

**SURREY COUNTY COUNCIL****CABINET MEMBER FOR EDUCATION AND LEARNING****DATE:** 30 May 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 establish a new ASD-Designated SEN Unit at Epsom Downs 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 additional needs and disabilities (SEND).

Surrey's latest sufficiency modelling projections to 2031-2032, which are based on the previous three year's trends from academic years 2019-2020 to 2021-2022, 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 2031/32, the total number of Surrey EHCP pupils in National Curriculum Years (NCY) 0-14 (age 4-19 years), is projected to be almost 1,700 higher than the 2021-22 total (from 10536 to 12228).

Primary age projections show moderately increasing demand for specialist places from 2,021 places in 2021-2022 which is expected to peak at 2,117 places in 2024-2025, before declining there after towards the end of the forecast period. This represents a 5% increase in demand for specialist school places over that 4-year period and is equivalent to almost 100 places. The most prevalent primary need for pupils aged 4-11 who require a specialist school placement is Autism and Communication & Interaction needs.

Surrey's existing state maintained specialist education estate which includes specialist school places in SEN Units in mainstream schools and in Specialist Schools, has around 4,000 places across all year groups and is at approximately 97% occupancy.

Surrey has a legal duty to manage its state maintained specialist education estate efficiently. This means ensuring the availability of specialist school places that are appropriately matched to need types, 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.

Increased demand for specialist school places over the past 5 years has created sustained reliance on high-cost independent school places to ensure all pupils are able to access a suitable full-time education.

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 rooted in their local communities and better connected to local support services.

Surrey's Capital Programme is expanding and improving the specialist education estate at pace in order to ensure local children with additional needs and disabilities who require a specialist school placement can have their education needs met close to home and within state-maintained provision wherever possible.

Between 2019 and 2023 Cabinet approved the strategies and capital investment of c£260m for four phases of the Special Educational Needs and Disabilities (SEND) and the Alternative Provision (AP) Capital Programme. With this investment the programme is aiming to deliver 2,440 permanent additional specialist school places in Surrey between 2019-2026 to create capacity for 5,760 state-maintained specialist places by 2030/31.

Aligning with the needs identified through updated 10-year SEND sufficiency modelling and local strategy, the expansion of local state 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 were a major contribution to the accumulation of Dedicated Schools Grant High Needs Block deficit, and equally the investment and development now being delivered and proposed is critical to the return to a financially sustainable position.

A table detailing the proposal below is attached as Annex 1.

**Proposal:** To create a new ASD-designated SEN Unit at Epsom Downs Primary School to create an additional 25 places in Years R to 6 for autistic pupils with Education Health and Care Plan (EHCP) who require a specialist school placement.

The proposal requires Surrey County Council to follow the statutory process outlined in the DfE guidance "Making significant changes ('Prescribed Alterations') to Maintained Schools," because it fits into one of the categories below:

- The proposals are adding new or 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 proposal to:

- Establish a new ASD-designated SEN Unit at Epsom Downs Primary School from 1 September 2023

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 Local Authority and/or Governing Body (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 proposal referenced in this paper is aligned with the SEND Capital Programmes aims to deliver 2,440 permanent additional specialist school places in Surrey between 2019-2026 to create capacity for 5,760 state-maintained specialist places by 2030/31.

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 SEND 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. The Council's 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. Prior to SCC entering into a Safety Valve Agreement with the DfE, the Council's High Needs Block was projected to reach a deficit of £118m at the end of 21/22.

4. The Council's Safety Valve Agreement with the DfE (March 2022), 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. There has been significant investment in additional state-maintained specialist school places in Surrey over the past four years to enable children and young people to be educated locally to their families. Our strong partnerships with local specialist and mainstream schools have enabled this to happen alongside robust forecasting of demand to understand what the profile of need will look like county-wide over the coming years.
6. The Capital Programme is aligned with Surrey's Community Vision 2030, and Surrey County Council's Cabinet endorsed new Inclusion and Additional Needs Strategy 2023-2026, which sets out the ambition that all Surrey's children and young people with additional needs and disabilities are enabled to lead their best life.
7. 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 state maintained specialist education estate.
8. 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.
9. 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 [Surrey 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.
10. Epsom Downs Primary School is a Community school where the Cabinet Member decision is required for significant changes to maintained schools.

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

11. 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.
12. 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.
13. 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.
14. 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.
15. Capacity created locally will also ensure SEND home to school transport times are reduced in line with Department for Education recommendations, improving congestion and traffic flow around the county.
16. 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 2029/30 allows Surrey to continue to deliver services and support for children, young people, and families, whilst remaining financially sustainable.

#### **CONSULTATION:**

17. For Epsom Downs Primary School, an informal consultation was published from 15 December 2022 to 10 February 2023 and further statutory notices were published from 24 March to 05 May 2023. All consultation documents are available at [www.surreysays.co.uk](http://www.surreysays.co.uk). The full statutory notices are also attached as Annex 3 of this report.
18. A summary of the consultation analysis for the proposal is attached as Annex 4.

#### **RISK MANAGEMENT AND IMPLICATIONS:**

19. 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.
20. 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.

21. Surrey County Council has worked closely with the school 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:**

22. The capital project is part of Phase 4 of the SEND Capital Programme agreed by Surrey County Council Cabinet on 25 January 2022.
23. The capital investment for the project was approved under the 2023/23 delivery tranche by Surrey County Council Cabinet on 28 March 2023. The building works at Epsom Downs Primary School are planned to be completed by September 2023.
24. 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 Additional Needs and Disabilities Transformation Programme, places created and filled such as this contribute 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	Maintained Places Revenue costs: Average (£53k)	Non Maintained - Revenue costs: Average (£53k)	Overall cost containment (annually)
Epsom Downs Primary School	£1.9m	25	£575,000	£1,325,000	£750,000

**Section 151 Officer commentary:**

25. Significant progress has been made in recent years to improve the Council’s financial resilience and the financial management capabilities across the organisation. Whilst this has built a stronger financial base from which to deliver our services, the increased cost of living, global financial uncertainty, high inflation and government policy changes mean we continue to face challenges to our financial position. This requires an increased focus on financial management to protect service delivery, a continuation of the need to be forward looking in the medium term, as well as the delivery of the efficiencies to achieve a balanced budget position each year.

26. In addition to these immediate challenges, the medium-term financial outlook beyond 2023/24 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 the stable provision of services in the medium term.
27. The recommendations within this paper support the expansion of SEN provision in Surrey to meet demand and deliver financial sustainability in line with the DfE Safety Valve agreement. The Section 151 Officer therefore supports the proposal.

#### **Legal implications – Monitoring Officer:**

28. 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.
29. 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.
30. 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.
31. 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. The notices were published between 29 March 2023 and 10 May 2023.
32. 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:**

33. The Equality Impact Assessment (EIA) for the proposal is attached to this report as Annex 5.

#### **Other implications:**

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

<b>Area assessed:</b>	<b>Direct Implications:</b>
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:**

35. The creation of additional specialist places directly supports both the Surrey Corporate Parenting Strategy and the Additional Needs and Disabilities Strategy 2023-2026.
36. The proposal 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:**

37. 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.
38. 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:**

39. The provision of education places closer to home will reduce the average journey times for learners with EHCPs and is aligned with the vision and aspirations of the Home to School Travel Assistance transformation programme.
40. 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:**

41. Subject to the Cabinet Member determination, Surrey County Council and the Governing Body will proceed to implement the proposal:

To establish the SEN Unit at Epsom Downs Primary School

The significant change will be implemented from 1 September 2023.

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**Contact Officer:**

Peter Speers, Ext Commissioning Manager

**Consulted:**

Headteacher of Epsom Downs Primary School

Parents of children attending Epsom Downs Primary School

Children and young people who attend the Epsom Downs Primary School

Governing body and staff members of Epsom Downs Primary School

Local residents in Surrey

Local Councillors

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

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) – Epsom Downs Primary School**

**Annex 4 Consultation Analysis (Summary)**

**Annex 5 Equality Impact Assessment – Epsom Downs Primary School**

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