



Doncaster Council

Report

To the Chair and Members of the CABINET

Date: 22 May 2018

ESTABLISHMENT OF A NEW SPECIAL SCHOOL FOR COMMUNICATION AND INTERACTION SPECIAL EDUCATIONAL NEEDS IN DONCASTER

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Councillor Nuala Fennelly, Cabinet Member for Children, Young People and Schools	All	Yes

EXECUTIVE SUMMARY

1. The Education Inclusion programme seeks to improve educational outcomes for all children in Doncaster, with a particular focus on vulnerable and/or disadvantaged children. This work includes as one of its strands the SEND Review.
2. The development of a new Communication and Interaction (C&I) Special School is part of a wider SEND Review outlined in the One Doncaster Report and located under the governance of the Inclusion Programme Board. The SEND Review includes targeted activity on a range of themes including: the sufficiency of places; review of out of authority placements; integrated assessment, planning and review pathways and processes; education transport; preparing for adulthood; transition; and improving outcomes at SEN Support.
3. The development of the special school has two distinctive elements to it, i.e. the identification of an academy sponsor and the building of the school. This report provides an update on progress in both areas.
4. The sponsorship process followed the Department for Education (DfE) lead commissioning process. This consisted of both an application and interview stage, conducted in partnership with parent and Special School representatives. A recommendation was put forward to the regional schools commissioner and the minister for children to appoint the Nexus Multi Academy Trust as sponsor for the new Special School which has now been approved.
5. Officers within the Council have put a self-build business case forward to the Education and Skills Funding Agency (ESFA) and are negotiating the funding envelope.

EXEMPT REPORT

6. This report is not exempt.

RECOMMENDATIONS

7. The Chair and Members of the Cabinet are asked to:
 - a. Note the contents of the report and the appointment of Nexus Multi Academy Trust as the sponsor for the new Special School.
 - b. Delegate authority to the Director of People and the Chief Financial Officer in consultation with the Portfolio Holder for Children, Young People and Schools to negotiate terms with the Education and Skills Funding Agency (ESFA) to self-deliver the building of the school as well as the set-up of an effective school delivery model in conjunction with the agreed provider.
 - c. Once the financial envelope is agreed for the capital budget, this is released via an ODR with delegated authority for spend to the Director of People and Chief Finance Officer.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

8. Local Council's play a key role in placing children and young people with Education, Health and Care (EHC) plans and it is important that they are involved in shaping the range of provision in their area. A number of children and young people currently placed in schools in Doncaster educated other than at school or placed outside of the area would benefit from suitable provision being made available locally, within Doncaster.

BACKGROUND

9. Doncaster's 2017 national data submission reported that 40% of Doncaster children and young people with statements of SEN/EHC plans were attending any type of special school, which is around the national average. The number of placements in special schools has increased over recent years and is at its highest in 2018. The majority of these special school placements are in LA maintained special schools (88%). Doncaster funds approximately 550 places across its 5 state-funded special schools. Doncaster maintains two specialist resources for children with a hearing impairment in a mainstream primary and secondary school. In 2017, 1.2% of children/young people with an EHC Plan attended this type of provision which is less than half the national average.
10. There are similar proportions of children and young people attending non-maintained special schools and independent special schools in Doncaster than national average. There was an increase in the number of placements in independent special schools since 2014 but the proportion attending such provision has decreased reflecting the increased number of children and young people with an EHC plans.
11. Following the SEN reforms in 2014, there has been a significant growth in the number of young people with an EHC Plan attending a post 16 provision (17% of the total cohort 0-25). 13% of children and young people attend a general further education college; this is 4.5 percentage points higher than the national average. There is a slightly higher percentage of young people attending specialist post 16 institutions in Doncaster than nationally.

12. The development of a new special school is part of a wider SEND Review outlined in the One Doncaster Report and located under the governance of the Inclusion Programme Board. The SEND Review includes targeted activity on a range of themes including: the review of sufficiency of placements; review of out of authority placements; integrated assessment, planning and review pathways and processes; education transport; preparing for adulthood; transition; and improving outcomes at SEN Support.
13. A review of sufficiency of special educational placements is underway with an indicative plan was submitted to the DfE in March 2018. The plan has the potential to release £500k of capital funding. The Council was successful in this application and consultation is being undertaken with the schools to establish funding priorities.
14. The DfE invited Councils in the autumn term of 2016 to establish new Special Schools in their area. Doncaster Council had previously identified a shortfall in provision within the Borough for specialist places for complex needs under Communication and Interaction (C and I) (primarily high functioning autism spectrum disorder - ASD and Asperger's) with related Social Emotional and Mental Health Needs (SEMH). Some children and young people may also have specific learning difficulties (SPLD) as an additional need but will not have significant learning difficulties.
15. A bid was put forward in November 2016 on the basis of establishing a 100 place Special School for children with a communication and interaction need aged 5-19. The bid included provision of a site for the school by the Council on the basis of a peppercorn rent with a 125 year lease. The provision is to provide up to 80 places for use by Doncaster Council, as well as 20 places for usage by neighbouring LAs.

The Council was notified of its successful bid in May 2017.

At the meeting of Cabinet on 18 July 2017 the following was ratified:

- a) to approve the proposal to establish a new Special School for Communication and Interaction in Doncaster in conjunction with the DfE and appropriate sponsor;
- b) to agree to provide the successful school sponsor with a 125 year lease on a peppercorn rent for 5 acres of land currently designated for commercial use at Hungerhill Enterprise Park, Edenthorpe; and
- c) to delegate authority to the Director of People and the Chief Financial Officer in consultation with the Portfolio Holder for Children and Young People and Schools to negotiate terms and enter into the lease and grant funding agreements with the DfE.

Allocation of Capital for the school building

16. The capital costs for building will be provided by the ESFA to help establish the new school in the same way as schools set up through the standard central free school process. It was therefore an opportunity to create additional provision in an area of identified need as part of the wider strategy to provide for children and young people across the Borough and for the capital to be provided by the DfE.
17. The site has previously been secured and Doncaster Council was given the option to deliver the new school by submitting a short business case setting out details of our

capacity, capability and experience in successfully delivering capital projects and to confirm that any overspend would be managed. An appropriate budget is being negotiated with the ESFA. If approved Doncaster Council would then manage the project reporting to the ESFA as necessary.

18. Officers have engaged the services of an Architectural Design company experienced in designing schools and other major projects to assist with the design process. To inform the design, in addition to visits to special schools within Doncaster, visits have been made to two exemplar schools to look at how they utilise the buildings and lessons learnt since they became operational. The visits focused on operational matters to inform the design process. Parents and subject specialists input has been included during all aspects of the process.

Officers have continued to negotiate with the ESFA to secure appropriate funding for the building of the school. Further details can be found within the Financial Implications Section of the report below. If the proposal for self-build is rejected, the ESFA will be responsible for the delivery of the build.

Consideration of an Appropriate Sponsor

19. The opportunity to sponsor the school was advertised nationally by the DfE and promoted locally by Doncaster Council. Officers of the Council, partners and a parent representative had the opportunity to assess bids and shortlist from potential sponsors. The commissioning process was based on the Council's priorities set out in the published specification and DfE criteria for applicants. A robust interview process was undertaken in partnership with specialists designated by the DfE. The recommendation, along with all those made by other local authorities, to approve Nexus Multi Academy Trust as the successful Sponsor was accepted by the Minister for Children and was announced on 3 April 2018.

OPTIONS CONSIDERED

20. Currently a number of SEN children and young people are educated outside of the Borough, are educated other than at school or are attending schools in the Borough but would benefit from specialist provision within the area. Whilst this may continue there are a number of benefits to opening a new Special School for Communication and Interaction within the area outlined within the report.

REASONS FOR RECOMMENDED OPTION

21. The recommended option is to progress to the next stage of the proposal. The Council has been given an opportunity to provide high quality, appropriate provision to meet the needs of a group of SEN children and young people within the Borough and to receive capital and start-up grant funding from the DfE.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future; <ul style="list-style-type: none">• Better access to good fulfilling	

	<p>work</p> <ul style="list-style-type: none"> • Doncaster businesses are supported to flourish • Inward Investment 	<p>The proposal will release a significant capital investment and new employment opportunities within a highly specialised area.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	<p>A number of children and young people currently will benefit from attending a local school. The identified cohort of children and young people would benefit greatly from specialist provision within the local area.</p>
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>Children and Young people of Doncaster will be provided with high quality, appropriate provision to meet their needs and enable them to flourish.</p>

RISKS AND ASSUMPTIONS

22. Reputational Risk: There is a risk to the council that not achieving the outcomes of the new special school or not pursuing this opportunity and withdrawing from the process would result in a lack of appropriate provision within the Borough. Children and young people would remain within less appropriate provision increasing the risk of social isolation and loneliness and not enabling them to reach their full potential. There is a risk of delay in the opening of the new school which may mean this being achievable by September 2020 and not 2019.
23. Financial Risk: There would be a risk of increasing pressure on the High Needs Block due to higher cost of out of authority placements and transport costs. There is an additional financial risk of the financial envelope not meeting the required costs to build the school.
24. The initial risk rating is 20 = Likelihood 4 (likely) x Impact 5 (critical). However with appropriate project governance and ongoing negotiations underway, the current risk rating is 10 = Likelihood 2 (unlikely) x Impact 5 (critical).

LEGAL IMPLICATIONS

25. Part 3 of the Children and Families Act 2014 places legal duties on Local Authorities to identify and assess the special educational needs of children and young people for whom they are responsible. They must then ensure that those children and young people receive a level of support which will help them “achieve the best possible educational and other outcomes” (Section 19 (d)).
26. The Authority has identified the need for provision of this special school. The Department for Education has provided an opportunity for local authorities themselves to identify where a new special school would benefit their area, inform their Regional Schools Commissioner, and seek proposals for the new school they want. The department of Education will provide capital funding and start-up grants subject to value for money assessments.
27. It is proposed that the Council will provide the school site by way of the long lease on a peppercorn rental. Under s.123 of the Local Government Act 1972 the Secretary of State’s consent is required for the disposal of land for less than the best consideration reasonably obtainable. Under Circular 06/03 the Secretary of State has given their consent to the disposal of non-housing/HRA land by local authorities for less than the best consideration reasonably obtainable provided that:
28. The difference between the consideration being received and full open market value does not exceed £2 Million and the Council is satisfied that the purpose of the disposal will contribute to the promotion or improvement of the economic, environmental or social well-being of the area.
29. As the value of the land is less than £2m in this case specific consent of the Secretary of State will not be required as the general consent may be relied on in this instance provided the Council is satisfied the criteria in (ii) above is met.
30. The Council’s Financial Procedure Rules authorise the Council’s Property Officer to arrange the disposal of land for less than best consideration where the best consideration reasonably obtainable would not exceed £250,000. If the market value of the disposal exceeds £250,000 then the approval of Cabinet is required.

31. The procurement of a construction contractor should be undertaken in accordance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015.
32. Any terms and conditions of funding must be complied with to avoid clawback of the funding and should be passed down to third party recipients of the funding.
33. Further legal advice will be required as the project progresses.

[Officer Initials – P.C Date 02.05.18]

FINANCIAL IMPLICATIONS

Capital

34. The land at Hungerhill Business Park currently forms part of the Council's disposal programme and is to be sold to generate capital receipts to fund current and future capital schemes. The area of land proposed for the free school isn't currently included within the estimate for capital receipts and therefore isn't expected to impact on the capital programme.
35. The estimated cost of Doncaster MBC delivering this new special school is £7.24m.
36. The ESFA has indicated that a grant covering the £7.24m would be provided to fund the cost of this project.
37. At present we are at stage 2 of discussions with the ESFA requiring detailed surveys on the site. The outcomes of these surveys will determine the actual cost of the project. Only after the impact of these final surveys is known can the final build cost be determined. Significant abnormalities as a result of these surveys will be referred back with the understanding that any increase in costs will be met by the ESFA.
38. Following the surveys Doncaster MBC will progress to stage 3 of the project at which time has the opportunity to commit to self-delivery of the project or pass back to the ESFA to deliver.
39. An application has also been submitted to the ESFA for a £0.30m grant towards the Doncaster Council fees associated with this project. This income and expenditure is not included within the costs above.

[Officer Initials SB 02/05/18]

Revenue

40. Once the building work has been completed and handed over the ongoing revenue/running costs will then fall to Nexus Multi Academy Trust, as the successful Sponsor, who will be funded to provide the 100 education places as outlined.
41. Under the current funding arrangements for 2018/19, place funding of £10k per place for Special Free Schools is currently provided by the Education Funding Agency directly and not paid for directly from the LA's High Needs Dedicated Schools Grant (DSG). Only the top up element of £7,500 per pupil (figure stated by proposed sponsors through the DfE bid process) would be paid for by the LA from High Needs DSG.

42. Based on average current place funding and top up element costs for pupils in mainstream school (£8k), PRU (£15k - £18k), Special School (£16k) or Out of Authority placement for ASD (£54k), the estimated overall cost savings when the Special Free School is open (and being fully utilised) would be approximately £0.5m per annum. This is based on current assumptions from the service that the 80 places being filled by Doncaster pupils would otherwise have been placed as follows; 40 in Mainstream, 18 in PRU, 4 in Special School, 6 in Elective Home Education (no saving) and 12 in an Out of Authority placement.

[Officer Initials DB Date 2.5.18]

HUMAN RESOURCES IMPLICATIONS

43. Staff employed in the new school would not be employees of the local authority but of the school itself. The school will be able to set their own terms and conditions of employment for all staff, teaching and support staff alike.

[Officer Initials AG Date 12/02/18]

TECHNOLOGY IMPLICATIONS

44. There are no specific technology implications at this stage. However, as the proposals progress, Learning & Opportunities: CYP should engage with ICT to ensure any arising technology implications are fully considered.

[Officer Initials NR Date 15/02/18]

HEALTH IMPLICATIONS

45. Special educational needs and disabilities (SEND) can affect a child or young person's ability to learn, which will have an impact on the child or young person's health and wellbeing. This additional provision will help meet what are currently unmet needs for this population and should improve learning and subsequently improve health and wellbeing, as well as reducing health inequalities.

46. Children and young people admitted to the school will have been assessed by the SEND Panel prior to admission and would normally have an Education Health and Care Plan. This process will ensure that children and young people are provided with the most appropriate provision to meet their needs.

[Officer Initials RS Date 20/02/2018]

EQUALITY IMPLICATIONS

47. The provision of a Special School for Communication and Interaction will allow for 100 children and young people with social communication needs aged 5-19, whose needs are assessed and cannot be met within a mainstream environment, to receive suitable education within the local area. This will increase and strengthen our Local Offer and support our obligations under the Equality Act 2010.

48. The Council's duty under section 149 of the Equality Act 2010 when exercising its functions to advance equality of opportunity and foster good relations between those who have a protected characteristic and those who do not share that protected characteristic, ensure fair access to learning and opportunities for all Doncaster children and young people.

[Officer Initials NMc Date 09/02/18]

CONSULTATION

49. Discussions have been held with colleagues within Finance, Property and Construction Services, Regeneration and Environment and Asset Board regarding the provision of a site for the school.
50. Following discussions with colleagues within the region the proposal includes provision for other LAs to be offered places at the school. Rotherham, Sheffield and Barnsley LAs have supported the bid and are expected to take up to 20 of the 100 places. Sheffield were also successful in their bid supported by Doncaster to undertake reciprocal arrangements as their special school has a different focus.
51. A number of consultation events have been held and it is intended that Officers and representatives of the new sponsor will continue to consult and coproduce with parents, children and young people and other stakeholders throughout the delivery of the project.

BACKGROUND PAPERS

Cabinet Report 18 July 2017 – Establishment of a new Special School

REPORT AUTHOR & CONTRIBUTORS

Riana Nelson, Assistant Director Partnerships and Operational Delivery, Learning and Opportunities: CYP
Telephone: 01302 737909
Email: riana.nelson@doncaster.gov.uk

Helen Barre, Head of Service – SEND, Learning and Opportunities: CYP
Telephone: 01302 737583
Email: helen.barre@doncaster.gov.uk

Neil McAllister, School Organisation Manager Learning and Opportunities: CYP
Telephone: 01302 735283
Email: neil.mcallister@doncaster.gov.uk

Jane Mills, Commissioning Manager, Learning and Opportunities: CYP
Telephone: 01302 735166
Email: jane.mills@doncaster.gov.uk

**Damian Allen, Director of People (DCS/DASS)
Learning and Opportunities: Children and Young People/Adults, Health and
Wellbeing Directorates**