

Education Sufficiency and Estate Strategy**Key Decision No. CE S034****CABINET MEETING DATE
(2021/22)**

28 February 2022

CLASSIFICATION:

Open

WARD(S) AFFECTED

All

CABINET MEMBER

Councillor Anntoinette Bramble, Deputy Mayor, Cabinet Member for Education, Young People and Children's Social Care

KEY DECISION

Yes

REASON

Affects two or more wards

GROUP DIRECTOR

Jacquie Burke, Group Director Children & Education

1. CABINET MEMBER'S INTRODUCTION

- 1.1 Hackney Education is ambitious for every child in Hackney and committed to providing high quality education for all. High quality, in our view, means local and inclusive schools and settings that provide a high quality teaching and learning environment within which each child feels that they belong.
- 1.2 We find ourselves in a new context following the pandemic where our population in Hackney is shifting and responding to the many changes that in the last 2 years have become more prevalent. We are seeing significant changes in our schools' population in terms of growth in the numbers of children and young people with Special Educational Needs and Disabilities. This is alongside a reduction in the numbers of children and young people of school age living in Hackney.
- 1.3 We recognise the challenges caused by reducing numbers of pupils and how this is affecting some schools in a very real way. In the context of fewer mainstream school age children and young people in Hackney we are also seeing a year on year increase in numbers of children and young people who need to access specialist SEND provision. We are determined to take action to respond to these challenges head on and in a child focused way to stay true to our ambitions.
- 1.4 The Education Sufficiency and Estate Strategy paper has been developed in the light of these two urgent issues. In order to meet the increasing need for SEND places, in addition to our current provision of special schools and additional resource provision located in mainstream settings, Hackney Education is currently relying on a number of out of borough or independent settings. This often means that children and young people have to travel outside of their communities to go to school. Securing more SEND places in Hackney will ensure children can attend school closer to home and alongside their peers and siblings. Whilst also being better value for money, local SEND school places are essential to ensure that our children and young people feel as though they belong in the communities within which they live.
- 1.5 School Place Planning alongside the Greater London Authority (GLA) are expecting mainstream reception places to continue to fall and the need to commit to finding solutions and working with schools that have surplus places is pressing. Solutions to the issues are mapped out in the strategy paper and we will work closely with our school community through the implementation of the strategy to ensure we find solutions to this issue which is affecting schools across London.
- 1.6 Whilst the strategy sets out our short and medium term priorities in relation to the delivery of excellent local school places, there is also an urgent need to provide additional SEND school places as soon as possible to meet the growing need. The more urgent SEND needs and proposed Additional

Resource Provision are included in this cabinet report so that progress can be made quickly on increasing places for children on the autistic spectrum.

- 1.7 This is an important time for Hackney schools and the children and young people we educate through them. This is a key strategy which will ensure we remain focused on the changing and evolving community we serve. It is vital that we do not compromise on our ambition to provide our children and young people with outstanding education and a framework within which they can thrive into adulthood.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 This report details the importance of the Education Sufficiency and Estate Strategy paper which explores how Hackney needs to address two key issues around the pupil population. One, working towards solutions creating more special provision places for children and young people with complex SEND in the borough. The second is to seek viable sustainable solutions and work with existing Primary and Secondary schools with challenges around budgets due to falling pupil rolls.
- 2.2 This strategy paper is coming forward to cabinet now as year on year the urgent need for SEND places is increasing and we continually rely on out of borough and independent schools to place our pupils. We want every child to benefit from a Hackney Education. Also reception places continue on a downward trend with high surplus places in many schools across Hackney.

3. RECOMMENDATION(S)

That Cabinet:

- 3.1 **Note the Education Sufficiency and Estate strategy paper and confirm approval of direction (appendix 1)**
- 3.2 **Agree that Phase 1A capital projects (appendix 2) - four schemes addressing the urgent need for Autistic Spectrum Disorder (ASD) and Severe Learning Disability (SLD) places, to be delivered within the existing SEND Capital grant to enable the projects to begin as soon as the feasibilities are concluded.**

4. REASONS FOR DECISION

Key Issues

- Requirement for an increase in SEND provision in borough
 - Requirement for the solution for surplus school places from the primary school system
- 4.1 The Council has a statutory duty to ensure there is a sufficient number of school places for pupils and that places are planned effectively. It also has a

statutory duty to keep under review educational provision, training provision and social care provision made both in and outside of its area for children and young people with SEN or a disability and for whom it is responsible.

- 4.2 The Education Sufficiency and Estate Strategy, to be considered by Hackney's Cabinet sets out the priorities for education provision in Hackney over the next 10 years and aims to provide a clear review of our current sufficiency and how our educational estate can support this together with a gap analysis of provision that we will require over the next five to ten years. Conclusions have been drawn to form a high level strategy to address the vision proposed to provide sufficient Hackney school places for all children and young people living in our Borough.
- 4.3 The strategy paper details that Hackney needs to address a two fold set of issues around our pupil population. The strategy proposes to review the current school estate alongside other Hackney owned land options in order to create more special provision places for children and young people with complex SEND in the borough. It also proposes to work with existing primary schools and secondary schools to seek more viable long-term solutions for them. Some schools are experiencing challenges with budgets due to falling pupil rolls. This paper does not list individual sites or address individual concerns.
- 4.4 This report proposes to ensure that we can expand and build the most urgently needed provision as soon as possible. Phase 1A capital projects are to be delivered within the existing SEND Capital grant. These projects will address the urgent need for Autistic Spectrum Disorder (ASD) and Severe Learning Disability (SLD) places and enable this phase to begin as soon as feasibility studies are concluded.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

5.1 Option 1 - No action

If no action to increase the number of SEND places is taken to meet projected demand and to work pragmatically with schools experiencing falling rolls, the significant SEND deficit and the operational challenges affecting schools with falling rolls will continue to increase with a negative impact on pupils and no systemic solution. NO action is not an option available to the Council.

5.2 Option 2 - To take the recommendations laid out in the Education Sufficiency and Estate Strategy paper to commit to addressing the need for SEND places and solution to surplus school places

The Estate Strategy paper lays out that we need to take action and summarises with four priorities. It doesn't yet offer specific recommendations for each problem. These will be reviewed in the upcoming implementation plans.

6. BACKGROUND

School Estate Strategy

- 6.1 Since 2015 demand for reception places across London has decreased year on year. The reasons for this are complex and multifaceted, however a combination of changes to welfare benefits, rising rents, Brexit and more recently the pandemic have all had a detrimental impact on school rolls. Falling reception rolls has led to a significant number of surplus reception places both in Hackney, London and more widely, affecting the running, efficiency and financial stability of some schools. This impact has not been felt evenly - with some schools unaffected and others more seriously affected.
- 6.2 The impact of falling rolls on individual schools creates challenges for school leaders and needs to be managed individually and collectively. Having an excess number of surplus places in the system can lead to more moves between schools than is helpful for young people. The strategy considers guidance for schools who are experiencing falling rolls.
- 6.3 Conversely there has been a significant increase in the number of children and young people (CYP) with Education Health Care Plans (EHCP) - a 49% increase over the last 5 years, an average annual year on year growth of 10.3%. Last year (2021), saw a 17% increase in requests for assessment. The demand for high quality provision and specialist places in local settings is high, outstripping supply. This is in line with national trends. The impact of this is significant, as while the need for specialist places and support services has increased, the mainstream CYP population is projected to fall. This means that the percentage of each year's pupil cohort requiring SEND support and provision will increase.
- 6.4 The decreasing rolls and increasing requirements for SEND will impact on the use of the education estate which will see changes in the coming 5-10 year period. We therefore need to review the Hackney strategy for sufficiency and meeting the needs of education through the asset.
- 6.5 The Education Sufficiency and Estates Strategy is being formulated with a view to consider how to resolve four priority issues currently present in Hackney:
1. the significant increase in requirement for SEND education provision;
 2. falling primary mainstream school rolls;
 3. the projected fall in secondary mainstream school rolls due to a declining primary roll and;
 4. a long term sustainable use plan for all education sites in the borough.
- 6.6 The strategy proposes to review the current school estate alongside other Hackney owned land options in order to create more special provision places for children and young people with complex SEND. It also proposes to work

with existing primary Schools and Secondary schools with increasingly challenging budget positions due to falling pupil rolls to seek more viable long term solutions for them.

- 6.7 This paper sets out the likely need for change of use of sites over a 5-10 year planning period and possible capital investment routes to support the need. This paper does not list individual sites or address individual concerns. Decisions about individual sites will be made in line with the agreed strategy via the implementation plan which will be produced at a later date in 2022.

Broad overview of key cabinet submission dates

- 6.8 A SEND Invest to Save business case (priority 1) has been drafted based on estimated costs of delivering additional SEND provision which is expected to be submitted to Cabinet in July 2022 (post feasibility) to confirm the wider budget envelope.
- 6.9 The implementation plans which address SEND places and falling rolls (priorities 1- 4) are expected to be submitted to cabinet by September 2022 onwards, post development in working groups throughout the first half of 2022.
- 6.10 Those projects that will progress to feasibility have been grouped into 3 phases as below:

Phase 1A - this phase addresses the more urgent need for places for children with Autism Spectrum Disorder (ASD) and Severe Learning Disability (SLD). To be completed and funded within the current SEND capital budget and submitted to Cabinet in February 2022;

Phase 1B - to be considered for capital approval to Cabinet at a later date (approximately July 2022). Feasibilities will be progressed in March and funding approval requested following Cabinet approval of the Invest to save business case for further capital investment

Phase 2 - expansion of special schools. Evaluation of suitable sites to be completed alongside a more in depth understanding of mainstream school capacity (from late 2022 onwards).

- 6.11 This report asks for approval for Phase 1A - the more urgent need for places Autism Spectrum Disorder (ASD) and Severe Learning Disability (SLD)

Urgent need for additional SEND places - Phase 1A

- 6.12 Hackney is facing an ever increasing pressure on the number of SEND school places available. As an example, since September 2021, secondary transfer is well underway and almost 50 requests for ASD ARP places have been

received, with only 9 places available to offer. To compound this issue, one of Hackney's special schools is currently full in its primary phase.

- 6.13 The urgent need for SEND places is also outlined in the Send Needs Analysis Paper (SNAP, appendix E of the strategy paper), which explores in detail data showing a significant increase in the number of children and young people with EHC Plans - 49% over the last 5 years, an average annual year on year growth of 10.3%. Last year (2021) saw a 17% increase in requests for a statutory assessment. The demand for high quality provision and specialist places in local settings is high, outstripping supply. This is in line with national trends.
- 6.14 In June 2021 Hackney Education sought expressions of interest from schools wishing to be involved in the creation of 4 new Additional Resource Provisions (ARPs) for the highest demand primary needs. Interest was received from 16 schools and settings. These have been evaluated by colleagues in SEND, Education Property, School Place Planning, School Improvement and schools finance. The outcome of the evaluation against set criteria, saw 10 schools progressing to the feasibility stage for further in-depth assessment.
- 6.15 Given the urgency for priority Phase 1A places (ASD and SLD), approval is sought from Cabinet to approve this scheme of work as soon as the feasibility studies are completed. These proposed priority projects would be focused on alleviating the pressure on the SLD and ASD demand which are causing most concern. The projects proposed would be funded by the £2.7m we have already secured from the High Needs Provision Capital Allocations (HNPCA) in 2021. This grant is paid to local authorities (LAs) to support the provision of places for pupils with special educational needs and disabilities (SEND) and those pupils requiring alternative provision (AP). This funding will form the basis for the capital investment in SEND need and will form part of the wider strategy combined with other capital investment which will be explored in the SEND Business case.
- 6.16 Seeking early approval of priority projects ahead of the wider capital programme (within the already held budget) does come with some risk. However the demand for additional SEND places is acute and increasing to such an extent that the benefits of proceeding in this way (rolling out priority projects quickly to reduce spend) is likely to outweigh the risks of increased cost caused by delaying the start of the projects. These proposals are summarised below:
- 6.17 Phase 1A** - more urgent need for places specialising in ASD, SLD to be completed within the current SEND capital budget:
- Simon Marks Primary School (ASD - 12 places, capital cost per place £12,500) = £150,000
 - Nightingale (ASD - 12 places, cost per place £4.1k] = £50,000
 - Petchey Academy (ASD - 24 places, capital cost per place £12,500) =£300,000

- Side by Side [Grant] - (SLD - 50 places, capital cost per place £10,000) = £500,000

Total estimate= £1,000,000 for 98 places.

This is within the current £2,700,000 HNPCA Hackney has been allocated.

6.18 Note that all cost per places are high level estimates at this time and more accurate figures will be known post feasibility studies. This is expected to be in June 2022.

6.19 For any investment into a new ARP Hackney Education will require a Funding Agreement to be signed between Hackney Education and each school, this will include details about how the provision will be expected to run. This is especially important as Simon Marks, Petchey and Side by Side are not LA maintained schools.

6.20 Policy Context

The Council has a statutory duty to ensure there is a sufficient number of school places for pupils and that places are planned effectively. SEND places and School Place Planning strategies are aligned to Hackney Education's strategic aims. Hackney's aims are to create a fairer, more inclusive borough, which supports children and young people to thrive. We want to optimise schools' roles as an anchor system in the borough and ensure that developments and changes are sustainable. Hackney Education's mission is to improve the life chances of every child, young person and learner in Hackney.

6.21 Equality Impact Assessment

Officers are keen to ensure the following for any school organisation changes:

- decisions should promote equality of opportunity to access a good or better local school.
- changes and expansions will not take place exclusively in deprived areas of the borough but equally across the areas that have the most demand, need and space. In terms of the protected characteristics and specifically in the case of this strategy, proposals arising from the Education Estates & Sufficiency Strategy will be subject to equality impact assessments, specifically, age, disability, race, belief and religion. A further assessment will be made to assess any socio economic impact such as pupils in receipt of free school meals. See appendix c of the strategy paper and background paper below for [Equalities Impact Assessment](#) (EIA).

6.22 Sustainability

The School Estate Strategy will support the Council's energy strategy in the consideration of the options for building projects and ensure that designs and

specifications for works will refer to sustainable materials, encourage cost savings and energy efficiencies.

All materials utilised wherever sourced for the delivery of capital works through this project will be required to fall in line with Hackney's Green Procurement Policy.

- Reducing, reusing and recycling, with particular reference to plastics
- Reducing CO2 emissions, by encouraging greener forms of transport
- Diverting from landfill and incineration as far as practically possible, green and brown waste skips will also be used and audited during this project.
- Using "whole life" costing where practicable, taking account of the cost of disposal and decommissioning
- Purchasing sustainable timber products, where available all timber will be FSC certified
- Minimising negative impact of Freight associated with the Council's procurement and contracting activities, making sure that construction supplies are ordered and collected/delivered together.

6.23 The strategy supports Hackney's vision to provide an excellent equitable local educational experience for all Hackney children and young people. For the majority this will be within a mainstream early years setting and school or college environment. But for many who are not as easily able to access mainstream education for various reasons, the Council wants to have a varied and child centred alternative offer through specialist settings and alternative provision particularly with the significant growth in the numbers of children and young people who cannot access mainstream education. The vision is for Hackney children to be able to travel easily to a great inclusive local school which engages with all their neighbourhood parent/carer community and to be in schools which fairly reflect the diversity of the Hackney community.

6.24 The procurement of goods and services in the progress of this strategy will take account of key government and Hackney policy, guidance and standards including working with SMEs, driving standardisation, fair payment, apprenticeships, modern slavery, social value, modern methods of construction, Building Information Modelling (BIM), digital, and compliance with environmental, security and health and safety standards.

6.25 Consultations

For the Education Estate Strategy paper, stakeholder engagement has been instrumental in shaping the ESS Strategy and assisting officers with developing the overarching aims of the strategy.

- 6.26 Pre engagement meetings have been held with headteachers, chairs of governors, and relevant stakeholders to seek initial thoughts. Further in-depth meetings, discussions and working groups were later held with schools, partners, members, Headteachers and governors, the Social care and health leadership team, neighbouring boroughs, Interlink, Children Ahead and diocesan bodies.
- 6.27 In addition, Hackney Education's Senior Leadership Team and wider council officers have been consulted throughout the development of the strategy to ensure broad agreement and understanding of the proposals. Consultation with members took place throughout the Autumn Term 2021, with a key working group chaired by Cllr Bramble. The law requires that a statutory consultation may be required where school organisation changes fall into what is known as a prescribed alteration. A statutory consultation is not needed at this stage for a feasibility study but will be needed before any implementation. The consultation process allows stakeholders, residents and the general public to comment on the Council's proposals both during the initial consultation and notice period. Responses received during these periods will be carefully reviewed and where appropriate, proposals may be further reviewed following comments.

The strategy paper is not site or Ward specific.

6.28 Risk Assessment

Risks associated with the lack of SEND provision and the surplus of mainstream school places are reflected in the HE's strategic risk register. The implementation of this strategy is key in mitigation of these risks as outlined below.

- 6.29 The variables that will influence the delivery of this strategy are: funding limitations, demand fluctuations, the willingness of governing bodies to approve plans. These factors, alongside specific site information and timescales will be explored in the implementation plans which will succeed this strategy. These implementation plans will be developed in stages over the next year by Hackney Education and partners.

6.30 Risk Mitigation

The number of pupils eligible for EHC Plans continues to increase at a significant rate exceeding the population growth in the Borough, the effect of which is to place the SEND budget in deficit. Along with work already on-going

which is having an impact the impact of the SEND additional places that this strategy looks to provide is being modelled with the finance team. The impact is likely to be seen from the 2022/ 2023 financial year.

6.31 Insufficient provision to meet growing demand for SEND services:

- 1) To mitigate this the estate strategy looks towards implementation of the SEND provision. Expressions of Interest (EOIs) for the delivery of Additional Resource Provision (ARPs) have been submitted and those which moved to feasibility continue to be assessed. Workshops with stakeholders already are and will continue to be undertaken to model what expansion might look like.
- 2) Use of capacity in existing school building sites where there are falling rolls/ physical capacity, to create more resource provision, this will continue to be explored throughout the implementation plans and developed throughout 2022.

7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 7.1 The School Estate strategy is a welcome response to begin tackling the Special Educational Needs and Disabilities (SEND) pressures which are not unique to Hackney. Many local authorities are currently grappling with huge deficits in the Dedicated School Grant (DSG) largely due to significant deficits in the high needs funding allocations from government. Demand for services for children with SEND has grown substantially since the introduction of the Children and Families Act 2014. The government's high needs funding allocations have not kept up with this increase in demand, leaving many local authorities with significant deficits.
- 7.2 At this stage it is not possible to identify all the direct financial implications that will arise from School Estate Strategy, other than stating this will require significant capital investment above the current capital grant allocation that is available. When making a recommendation on this investment, consideration will need to be given to the ongoing cost of capital and how this will be financed along with assessing the payback period for the investment. It is noted that the Spending Review 2021 announced £2.6bn of capital funding for school places for children with SEND. However, it is unclear whether any of that will be a direct grant to local authorities, and will therefore help to meet the cost of this strategy, or if it is mainly to support the development of free schools.
- 7.3 Hackney SEND expenditure on average is increasing around £4m-£5m per year and therefore any new provision will need to reduce costs above this amount to reduce the annual overspend. However, it is recognised that the School Estate Strategy is just one of the measures to seek to address this growing problem and the financial impacts of the other measures also need to be considered.

- 7.4 The detailed strategy will be brought forward supported by a full business case including consideration of the financial implications as indicated above. Furthermore it will need to be considered in the context of the overall capital strategy and the work underway to review existing assets.
- 7.5 The proposed phase 1A capital projects - four schemes addressing the urgent need for Autistic Spectrum Disorder (ASD) and Severe Learning Disability (SLD) places, will be funded from the High Needs Provision Capital Allocations Grant in which £2.7m funding was allocated to Hackney. The project is estimated to cost £1m. However, the true cost will be established once the feasibility is carried out and completed in June 2022. Initial analysis shows a total cost avoidance of £1.6m once all four projects are completed and fully occupied (estimated timeframe 4 years).
- 7.6 The council will create funding contracts with each of the schools to avoid unexpected cost or funding disputes for the new places created. Furthermore, Hackney Education will ensure pupils attending the new provision are those who would have otherwise attended independent or out of borough settings.

8. VAT Implications on Land & Property Transactions

VAT implications will be considered at the project initiation stage for each project .

9. COMMENTS OF THE DIRECTOR, LEGAL & GOVERNANCE SERVICES

- 9.1 The Council has planning duties to ensure sufficiency of school places, notably, under the following provisions:
- 9.2 Section 14 Education Act 1996 (EA 1996) to ensure the provision of “sufficient schools” for the provision of primary and secondary education in their area. Section 13(1) EA 1996, as far as powers permit, to “contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education, secondary education and further education are available to meet the needs of the population of their area”. Section 27 Children and Families Act 2014 (CFA 2014) to keep under review educational provision, training provision and social care provision made both in and outside of their area for children and young people with SEN or a disability and for whom they are responsible.
- 9.3 The sufficiency of school places and making changes to schools require further consideration of the following duties:
- 9.4 Section 1(1) Local Government Act 1999 imposes a duty to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”. The Council has fiduciary duties towards residents. The

Council may name schools outside its area in a child's Education, Health and Care Plan where no nearer suitable school exists and it must accede to the school preferred by the parents, but it will then, in most cases, have to fund transport the child to that school.

9.5 Section 149(1) Equality Act 2010 (EqA 2010) imposes the Public Sector Equality Duty on the Council. This duty should be considered at all levels of decision making.

9.6 The PSED requires public authorities to have "due regard" to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EqA 2010.
- The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- This involves having due regard to the needs to:
- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- Compliance with the PSED may involve treating some people more favourably than others, but this does not mean that conduct that would otherwise be prohibited by or under the EqA 2010 is permitted.
- The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it.
- This includes having due regard to the need to tackle prejudice and to promote understanding.
- In taking decisions the Council must act lawfully, including acting within its powers, following its own procedures as well as those required by law, such as those relating to the opening and closures of schools and guidance.
- The Council must ensure that all required consultations are properly undertaken in accordance with relevant law and guidance, and the Cabinet Office Guidance on Consultation, 2012.
- It must make rational, evidence based decisions, take into account all relevant considerations and for a proper purpose, be compliant with the European Convention on Human Rights and make proportionate decisions that are properly reasoned.
- It must seek detailed legal advice where required, for example in meeting the requirements of the PSED, school reorganisation, commissioning and on employment, procurement and contracting questions.

APPENDICES

Appendix 1 - [Education Sufficiency and Estate Strategy](#)

Appendix 2 - [Phase 1A projects for SEND places](#)

EXEMPT

Not Applicable

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

Description of document (or None)

[Equality Impact Assessment](#)

[Send Needs Analysis Paper](#)

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