

Cleared within service on:	13/04/2023
Legal cleared on:	16/03/2023
Section 151 Finance cleared on:	15/03/2023
Cabinet Member consultation completed:	12/04/2023

SURREY COUNTY COUNCIL

CABINET MEMBER FOR EDUCATION AND LEARNING

DATE: 25 April 2023



REPORT OF CABINET MEMBER: CLARE CURRAN, CABINET MEMBER FOR EDUCATION AND LEARNING

LEAD OFFICER: RACHAEL WARDELL, EXECUTIVE DIRECTOR FOR CHILDREN, FAMILIES AND LIFELONG LEARNING

SUBJECT: SEND Capital Programme Phase 4: Proposal to expand the SEN Unit at Stepgates Community School and proposal to formalise the dual designation of and expand the SEN Unit at Hythe Primary School

ORGANISATION STRATEGY PRIORITY AREA: Tackling Health Inequality, Empowering Communities, Enabling a Greener Future

SUMMARY OF ISSUE:

Under section 14 of the Education Act 1996 and section 27 part 3 of the Children and Families Act 2014, Local Authorities have a statutory duty to ensure that:

1. There are sufficient schools for primary and secondary education in their areas.
2. As the local authority they keep under review the educational provision for children and young people who have special educational needs and or a disability (SEND).

Surrey's latest sufficiency modelling projections to 2030-2031, which are based on the previous three year's trends from academic years 2018-2019 to 2020-2021, indicate significant growth in the total number of pupils with Education, Health and Care Plans (EHCPs) resident in Surrey over the forecast period. This projected growth is expected to reach its peak in 2026-27 and 2027-28, before reducing slightly thereafter. By 2030-31, the total number of Surrey EHCP pupils in National Curriculum Years (NCY) 0-14 (age 4-19 years), is projected to be more than 2,500 higher than the 2020-21 total.

Primary age projections show moderately increasing demand from 1,893 places in 2020-2021 which is expected to peak at 2053 places in 2024-2025, before declining there after towards the end of the forecast period. This represents 8.4% increase in demand for specialist school places over that 4-year period and is equivalent to 160 places. The most prevalent primary needs for pupils aged 4-11 who require a specialist school placement (in order of prevalence) are Autism and Communication & Interaction needs and Severe or Profound & Multiple Learning Difficulties.

Surrey's existing maintained specialist provision, which includes specialist school places in SEN Units in mainstream schools and in Specialist Schools/ academies, has around 4,000 places and 97% occupancy.

The Council's priority is to further reduce reliance on the independent sector, but most importantly ensure local children and young people with additional needs and disabilities who require specialist school placements can have their educational needs met close to home, more connected to local communities and local support services and within state-maintained provision wherever possible.

Between 2019 and 2022 Cabinet approved the strategies and capital investment for four phases of the Special Educational Needs and Disabilities (SEND) Capital Programme. With this investment the programme is aiming to deliver at least 2,440 permanent additional specialist school places in Surrey between 2019-2026 to create capacity for 5,760 state maintained specialist places to meet projected demand for up to 6,000 specialist places in total by 2030/31.

As of academic year 2022/23, Surrey's state-maintained specialist education estate has been increased by approximately 800 places, from around 3,320 in 2019 when the Capital programme started to around 4,000 places now. These specialist school places are almost full, noting that new places are being phased in and some of the existing accommodation needs to be re-provided as it is not fit for purpose.

By aligning with the needs identified through updated 10-year SEND sufficiency modelling and local strategy, the expansion of maintained specialist provision is reducing the need for new Non-Maintained Independent (NMI) places to be commissioned. Prior to the start of Surrey's capital investment, lack of sufficiency and high rates of NMI placements made a major contribution to the accumulation of DSG deficit, and equally the investment and development now being delivered and proposed is critical to the return to a financially sustainable position.

The Department for Education (DfE) expects local authorities to manage their specialist estates efficiently to avoid detriment to schools' educational offers, creating disadvantage to children and young people who have additional needs and disabilities or the local authority's financial position. This means ensuring the availability of specialist school places that are appropriately matched to need-type, phases of education and geographic location so that all of Surrey's statutory school age children with an Education Health and Care Plan (EHCP) that require a full-time specialist school placement in either a mainstream SEN Unit or Specialist School have a named placement, ready for the beginning of the next academic year.

A table detailing the two proposals below is attached as **Annex 1**:

Proposal 1: To expand the existing SEN Unit at Stepgates Community School to create an additional 8 places in Key Stage 2 (Years 3 to 6) for pupils with Education Health and Care Plan (EHCP) who require a specialist school placement and who have Speech, Language and Communication Needs (SLCN) identified as their primary need.

Proposal 2: To formally dual-designate the existing SEN Unit at Hythe Primary School as a specialist provision for pupils with Moderate Learning Difficulties (MLD) and Autistic pupils and pupils with Communication & Interaction Needs (ASD) and expanding the Unit to provide an additional 16 places in Key Stage 2 (Year 3 to 6) for pupils with an Education Health and Care Plan (EHCP).

The two proposals require Surrey County Council to follow the statutory process outlined in the DfE guidance "Making significant changes ('Prescribed Alterations') to Maintained Schools," because they fit into one of the categories below:

- The proposals are expanding existing Special Educational Needs Provision
- The proposals are making changes to a Special Educational Needs Provision in a mainstream school.

RECOMMENDATIONS:

It is recommended that:

The Cabinet Member for Education and Learning determines the statutory notices published thereby bringing into effect the formal commencement of the proposals to:

- Expand the SLCN designated SEN Unit at Stepgates Community School
- Expand and formally dual-designate the SEN Unit at Hythe Primary School

The Cabinet Member for Education and Learning may:

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

REASON FOR RECOMMENDATIONS:

The two proposals referenced in this paper are part of a suite of proposals to provide up to 6,000 state-maintained specialist school places for pupils in Surrey by 2030/31, delivered under Phase 4 of the SEND Capital Programme.

The Cabinet Member for Education and Learning's approvals and recommendations completes the statutory process in accordance with the DfE guidance "Making significant changes ('Prescribed Alterations') to Maintained Schools."

DETAILS:

Demand for Specialist Places

1. The demand for specialist places for children and young people with additional needs and disabilities has increased significantly over the last 5 years, and this in turn has increased Surrey's sustained reliance on the independent sector to ensure all pupils with Education, Health and Care Plans (EHCPs) who require a specialist school placement are able to access suitable full-time education.
2. Surrey's state-maintained specialist provision is full, and we are expanding this provision at pace to ensure children and young people can have their education needs met close to home and within state-maintained provision wherever possible.
3. SCC's SEND Capital Programme forms one important aspect of Surrey's Additional Needs Strategy and Transformation Programme which aims to improve outcomes for children with additional needs and disabilities and embed financially sustainable practices to work within the level of funding available.

4. The Council's Safety Valve agreement with the DfE, which aims to eliminate the council's Dedicated Schools Grant High Needs Block deficit, includes a condition to deliver an ambitious Capital programme that will improve the long-term sufficiency of state-maintained specialist educational provision that meets the needs of communities across Surrey.
5. Between 2019 and 2022 Surrey's Cabinet approved the strategy for four phases of the SEND Capital Programme. The refreshed Capital Medium Term Financial Strategy (MTFS) approved by Cabinet on 31 January 2023 provides £202m for SEND Capital against committed and planned projects in 2023-2026 delivery tranches. With this investment the programme is aiming to deliver at least 2,440 permanent additional specialist school places in Surrey between 2019-2026 to create capacity for 5,760 state maintained specialist school places to meet projected demand to up to 6,000 specialist places in total by 2030/31.
6. **Annex 2** details the delivery tranches for 2023-2026 and committed projects under the SEND Capital Programme which will complete the long-term expansion of Surrey's specialist education estate.
7. Cabinet has approved the delegation of authority to Lead Cabinet Members for Education and Learning, Resources and Land & Property to allocate resources from approved budgets required for individual projects. This follows approval for individual schemes at Capital Programme Panel where quality assurance, due-diligence and financial assurance are rigorously assessed to ensure the proposals meet the objectives of the Capital strategy. Projects that do not meet these benchmarks and/or officer scrutiny will not be progressed.
8. Surrey's ambition is that the introduction of new or expanded SEN units in mainstream schools enables schools to strengthen their inclusion offer to all children and young people, therefore being of benefit to families, the local authority, and the school populations. This is in line with the [Community vision for Surrey in 2030](#) and [Inclusion and Additional Needs Strategy 2023-26](#) which defines the Council's strategic priorities to ensure all children have the opportunity to attend a school local to them so that they can learn, grow and develop in their community. Local strategy includes the adopted county-wide commitment to root children in their local communities and ensure no one is left behind.
9. Stepgates Community School and Hythe Primary School are Community schools where the Cabinet Member decision is required for significant changes to maintained schools.

Key Outcomes and benefits for children, young people and families:

10. The provision of additional specialist places will support the county-wide inclusion plan as well as increasing the availability of places for children and young people with additional needs and disabilities to access in the county.
11. Children and young people with additional needs and disabilities can access the help and support they need to thrive and achieve within their local communities. They can go to local education provision that meets their needs, access services and play an active role in the community close to where they live.

12. Children, young people and families have access to the same level of high-quality support wherever they live in Surrey. We have a good, shared understanding of our children and young people who have additional needs and disabilities in Surrey and our support offer matches their identified needs.
13. Expanding Surrey's specialist provision aligns with the Next Steps programme and strategy for post-16 to create local further education and employment pathways such as apprenticeships and supported internships. This enables young people who have additional needs and disabilities to make a successful transition to adulthood and secure employment.
14. Capacity created locally will also ensure additional needs and disabilities home to school transport times are reduced in line with Department for Education recommendations, improving congestion and traffic flow around the county.
15. Increasing capacity in the Specialist Education Estate is essential to Surrey delivering a sustainable High Needs Block. Achievement of cost containment targets aligned with SCC's Safety Valve Agreement with the DfE that results in an in-year balance in the DSG HNB by 2027/28 allows Surrey to continue to deliver services and support for children, young people, and families, whilst remaining financially sustainable.

CONSULTATION:

16. For both proposals, an informal consultation was published from 7 November to 5 December 2022 and further statutory notices were published from 13 January to 10 February 2023. All consultation documents are available at www.surreysays.co.uk. The full statutory notices are also attached as **Annex 3** and **Annex 4** of this report.
17. A summary of the consultation analysis for two proposals is attached as **Annex 5**.

RISK MANAGEMENT AND IMPLICATIONS:

18. Sufficiency data requires close monitoring and frequent ratification to ensure projected demand for learners with EHCPs is up to date and accurate. This guarantees an appropriate availability of specialist school places, which are aligned to need, phase of education and geographical location. Latest sufficiency modelling demonstrated a clear need for the additional and changed specialist provision that the proposal will create.
19. The Local Authority needs to be satisfied that the appropriate fair and open local consultation and or representation has been conducted and that the proposer has given full consideration to all responses received. To ensure that this is the case the consultation and decision-making processes are quality assured.
20. Surrey County Council has worked closely with the two schools to ensure that parents, carers and young people know about the consultation proposals and have had sufficient opportunity to share their views through a number of

channels including public and stakeholder meetings, written responses, email correspondence and online response forms.

Financial and value for money implications:

21. The Capital projects are part of Phase 4 of the SEND Capital Programme agreed by Surrey County Council Cabinet on 25 January 2022 and on 28 March 2023. The building and refurbishment works at Stepgates Community School are planned to be completed by October 2023, with temporary accommodation being provided for September 2023. The building work at Hythe Primary School is planned to be complete by September 2024, with temporary accommodation being provided for September 2023.
22. The projected revenue benefits and associated projected cost containment comes from the reduced unit cost of a placement within a Surrey maintained school compared to a Non-Maintained Independent setting. As part of the wider SEND Transformation Programme, this contributes to reducing Surrey's High Needs Block annual deficit.

Table 1: Local and Non-Maintained Independent Cost Containment (full year costs)

School	Capital Investment	Proposed additional places	Revenue costs: Average (£23k)	Comparison to Non-Maintained Independent Average (£53k)	Overall cost containment (annually)
Stepgates Community School	£1.9m	8	£184,000	£424,000	£240,000
Hythe Primary School	£3.2m	16	£368,000	£848,000	£480,000

Section 151 Officer commentary:

23. Although significant progress has been made to improve the Council's financial position, the financial environment remains challenging. The UK is experiencing the highest levels of inflation for decades, putting significant pressure on the cost of delivering our services. Coupled with continued increasing demand and fixed Government funding this requires an increased focus on financial management to ensure we can continue to deliver services within available funding. In addition to these immediate challenges, the medium-term financial outlook beyond 2022/23 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.
24. As such, the Section 151 Officer supports the recommendations of this report as they support the planned safety valve trajectory and reductions in DSG

High Needs Block deficit through expanding local provision for pupils with additional needs and disabilities and reducing reliance on the NMI sector.

Legal implications – Monitoring Officer:

25. Section 13 of the Education Act 1996 places a general duty on the Council to secure that efficient primary and secondary education is available to meet the needs (including special educational needs) of the population in its area. In doing so, the Council is required to contribute to the spiritual, moral, mental and physical development of the community.
26. Section 14 of the Education Act 1996 places a duty on the Council to secure that sufficient schools for providing primary and secondary education are available in its area.
27. Section 27 Children and Families Act 2014 places a duty on the local authority to keep under review the educational provision for children and young people who have special educational needs and or a disability.
28. The local authority has published statutory notices thereby bringing into effect the formal commencement of the proposal prior to the consultation stage in accordance with statutory requirements.
29. In considering this Report, the Cabinet Lead Member for Education and Learning must give due regard to the results of the informal consultation as set out in the report and the response of the Service to the consultation comments and conscientiously take these matters into account when making a final decision.

Equalities and diversity:

30. The Equality Impact Assessments (EIA) for the proposals are attached to this report as **Annex 6** and **Annex 7**.

Other implications:

31. The potential implications for the following Council priorities and policy areas have been considered.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	Set out below
Safeguarding responsibilities for vulnerable children and adults	Set out below
Environmental sustainability	Set out below
Public Health	No significant implications arising from this report

Corporate Parenting/Looked After Children implications:

32. The creation of additional specialist places directly supports both the Surrey Corporate Parenting Strategy 2020 and the SEND Partnership Strategy 2019.
33. The proposals would provide increased provision for pupils who need a specialist placement in a mainstream school in Surrey, thereby ensuring that those who are Looked After and/ or who have additional needs and disabilities are closer to home, more connected to local communities and support services.

Safeguarding responsibilities for vulnerable children and adults' implications:

34. Safeguarding vulnerable children is a high priority in all Surrey schools. Schools have considerable expertise in safeguarding vulnerable children and adhere to robust procedures. The schools will continue to apply good practise around safeguarding as they do currently. In addition, safeguarding is a key area for monitoring when Ofsted conducts inspections.
35. The creation of additional specialist school places closer to home supports highly effective joint agency monitoring to safeguard children, to reduce placement breakdown and increased demand on statutory care services.

Environmental sustainability implications:

36. The provision of education places closer to home will reduce the average journey times for learners with additional needs and disabilities who require specialist provision and is aligned with the vision and aspirations of the Home to School Travel Assistance transformation programme.
37. The design philosophy is to create buildings that will support low energy consumption, reduce solar gain and promote natural ventilation. Any new infrastructure will be built to the local planning authority's adopted core planning strategy.

WHAT HAPPENS NEXT:

38. Subject to the Cabinet Member determining the statutory notices Surrey County Council and the Governing Bodies will proceed to implement the two proposals:
 1. Proposal to expand the SEN Unit at Stepgates Community School
 2. Proposal to formalise the dual designation of and expand the SEN Unit at Hythe Primary School

The significant change will be implemented from 1 Sept 2023.

Contact Officer:

Lauren Comer, Commissioning Manager

Consulted:

Headteachers of the schools featured in the proposals
Parents of children attending the schools featured in the proposals
Children and young people who attend the schools featured in the proposals
Governing bodies and staff members of each of the schools featured in the proposals
Surrey Family Voice
Local residents in Surrey
Local Cllrs in the areas of each of the schools featured in the proposals
Divisional (Surrey County Council) members
Cllr Clare Curran, Cabinet Member for Education and Learning
Rachael Wardell, Executive Director for Children, Families and Lifelong Learning
Liz Mills, Director Education and Learning
Carrie Traill, Head of Education
Hayley Connor, Director Commissioning
Eamonn Gilbert, Assistant Director Commissioning

Annexes:**Annex 1 Table of proposals****Annex 2 SEND Capital Programme list of all projects****Annex 3 Statutory Notices (Full) – Stepgates Community School****Annex 4 Statutory Notices (Full) – Hythe Primary School****Annex 5 Consultation Analysis (Summary)****Annex 6 Equality Impact Assessment – Stepgates Community School****Annex 7 Equality Impact Assessment – Hythe Primary School**

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