>Commissioned numbers are agreed.</p> <p>Unit provision tend to provide for a specific need such as speech, language, and communication needs (SLCN), hearing or visual impairment (HI/ VI) or autism.</p> <p>Pupils in a Unit spend most of their time in their unit base, only attending mainstream classes for a few lessons, such as PE, for assembly or for lunch.</p>	<p>CYP remain on roll of the designated special specialist school and are part of the specialist schools commissioned numbers.</p> <p>The location of Satellite provision is located as a standalone building.</p>	<p>CYP remain on roll of the designated special specialist school and are part of the specialist schools commissioned numbers.</p> <p>The location of Hub provision is co-located on the site of an existing school.</p>

The outcome of this review has indicated that mainstream schools are keen to support the development of SRPs where the pupils will spend most of their time in mainstream classes, but have access to a dedicated resource area within the school for specific needs. This provision supports the principle of pupils having a right to mainstream education as a presumption.

### 4.3 Pupil Place Requirement

The pupil place requirement for SEND places is broader than just Walsall and indeed the Black Country; it is an increasing need for many Local Authorities. There continues to be increased demand for specialist school places and increased levels of SEND needs across the region and nationally. The reasons underpinning this are multi-faceted including improved early identification of needs, changing complexity of need and general increased demand.

The impact of this is that local authority areas may not have the sufficient or appropriate provision and capacity to deliver specialist support in their area and children may need to be educated in out of borough commissioned high-cost independent settings that may not always be able to deliver good outcomes nor be value for money.

Following a detailed review and analysis over the last 3 years, forecasts indicate that Walsall is likely to see an annual demand growth of 6.3% of statutory assessments, which in turn will lead to a need for additional specialist places across the borough. This has considered fluctuations because of the pandemic.

The table below shows the predicted number of specialist SEN places needed by type of need:

	Sept. 2022	Sept. 2023	Sept. 2024	Sept. 2025	Sept. 2026	Total
Cognition and Learning Needs (complex/SLD)	+ 26	+21	+22	+24	+24	+117
Cognition and Learning Needs (MLD)	+36	+29	+31	+33	+35	+164
Social Emotional Mental Health Needs	+40	+32	+34	+36	+38	+180
Sensory and/or Physical Needs	+7	+6	+6	+6	+8	+33
Communication and Interaction Needs (includes Autism)	+64	+51	+54	+58	+61	+288
Total number of places	+173	+139	+147	+157	+166	+782

#### 4.4 Current Position

For the majority of CYP, a mainstream education would be the most appropriate provision, however where needs are more complex and significant, a specialist setting may be an option. Consideration of additional ways to support CYP with an EHCP to remain in mainstream provision is one of the key themes in the action plan.

The school organisation team worked with IFM within the Corporate Landlord service to commission work from an external architect company to undertake desktop feasibility studies, to establish the number of places each school can accommodate based on the ambulant and non-ambulant requirement of children within the school.

The architects, alongside the school organisation team will then review the current arrangements model of our special schools and consider how the existing spaces could be utilised in other ways to create more places within the current school footprint. They will also evaluate the site to determine if an expansion would be possible – considering any site constraints e.g., ground problems/mineshafes, highway implications etc.

Discussions regarding the immediate need from September 2022 have taken place with individual schools and an additional 107 places have been commissioned across special schools and the creation of SRPs in some mainstream schools.

Whilst the 107 places created so far does not meet all of the forecasted shortfall for September 2022, the forecasted demand is for the whole of the 2022/23 academic year, so plans for additional places are included in the medium-term solutions below.

## 4.5 Medium Term Solutions

School	Comments	Potential Commissioned Numbers
Lower Farm	Could provide SRP for SEMH, potentially from Sept. 2023.	8
Meadow View	Keen for supporting requirement (AS), would need capital investment	12
Blue Coat I & J	Keen for supporting requirement (AS), would need capital investment	16
New Invention Juniors	Keen for supporting requirement (AS), would need capital investment	16
Moorcroft Wood / St James	Potential for (AS) - space available	8 + 8
Joseph Leckie	Could provide SRP/satellite Elmwood	14
Pinfold Street	Space available – need training – Sept 23	8
Elmwood/Seeds	Potential for specialist post-16, would need capital investment	18
Fibbersley	Keen for supporting requirement (AS) – space available Option for Easter 2023	8
Whitehall N & I – CD	Keen for supporting requirement (SEMH) – space available Option for Autumn 2023	8
		124 places

These opportunities have the potential to create a further 124 places for the 2023/24 educational year onwards.

The estimated capital cost of providing these SRP places is approx. £20,000 per pupil. It is proposed that detailed design solutions at each school are developed and approval is sought for the Executive Director: Childrens and Customer to agree the scope of each project on a school by school basis up to a maximum of £2,480,000 (based on £20,000 per pupil x 124 pupils) The recommendation at section 3.3 seeks approval to for these works.

The school organisation team are also working with primary schools who may have forecasted reduction in pupil numbers resulting from falling birth rates which could result in reduced admission numbers from 2024. Future reductions in admission numbers could potentially provide further opportunity for SEND SRPs places.

## 4.6 Long Term Solutions

In assessing the options for place creation in the longer term, the school organisation team and corporate landlord have considered the potential for the permanent expansion of existing special schools and opportunities within the council property portfolio to repurpose buildings to create new provision.

Currently, our special schools have specific designations for the type of need they meet – we will address this over time, aiming to have generic provisions where appropriate (whilst avoiding dilution of specialisms). This has been included in a Free School application that has been submitted to the DfE to create an all age, all need special Free School suitable for 312 children.

Successful local authorities will be contacted in late Autumn 2022 to early Spring 2023.

There are a number of options on how the remaining forecasted specialist places could be delivered.

These include:

- Additional SRP places in mainstream schools
- refurbishment and expansion of our special schools eg Elmwood and Phoenix SEMH schools
- refurbishment of the Education Development Centre (EDC) to continue to provide highly complex SLD provision as a satellite site to Oakwood Special School.
- refurbishment of existing assets/sites – either through delivery of an awarded DfE Free School or through the Council running a presumption competition for a new school (see below)

The Free School presumption process is the route an LA can take to opening a new school in their area. The process sits apart from the central ‘Waves’ undertaken by DfE and is conducted by the LA, with the final decision being made by the Regional DfE Director on behalf of the Secretary of State.

The process involves, at minimum, the publication of an invitation to submit proposals from interested proposers, along with a school specification to enable them to submit the strongest proposal possible.

The LA then assesses proposals, interviews shortlisted organisations and can undertake visits to other schools operated by the candidate organisations. Final assessments and recommendations of the preferred ‘sponsor’ are then agreed by cabinet before being submitted to the Regional DfE Director for a determination, who will take advice from the regional Advisory Board. The appointed sponsor must then undertake Pre-opening requirements including a public consultation, finalising admission arrangements, articles of association and school policies, recruitment etc.

The suggested timescale to undertake a presumption process is 18 months to two years. This would normally run in parallel with a construction scheme for the building of a new school, or refurbishment of existing premises.

The implications of a presumption Free School are:

- the new school will be an Academy school, outside of LA control;
- the LA must provide the site and capital costs for the new school and the revenue costs of the new provision (including pre- and post-opening costs for development and diseconomies of scale);
- The LA must also underwrite pupil forecasts agreed with the Academy Trust to reassure the DfE of the financial viability of the new school.

4.8 In summary, the potential additional places created could be:

- SRPs – 59
- SEMH school expansions – 40
- Oakwood expansion at EDC – 140
- Free School or Presumption School – 312

4.9 As part of the longer term planning for the expansion of Oakwood School into the EDC on a permanent basis from September 2024, some additional remodelling of the existing building is required for the September 2023 academic year.

Currently the EDC has approx. 90 pupils from Oakwood School in refurbished office spaces to provide provision for some of our most complex SEN pupils. It is proposed that the remaining parts of the EDC is converted to allow the Oakwood School to operate across 2 sites in Walsall with the EDC becoming a satellite to the main school site from September 2024.

The current EDC building will be included in the feasibility expansion options for all special schools. In the meantime and to accommodate the additional demands of SLD pupils, additional areas of the EDC including the main hall, and other ground floor accommodation require remodelling and refurbishment. The estimated costs are:

Oakwood/EDC	£	Comments/Assumptions
Estimated cost	800,000	Works
Contingency and Risk	160,000	Based on 20% of works
Fees -15%	144,000	Design fees and Corporate landlord oversight
FFE & ICT	36,000	£4500 per class Furniture & Equipment and £300 ICT per pupil
<b>Total</b>	<b>1,140,000</b>	

It is estimated the cost of the works at the EDC will be approx. £1,140,000 and the recommendation at section 3.4 seeks approval for this funding.

4.10 Where appropriate, legal changes to the structure of schools will be required. These take the form of ‘prescribed alterations’ for maintained schools and ‘significant change’ processes for Academy schools.

Depending on the nature of the changes to be made at each school, ‘prescribed alterations may require a statutory proposal and notice to be published, followed by a statutory representation period, with a limited window for determination of the proposal following.

The Academy ‘significant change’ process involves consultation with key stakeholders and the submission of a ‘fast track’ or ‘full business case’ application, depending on the size and nature of the change, to the office of the Regional DfE Director for approval.

The LA will work with Academies to ensure that appropriate authorisation is secured from DfE.



4.11 Depending on the progress and delivery of the SRPs, it is possible that additional school expansions at existing special schools may be necessary to meet the forecasted demand, therefore it is proposed to undertake formal expansion feasibilities across all special schools to establish the potential for each school and site to be expanded. It is estimated the cost of these feasibilities will be approx. £500,000 and the recommendation at section 3.3 seeks approval to move to this stage.

4.12 This provision, based on the proposed sites, will benefit children and families as we will have a wider geographical spread of available places. It complements our offer available to children and families, supporting our wish to meet parental preference where possible, for children living and being educated in their local community.

Increasing the number of places available over time will allow us, at appropriate times, to bring children in 'out of borough' places back in to borough, delivering associated cost savings including on transport and to ensure that we have all children in the right place at the right time – so for children affected by a current shortfall of places, who are in mainstream but really need a specialist provision, we will be better able to meet need.

Pressure on special schools will be eased and schools who are sometimes forced to go over commissioned number, with a negative impact on their budget and on pupil outcomes will not have to do so with the additional space created, and when we can meet need appropriately, opportunities would be available for commissioning from neighbouring local authorities.

The high-level review and cost estimates were undertaken to look at the potential numbers of pupils that could be accommodated within the council's portfolio of buildings.

## **5. *Council Plan priorities***

Providing sufficient special school places in the borough is in line with the council corporate plans, to ensure children and young people have access to high quality education and training opportunities and that schools are more inclusive.

## **6. *Risk management***

The provision of additional places will enable the Council to meet its statutory duty to ensure that there are sufficient school places to meet the increasing demand for special school places in the area and will create a greater opportunity for children to attend a local school, this in turn will reduce the costs of transport for children attending out of borough placements.

## **7. *Financial implications***

7.1 HNPCA is a non ringfenced grant given under Section 31 of the Local Government Act 2003, by the Department for Education (DfE) to Local

Authorities (LAs). The purpose of the funding is to support LAs to deliver new places and improve existing provision for children and young people with SEND, particularly those with needs that are more complex and those who require alternative provision.

In order to make up the shortfall of 782 special places over 5 year period, There are short, medium term and long term solutions for the number of places as listed below:

Solutions for SEN places	Places
Immediate places commissioned	107
Medium Term Solutions	124
Long term Solutions	551
Total SEN places	782

Immediate places commissioned do not incur any capital expenditure, however, the medium-term solutions and long-term solutions require the total investment around circa £20m which is combination of HNPCA grant funds (£10.4m) and remaining amount (£10m) requested from the pipeline as part of the capital programme (please see below for details).

The estimated capital cost for medium term solutions is £2,480,000 (based on £20,000 per pupil x 124 pupils) (The recommendation at section 3.3 seeks approval for these works.)

As part of the long-term planning for the expansion of Oakwood School into the EDC on a permanent basis from September 2024, some additional remodelling of the existing building is required for the September 2023 academic year. The estimated capital cost to carry out EDC expansion is £1,140,000 (The recommendation at section 3.4 seeks approval for these works.)

- 7.2 The total available confirmed grant funding for HNPCA is summarised in the table below:

<b>Allocations</b>	<b>High Needs Capital Allocation (HNPCA)</b>
Carry Forward of Grant Allocation 2021/22	£1,321,195
Grant Allocation 2022/23	£4,712,865
Confirmed Grant Allocation 2023/24	£4,365,293
<b>Total Funding Available</b>	<b>£10,399,353</b>

**Note:** Funding beyond 2023/24 will be dependent on the commitment from central government to provide SEND places and has not been confirmed.

- 7.3 An additional bid for capital funding to support the current SEND places need within the borough has been submitted to the Strategic Investment Board (SIB) for £10m to support the long-term plans outlined in this report as the available HNPCA is not sufficient.

- 7.4 This is linked to the LA submitting a bid for a special free school, to provide SEND places at a new school site, Should Walsall succeed in securing this bid, It would ease the pressures off on both, the HNPCA funding and any additional capital asks from Pipeline Capital Funding (Council funds).
- 7.5 Existing Specialist School Alterations/Expansions:

This report also encloses the details of previous Special School expansion projects (Cabinet on the 20 March 2019 approved the recommended expansions for capital works funded by Basic Needs)-The schools and their expansion status are listed as below:

School Expansion	Cabinet Approved Date	Total Approved Budget	Project Status
Castle Business & Enterprise College	19/06/2019	£4.002m	Complete
Mary Elliot	20/03/2019	£2.176m	On Hold – Interim Solution*
Oakwood	20/03/2019	£2.566m	On Hold – Interim Solution**
Old Hall	20/03/2019	£2.387m	Complete
Shepwell	20/03/2019	£2.202m	Complete
<b>Total Approved Budgets</b>		<b>£13.333m</b>	

- **\*(£2.176m) Mary Elliot Special School** (Status- on hold)-

In September 2021, an additional 30 places were created within the school through remodelling and reconfiguration this created 140 commissioned places **for circa £300,000**. The remaining budget for Mary Elliot Special School as previously approved at Cabinet now stands at £1,876,000.

- **\*\* (£2.566m) Oakwood Special School** (Status- on hold)- An extension of Oakwood Special School was created via a satellite provision at the Education Development Centre (EDC) this has been executed in three phases as below:

1. **(£198k)**- In 2020/2021 the school was commissioned for 100 pupils (Reception – Year 6)
2. **(£240k)**-In 2021/22 this increased to 130 commissioned places (Reception – Year 6)
3. **(£400k)**-In 2022/23 this increased to 150 commissioned places to include Year 7 pupils (Reception to Year 7) - £400,000

The remaining budget for Oakwood Special School now stands at £1,728,336 after deduction of the commitments as above.

- **(£1.426) Jane Lane Special School** (Status- Revoked and aborted)

Monies have already been transferred back to Basic Needs (not included in the table above)

Overall, these expansions (Mary Elliot and Oakwood) totalling £4.7m currently have circa £1m of expenditure for interim temporary solutions to provide SEND places from September 2022. It is expected that these schemes will be revoked/amended which will return circa £3.7m to the Basic Need grant available for school expansions.

7.6 Historically there have been significant risks associated with increased costs for existing school expansions. The contingency level for Walsall is currently set at 20% of the estimated costs as a basis and would be monitored as each scheme progresses.

7.7 The revenue costs of providing / supporting all special school places and high needs provision that are available and required are funded through the High Needs Block of the Dedicated Schools Grant (DSG) funding that the authority receives.

7.8 For the detailed appraisal of each site to be undertaken feasibilities will need to be instructed, the total cost for this will be approximately £500,000. As with any feasibility it is possible that a site may be deemed unsuitable and therefore this would be an abortive cost.

In this instance, any preliminaries cost including design fees, planning fees and feasibilities cost will be written off and these costs will be funded from a corporate reserve identified specifically for this purpose.

7.9 High level pre-feasibility study has been commissioned for the EDC to ensure that the capacity and costs noted are as accurate as possible.

7.10 Costs will not be known in their entirety until a decision has been made as to whether the Free School bid has been successful, however following the feasibilities a more detailed idea of costs will be known.

## **8. *Legal implications***

8.1 Failure to provide places would cause a breach of statutory duty

8.2 Where a SEN provision is provided to a non-maintained school/s additional grant agreements and potentially variation to leases, Academy, will be required

8.3 If Cabinet approves the recommendations of this report, legal advice will be taken about educational and planning issues and consents arising together with the contractual arrangements for any subsequent design and build work, plus any related supplies of goods and services as part of the full feasibility study.

**9. Procurement Implications/Social Value**

There are no direct procurement implications from this report but any resulting procurements will be carried out in compliance with the Council's Contract Rules and the Public Contracts Regulations.

**10. Property implications**

There are no direct procurement implications from this report but any resulting procurements will be carried out in compliance with the Council's Contract Rules and the Public Contracts Regulations.

**11. Health and wellbeing implications**

In relation to the Marmot principles the most relevant principles in line with pupil place planning with school builds is that enabling all children and young people to maximise their capabilities and to have control over their lives

**12. Reducing Inequalities**

It is of crucial importance to the Council's strategic objectives that the young People of Walsall can access the right provision to meet their need to achieve the appropriate qualifications, progressing to employment and / or training and to make a positive contribution within the Borough in the future.

**13. Staffing implications**

There may be a requirement for schools to employ additional staff to accommodate the larger numbers of pupils, there will be no redundancies from this scheme.

**14. Climate Impact**

Corporate Landlord will review each scheme to reduce the carbon footprint which may include renewable heating solutions, natural ventilation systems avoiding air-conditioning sourcing carbon neutral materials where possible

**15. Consultation**

This paper has been brought to Cabinet following internal consultation with Council representatives, directors and the portfolio holder for Children's Services, wider consultation is not required.

**16. Decide**

The increase of places at special schools is necessary for the Local authority to meet its statutory duties of providing sufficient school places for all Walsall residents.

## 17. Respond

Subject to approval, works will begin to undertake the necessary requirements to enable the school to admit the pupils from September 2023, this work may be ongoing for some schools passe September 2023 for future proofing.

## 18. Review

Annual reviews of the pupil projections are due to be included in the annual School Capacity (SCAP) survey which is submitted every July for mainstream places.

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25<sup>th</sup> November 2022



Councillor Statham  
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5<sup>th</sup> December 2022