



## CABINET

**Subject Heading:**

**Proposal for the new special free school on St Edward's Church of England Academy site.**

**Cabinet Member:**

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

**SLT Lead:**

**Tim Aldridge**, Director Children's Services.

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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:**

Requirement of £400k from the Special (SEN) provision fund capital allocation, and £400k from Capital Contingency Budget.

**Is this a Key Decision?**

Expenditure of £500,000 or more.

**When should this matter be reviewed?**

April 2020.

**Reviewing OSC:**

Children and Learning.

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

Communities making Havering

Places making Havering

Opportunities making Havering

Connections making Havering

***Place an X in the [] as appropriate***

**SUMMARY**

On 29<sup>th</sup> March 2018, the DfE announced that Unity Schools Partnership Trust (previously known as Samuel Ward Academy Trust) were successful in the competition process to become the successful proposer to establish a special free school in Havering.

As part of the bid, the Local Authority (LA) had to identify a site to open the special free school, and The Albert Road site was proposed for the new school. The prerequisite of approval of this special free school was that the LA were required to provide a suitable site on a 125 year peppercorn lease. The ESFA will fund the construction of the new special free school only, estimated at £8.5m.

However, during a meeting with the ESFA on 20<sup>th</sup> December 2017, it was established that the Albert Road site was too small to deliver the new special free school proposed in view of potential planning and transport considerations. This meant that in order to deliver the new special free school, an alternative site had to be identified as soon as possible. This means that the Albert Road site is not required for the special free school, and the future of this site will be the subject of future Cabinet reports.

A briefing paper was presented to members on possible options for alternative sites, and a decision was taken by the Leader of the Council and the Cabinet Member for Children and Learning to put forward the Gaynes secondary school site as an option for the new special free school.

A request was sent to the ESFA to conduct a feasibility study on the Gaynes secondary school site on 5<sup>th</sup> February 2018. This feasibility study identified a preferred option that would enable the new special free school to be built, however the remedial cost associated with this option was £2.1m and which did not represent value for money to the Council.

Therefore, in February 2019 it was decided that there was a need to identify a further alternative option that could provide the site needed to facilitate the building of the new special free school in Havering.

On 1<sup>st</sup> April 2018, St Edward's Church of England Academy joined the Unity Schools Partnership Trust (known at that time as Samuel Ward Academy Trust). Therefore, once the Gaynes secondary school site option had been discounted, it was decided that an appropriate further alternative option to investigate would be the siting of the new special free school on the St Edward's Church of England Academy site, as both share the same Academy Trust.

The St Edward's Church of England Academy site was not previously considered as a potential site for the new special free school. When the Albert Road site was discounted in December 2017, this was prior to Unity Schools Partnership Trust being announced as the successful sponsor of the new special free school and the Trust taking on St Edward's Church of England Academy. At that time, the sequential test identified the Gaynes secondary school site as an alternative

option. This was because the majority of secondary schools in Havering are Academies, and the land under their control is leased from the DfE on a long term lease, therefore the reallocation of a part of a site which is occupied by an Academy for development by another educational institution would require renegotiation of the lease, the consent of the existing Academy, and possibly compensation. On this basis, existing Academy sites were discounted (including St Edward's Church of England Academy).

However, the Gaynes secondary school site option has been deemed not to deliver good value for money. Unity Schools Partnership Trust sponsors St Edward's Church of England Academy and will be the sponsor of the new special free school, which presents the St Edward's Church of England Academy site as an appropriate alternative option to investigate to enable the establishment of the new special free school.

## **RECOMMENDATIONS**

1. To approve the new special free school to be sited on St Edward's Church of England Academy site, London Road, Romford RM7 9NX
2. To approve additional funding to Unity Schools Partnership Trust for remedial works needed at St Edward's Church of England Academy as a result of using part of the School building for the purpose of a new free school:
  - Re-provision of the music block - £800,000

## **REPORT DETAIL**

### **1. Background**

- 1.1 An executive decision was taken in November 2016 to give approval for the Local Authority to submit an expression of interest (EOI) for a new special free school in Havering. This EOI form was for local authorities that could show demand for 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 wished 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.

## **Cabinet, 17 April 2019**

- 1.2 This opportunity is intended to identify and meet untapped demand for special free schools as a supplement to LA's existing resources.
- 1.3 On the 12 April 2017, the DfE notified Havering LA 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 - invitation of proposals. The Local Authority published the specification template on its website so that proposers could respond. Four proposers submitted applications for the free school and two were selected and interviewed.
- 1.4 On 29 March 2018 the DfE announced that Samuel Ward Academy Trust now known as Unity Schools Partnership Trust had been successful in the competition process, and would be the successful proposer to establish a special free school in Havering.

## **2. Need for SEND places**

- 2.1 London Borough of Havering has seen a considerable increase in its population over the past ten years, particularly, the population of young people, and an increasing proportion of whom have special educational needs and disabilities. Havering is aspirational for all of its children and young people with SEND, which is set out in its pre- and post-16 SEND Strategies. The vision for all children and young people is that they will successfully transition into adulthood, having maximised their potential through having clear outcomes defined in their education, and a plan including work, training and realistic achievable aspirations for their futures.
- 2.2 From 2014 to 2018, the number of Havering children and young people recorded on the DfE SEN2 Census return with a statement/education health care (EHC) plan increased by over 50%. In the Commissioning Plan for Education Provision 2019-2023, the SEND projections published projected the total number of Havering children and young people to have a statement/EHC plan in 2018/19 to be 1406.
- 2.3 However by November 2018, the current caseload of Havering children and young people with a statement/EHC plan was 1489. This shows that even when trying to project what future SEND demand might be, the growth in SEND numbers is increasing at faster rate than forecasted, further underpinning the continuing and sustained increase in growth of Havering children and young people with a statement/EHC plan, for whom additional specialist provision is required.
- 2.4 As at April 2017, 125 of Havering's children aged 5-16 with a statement or EHC plan were placed out of borough (44 of these are high cost placements). Of these, most pupils have Autistic Spectrum Disorder (ASD) and Social, Emotional, and Mental Health (SEMH) needs.

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- 2.5 46% of pupils placed out borough have Communication and Interaction Needs (which includes ASD); while 30% of pupils placed out borough have SEMH needs.
- 2.6 There is a strong case for increasing local school capacity in order to deal with the growth in the number of children and young people with SEND and complex needs, particularly the disproportionate growth in the number of pupils identified with Autism Spectrum Disorder (ASD) and challenging behaviours.
- 2.7 This increasing demand is compounded by the absence of any specialist provision for its children and young people with SEMH needs. There are currently no Additionally Resourced Provision (ARPs) established in Havering to address the needs of children with SEMH. Historically, this has been dealt with by using out-borough placements, however, the current and predicted rates of permanent exclusions from schools suggest that additional places for this group of children and young people in both the primary and secondary sector, is a matter of priority, requiring urgent action.
- 2.8 The LA is continuing to develop Additionally Resourced Provisions in mainstream schools, but there is a risk that this will not meet current demand. Our three existing special schools are at capacity and are already coping with increasingly complex levels need in their intakes, particularly in lower age groups (3 years +). Currently, many of these children and young people end up being educated out of borough at expensive independent and non-maintained provision. This is adding additional pressure on an already overstretched SEND High Needs budget. At present, Havering is sending over 60 pupils with EHCP with ASD and SEMH need to out-borough provision, at a cost of over £1.5m to meet the needs for those children.
- 2.9 Numerous consultations with parents, and children and young people, have shown that families would rather that there is local provision available as part of Havering's Local Offer. This echoes Havering's vision that children can grow up in, and remain, part of their local community. For this reason, the LA has commissioned a new post-16 provision which meets a gap in current local delivery for those with moderate to severe learning difficulties and disabilities. In addition, by creating local provision the LA would also maintain the link to local health services, often when a young person is placed out of borough the access to health support can vary, and can often be expensive further compounding the pressures on already stretched budgets.
- 2.10 A special school focussed on the needs of children and young people aged 3-16 years, would enable the LA to meet the needs of young people with a range of challenging behaviours in a safe and aspirational environment, where they can grow and develop into contributing members of their community. The new specialist school could also help mainstream schools with ARPs to develop their practice and upskill their staff in order to meet the needs of this growing population. It is the LA's view that having local

provision will avoid children having to leave the borough in the future, and will reduce our spend on both our social care and transport budgets.

**3. Site for the new special free school**

3.1 As part of the bid, the LA had to identify a site to open the free special school and The Albert Road site was proposed for the new school.

3.2 However, during a meeting with the ESFA on 20 December 2017, it was established that the Albert Road site was too small to deliver the new special free school proposed in view of potential planning and transport considerations. This meant that in order to deliver the new special free school, an alternative site needed to be identified as soon as possible. This means that the Albert Road site is not required for the special free school, and the future of this site will be the subject of future Cabinet reports.

3.3 A briefing paper was presented to members on possible options for alternative sites and a decision was taken by the Leader of the Council and the Cabinet Member for Children and Learning to put forward the Gaynes secondary school site as an option for the new special free school.

3.4 A request was sent to the ESFA to conduct a feasibility study on the Gaynes secondary school site on 5 February 2018. This feasibility study identified a preferred option that would enable the new special free school to be built on the Gaynes site. However the remedial costs associated with this option were £2.1m, which did not represent good value for money to the Council.

3.5 On 1 April 2018, St Edward's Church of England Academy joined the Unity Schools Partnership Trust (known at that time as Samuel Ward Academy Trust). Therefore, once the Gaynes secondary school site option had been discounted, it was decided in February 2019 that an appropriate further alternative option would be investigated, siting the new special free school on the St Edward's Church of England Academy site, as both share the same Academy Trust.

3.6 St Edward's Church of England Academy was not previously considered as a potential site for the new special free school as when the Albert Road site was discounted in December 2017, this was prior to Unity Schools Partnership Trust being announced as the successful sponsor of the new special free school and the Trust taking on St Edward's Church of England Academy.

3.7 At that time, the sequential test identified the Gaynes secondary school site as an alternative option as the majority of secondary schools in Havering are Academies and the land under their control is leased from the DfE on a long term lease. Therefore, the reallocation of a part of a site which is occupied by an Academy for development by another educational institution would require renegotiation of the lease, the consent of the existing

Academy and possibly compensation. On this basis, existing Academy sites were discounted (including St Edward's Church of England Academy).

- 3.8 However, now that the Gaynes secondary school site option has been deemed not to be good value for money, and Unity Schools Partnership Trust sponsors St Edward's Church of England Academy and will be the sponsor to establish the new special free school, this presents the St Edward's Church of England Academy site as an appropriate alternative option to investigate to enable the establishment of the new special free school. As the Unity Schools Partnership Trust already has a lease of the relevant land there will be no need for any additional lease negotiations.
- 3.9 An initial feasibility report has identified that it would be possible to accommodate the new special free school on the St Edward's Church of England Academy site by demolishing block B the music block at the front of the site and re-providing the music block, either via a new build block or re-providing the music block within existing accommodation – Appendix 1. The Council has to compensate the Academy for the loss of the music block. This has been estimated at £800k.
- 3.10 This option would release the site area required to enable the new special free school to be built on the St Edward's Church of England Academy site in an area separate from the main Academy building, whilst resulting in no loss of provision for the Academy, through the re-provision of the music facilities.

## **REASONS AND OPTIONS**

### **Reasons for the decision:**

Currently, 1006 pupils (2.6% 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 (October 2018 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.

The Local Authority is projecting a continuing increase in the number of pupils being assessed by Havering as having more complex SEND, however as

previously noted the growth in SEND numbers is increasing at a faster rate than currently forecast. As such it is not possible to accommodate this increase at existing facilities so a new site and building are required.

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.

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 estimated cost for the new special free school is £8.5m.

There are several alternative options and the Council will need to balance cost against the other relevant factors including planning and highways and the potential impact on the existing school premises.

**Other options considered:**

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. Without this significant capital investment from the ESFA, the Council does not have the financial resource available to be able to fund a new special school to meet the needs of these children. The Average annual cost (excluding Level 1/2 funding where appropriate) for pupils with ASD/SEMH in out of borough provision is £33,132. As the number of children with SEMH/ASD is set to increase, the cost of sending SEMH/ASD children to out borough provision will only increase further. There are currently no ARPs established in Havering to meet the needs of children with SEMH.

**IMPLICATIONS AND RISKS**

**Financial implications and risks:**

As outlined in the report, the ESFA have agreed to fund the building of a Special school on a site provided by the LA, as a contribution to the scheme. However, in identifying the St Edward's site as the preferred and viable option, other contributory factors have resulted in the LA being requested to make additional £0.800m contribution to enable the successful delivery of the Special school.



Details	ESFA £m	LB Havering			Total Disburse- ments £m
		SEND Capital Grant £m	Capital Contin- -gency £m	Total Contri- -bution £m	
Construction Costs	8.500				8.500
Remedial Costs		0.400	0.400	0.800	0.800
	<b>8.500</b>	<b>0.400</b>	<b>0.400</b>	<b>0.800</b>	<b>9.300</b>

The estimated cost of building a new special school on St Edward’s Church of England Academy site is estimated at £8.5m, being fully funded by the ESFA.

There are several practical options to consider in identifying how to fund the project, should it get the approval to proceed.

- **Basic Needs Funding** – however, the works on St Edward’s Church of England Academy are refurbishment in nature and do not create additional school places, a likely breach of the funding conditions.
- **Special (SEN) provision fund capital allocations:** - Havering has been allocated £4,366,687 from 2018 to 2021 to use towards creating places for pupils with special educational needs and disabilities (SEND), and to improve facilities for them in mainstream and special schools, nurseries, colleges and other education providers. It is proposed that £0.400m of the grant should be used towards the remedial works.
- **Capital Contingency Budget** – £0.400m can be funded from the current contingency budget.

Should the decision be against progressing with the arrangement, the authority runs the risk of having to incur additional expense to identify and develop an alternative site using its own resources and also losing the funding which the ESFA has earmarked for a new special school in Havering.

The associated ongoing costs will be from the Dedicated Schools Grant (DSG). Special schools are funded at £10,000 per place plus top up funding that is paid to the schools by the commissioning local authority. For special free schools the £10,000 place funding has previously been paid to the schools directly from the ESFA (Education Skills and Funding Agency) but from financial year 2019-20 local authorities with special free schools in their area will have the £10,000 per place included in their allocations of DSG (Dedicated Schools Grant) High Needs funding. From this top level allocation, the £10,000 per place is recouped by the ESFA and allocated to the school. This brings the funding arrangements into line with those for special academies. Once the special free school is open this will be case for Havering and should be a net nil effect.

The top up funding will, however, need to be paid from Havering’s High Needs funding. Havering allocates funding based on a matrix of learning need which is

currently under review. Based on current rates of funding and the assumption that all pupils will be at a high level of learning need, the top funding required for 60 places will be in the region of £1.4m. Although this additional cost is unlikely to be contained within Havering's allocation of High Needs funding, the costs of placing these pupils in out of borough provision is likely to be in excess of £1.4m. The cost of transport to a local school will also be less than transport costs to out of borough provision.

This opening of a new special free school therefore supports the LA strategy of increasing local provision to reduce costs both to the DSG High Needs Block and in core transport costs.

**Legal implications and risks:**

Section 6A Education and Inspections Act 2006 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. There appears to be sufficient basis for the Authority to conclude that a new school should be established.

There do not appear to be any issues in relation to the land being offered up for the use of the free school as this is already in the possession of the Academy.

The payment of compensation for the re-provision of the Music block may need to be the subject of a legal agreement and separate legal advice will be available to finalise this.

**Human Resources implications and risks:**

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

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.

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.

The Havering Education HR service will provide the necessary support, subject to the purchase of relevant services.

**Equalities implications and risks:**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

The Equalities Impact Assessment is attached as Appendix 2.

**BACKGROUND PAPERS**

- Appendix 1 - Feasibility report for the location of a special school on St Edward's Church of England Academy
- Appendix 2- SEN strategy - EIA