



## CABINET

**5 JULY 2017**

**Subject Heading:**

**Proposal for a new special free school in Havering**

**Cabinet Member:**

**Councillor Robert Benham**, Cabinet Member for Children & Learning

**SLT Lead:**

**Tim Aldridge**, Director Children's services

**Report Author and contact details:**

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**Policy context:**

The Children and Families Act 2014 gives local authorities a number of statutory responsibilities relating to special educational needs (SEN), which are set out in the SEND Code of Practice and which include a role in securing suitable educational provision for children and young people with SEN who live in their area

**Financial summary:**

Competition process likely to cost around £2k, funded from School Organisation Revenue Budgets.

Provides opportunity to attract capital and start-up grant funding, from DfE to fund a new special school with estimated costs of £10m. Revenue funding for the school once built would be via the DfE and Havering's High Needs Block of the DSG.

**Is this a Key Decision?**

Expenditure of £500,000 or more

**When should this matter be reviewed?**

November 2017

**Reviewing OSC:**

Children and Learning

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

<b>SUMMARY</b>
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An executive decision was taken in November 2016 to approve that the Local Authority submit an expression of interest (EOI) for a new special free school in Havering. This EOI form was for local authorities that would like a new special school. If the EOI was successful, the opportunity would be advertised nationally, and if a strong proposal came forward that both the local authority and the Secretary of State wish to take forward, the DfE would provide capital and start-up grant funding, subject to value for money assessments covering both the affordability of the site solution and the limitations on overall capital availability. This opportunity is intended to identify and meet untapped demand for special free schools as a supplement to LA's existing resources.

On the 12 April 2017, the DfE notified Havering that the Secretary of State for Education had decided that its expression of interest to establish a special free school should proceed to the next stage of the process (Appendix 1).

The Local Authority has submitted the specification template (Appendix 2) to review and agree. Once the Regional School Commissioner has agreed the specification the Local Authority will then need to publish the template on its website so that proposers can respond. A timetable for the competition, assessment and interview stage is provided in the report detail below.

<b>RECOMMENDATIONS</b>
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1. To approve the proposal to seek a free school proposer for the establishment of a new special free school for 60 children with Communication and Interaction Needs (C&I) and Social, Emotional and Mental Health (SEMH) in the age range 3 to 16, on the site of Century Youth House, Albert Road, Romford RM1 2PS. The opportunity to offer respite provision and short breaks at the new facility will be taken forward with the successful proposer.

2. To delegate all further decision making on the process necessary to complete the establishment of the new school, including approving the final proposer and any property transactions to the Director of Children Services, after consultation with the Lead Member.

<b>REPORT DETAIL</b>
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1. The Local Authority submitted an expression of interest (EOI) for a new special free school in Havering in November 2016. This EOI form was for local authorities that would like a new special school. It allows the Authority to make a case that a special school would be beneficial in its area, including a case that it would help meet demographic growth, changing patterns of need, and cost pressures, without reducing inclusion. It provides RSCs (Regional School Commissioner) with the initial information they need to understand what is wanted and why.
2. The DfE notified Havering on 12 April that the EOI was successful and is now progressing to the next stage which is to complete the specification template and the EIA. The specification template was submitted to the DfE on the 2 June 2017 to be approved by the Regional Schools Commissioner (RSC)
3. The approved completed specification template then forms the basis to advertise the opportunity nationally.
4. Currently the DfE is aware that the Council's commitment to the process is subject to internal approval by Cabinet. Once the specification is finalised and advertised for proposers, the Council could only withdraw from the proposal with the DfE's agreement if it could evidence a change of circumstances such that a new school was no longer required. Given the substantial grounds for a new school to meet local need it is unlikely that it will be possible to evidence any change of circumstances sufficient to revoke the process.
5. The site identified for the new school is the Century Youth House, Albert Road, Romford RM1 2PS. The site is currently leased to Olive Academy on a 2 year lease expiring 1/9/2018, with a landlords break any time after 1/9/2017 with one month's notice.

**Process and timeline**

6. It is anticipated that proposals will be advertised in September 2017. Four months will be given for any responses, so it is likely that evaluation by the Council of any applications will commence before January 2018. Detailed evaluation will be undertaken in accordance with the assessment criteria which will be provided by the DfE. A two-stage process will be followed to determine the preferred provider for the new special free school, comprising

of an evaluation of the written application, followed by an interview for shortlisted proposers. Where appropriate, the panel may choose to visit a school currently run by the proposer group.

7. The DfE and the local authority will determine a preferred provider, after which a submission will be made to the Regional Schools Commissioner (RSC), acting on behalf of the Secretary of State for Education. This will include an assessment of all proposals received in order to assist the RSC in their decision.
8. The RSC will carefully consider the submission and, with the local authority's agreement, will then make a recommendation to the Secretary of State for Education who will make the final decision.
9. Once a decision has been made, the local authority will work closely with the proposer and the DfE to conclude the development and operation of the new school.
10. Between 2015/16 and 2020/21 the Local Authority is projecting an increase of approximately 80 pupils with an EHC plan or statement of special educational needs listing C&I needs as the primary SEN type over that period. There are currently 79 pupils attending out of borough special school across all age groups. The majority of the pupils have Autistic Spectrum Diagnosis (ASD) (23) Speech, Language and Communication Needs (9) and social emotional and mental health needs (22). There are a range of reasons why out of borough placements are required, it can be because educational needs cannot be met locally but also there are social care needs which mean lack of capacity and availability of residential and foster placements are a factor.
11. The new school will create provision for the increased need for SEN places and for some of those pupils in out-borough provision to return to Havering. The new special school will be a co-educational, 3-16 school for 60 places for SEN pupils with C&I and SEMH needs.
12. The site being earmarked for this new school is the same site which the Local Authority has requested permission to dispose in order to replenish the capital contingency following the funding of works as part of the PRS (Pupil Referral Service) transition plan. Whilst this will impact the available funds for the PRS project, the opportunity to secure significant capital funds for the new free school (well over £10m) significantly outweighs the potential receipts from the disposal of the Century Youth House site (£1.2m), and the PRS project will be reviewed to reduce costs as far as possible.
13. The basis of the DfE approval is that the site is provided by the Council. The DfE then grant fund and procure any building works required to provide the new school.

<b>REASONS AND OPTIONS</b>
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**Reasons for the decision:**

14. Currently 913 pupils (2.3% of the overall school population) have been assessed by Havering as having more complex SEN, requiring statutory statements of SEN or Education, Health and Care (EHC) plans (January 2016 School Census), and are being educated in mainstream or special schools. Havering must make and fund provision to meet the special educational needs set out in statements and EHC plans, funded using its high needs budget. Although there is a general presumption in law that pupils will be educated in mainstream schools, special educational needs may be met in a wide range of settings, including early years settings; mainstream schools and Academies; resourced provision and special units attached to mainstream schools; special schools and Academies; independent and non-maintained special schools; FE colleges; and specialist post-16 institutions.
15. The Local Authority is projecting an increase of over 20% in the number of pupils being assessed by Havering as having more complex SEN such as C&I needs and SEMH. It is not possible to accommodate this increase at existing facilities so a new site and building are required.
16. There is a need to ensure that there are sufficient ASD and SEMH places in borough so that reliance on high cost specialist provision out of borough is reduced. The new school will create provision for the increase in need for SEN places and for some of those pupils in out-borough provision to return to Havering.
17. Although the Council has already earmarked some funds within the phase 3 and 4 expansion programme to provide some SEN places there is insufficient funding to provide for a new special school. The opportunity provided by this bid to attract additional funding is a very welcome one.

**Other options considered:**

18. Alternative sites - At the time of submitting the original EoI, no other sites were viewed as suitable for a number of reasons, and it was agreed that Century Youth House would be included, despite the issues over the potential receipts from disposal. Further consultation with Strategic Property Services confirms that Century Youth House remains the preferred site, as all other sites are not deemed suitable due to a number of reasons. If an alternative was to be considered, they would need to have the case worked up and a decision then taken, and there is a risk that many sites would fall

away in that process, and the DfE need absolute certainty of the site before we can enter into the competition phase of the process.

19. Do nothing - This risks the Authority not being able to fulfil its statutory duty to provide suitable, sufficient education for the children it is responsible for. It also risks the Authority not gaining significant capital investment.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

#### **Capital**

20. If a strong proposal comes forward for the special school that both the local authority and the Secretary of State wish to take forward, the DfE will provide capital and start-up grant funding, subject to value for money assessments covering both the affordability of the site solution and the limitations on overall capital availability.
21. The opportunity provided by this bid to attract additional funding is a very welcome one. The cost of building a special school is well over £10m.
22. Although the Council has already earmarked some funds within the phase 3 and 4 expansion programme to provide some SEN places (e.g. in ARPs) and has received a special provision fund allocation of £2,572,158 there is insufficient funding to provide for a new special school.
23. The Century Youth House Albert Road site which is named in the bid as the location for the special school had previously been approved for disposal. The receipts have been earmarked for the Havering Pupil Referral Services initiative (Project Code A2382) which is part of the phase 3 expansion programme approved by full Council as part of the 2017/18 Capital Programme. If the site is not disposed of, alternative receipts would be used to finance the phase 3 expansion scheme resulting in less receipts available for future capital schemes.

#### **Revenue funding**

24. The current revenue funding arrangements are that the provider will receive £10,000 per place and will charge the local authorities that commission the provision a rate per pupil. This rate would normally be the rate that main commissioning LA (in this case Havering) pays its other special school providers in the area. In Havering this will be on the basis of a matrix of special need that currently ranges from £0 to £20,291 above the £10,000 depending on the assessed level of need. A second top up per pupil is also

allocated for running costs of between £4,000 and £5,000 depending on the school. Pupils placed at the new school are likely to be at the higher level of need and will therefore attract top up funding of either £20,291 or £15,989, plus the second top up for running costs.

25. The £10,000 per place will be met by the Education Funding Agency (EFA) and the per pupil top up funding by the commissioning LA from its Dedicated Schools Grant (DSG) High Needs Block. Currently there is no recognition for growth within the allocation of High Needs Block funding from the EFA to LAs but the Department for Education is consulting on a revised formula that will take into account both population growth in LAs and through funding factors that are consistent with high need.

**Legal implications and risks:**

26. Section 6A Education and Inspections Act requires the Local Authority to seek proposals for the establishment of an Academy where they think a new school needs to be established in their area.
27. The Authority must specify a deadline for submission of proposals, which, in order to be fair, must give sufficient time for proposals to be developed. They must also ensure that the proposal is advertised sufficiently widely to ensure that the widest possible range of groups or organisations which might be interested in setting up the school have the opportunity to make a proposal.
28. The Local Authority is responsible for providing the site for the new school and meeting the associated capital costs, although in this case it is hoped that grant funding will be available from the DfE.
29. The non-statutory guidance on the free school presumption provides that once the need for a new school has been identified the Authority must follow through the process to submission of suitable proposals to the Secretary of State, unless the circumstances have changed so that there is no longer a need for a new special school, and then only with the Secretary of State's permission.
30. It is understood that the Secretary of State has confirmed that if a sponsored proposal is approved then capital funding will be provided for the build and set up costs. If the Secretary of State fails to provide this (e.g. if there is a new government policy) then the Council's options would have to be considered at the time.

**Human Resources implications and risks:**

31. The Human Resources implications and risks involved in establishing a maintaining a special free school will be managed by the provider.

32. There will be a need to recruit specialist teaching and support staff to meet the complex needs of children within a very broad age range in full compliance with safer recruitment standards. The provider will also need to ensure that they are sufficient qualified staff should they provide residential care, ensuring that CQC standards are met.
33. These requirements are within the context of growing difficulties in recruiting to teacher posts within Havering generally and consequently the provider may need to consider that additional resources and a longer recruitment timescale may be required to fill all vacancies.
34. The Havering Education HR service will provide the necessary support, subject to the purchase of relevant services.

**Equalities implications and risks:**

35. As part of the planning process for new schools, local authorities must also undertake an assessment of the impact of the proposal, both on existing educational institutions locally and in terms of impact on particular groups of pupils from an equalities perspective.
36. The Equalities Impact Assessment is attached as Appendix 3.

<b>BACKGROUND PAPERS</b>
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None.