

London Borough of Enfield

CABINET

Meeting Date: 12 October 2022

Subject: SEND Places Development Programme

Cabinet Member: Cllr Abdul Abdullahi

Executive Director: Tony Theodoulou

Key Decision: 5513

Purpose of Report

1. Provide details of the proposed programme to provide large scale Special Educational Needs and Disability (SEND) provision within the Borough to address increasing demand and reduce dependency on out-of-borough placements financial and associated impact on the Council.
2. Provide details of current and projected demand for SEND places, current provision both in-borough and out-of-borough and the related costs to the Council
3. To report details of viability work undertaken to date to identify sites and the scale of additional provision that can be achieved at these sites.
4. To seek Cabinet agreement, in principle, to take forward a SEND Development Programme (beyond initial viability and early feasibility stage) to establish new SEND provision at Portcullis Lodge and Addison House. The approval of individual projects will be subject to further feasibility, survey work, strategic business case, planning approval and inclusion in the Council's 10-year capital programme. Once included with the Capital Programme individual projects will be subject to the Council Governance procedures including future Key Decision reports.
5. To note potential future work to bring forward sites Bell Lane and the former Eldon Secondary Tuition Centre
6. To note the requirement for £1.6m funding for the two priority sites (Portcullis Lodge and Addison House) to progress development work and indicate the likely capital investment required to deliver this Programme. The costs related to bringing forward individual schemes is detailed in Restricted Appendix A1.
7. To note the application to the Department for Education (DfE) Free School Wave 2022 for Portcullis Lodge and Addison House sites. If either application is successful the DfE are likely to fund the development of the site (this may be through a financial contribution or by delivering the site(s) themselves). A Free School provider will be selected by the DfE.

Proposal(s)

Cabinet is recommended;

8. To note the work undertaken thus far to establish the viability of the four potential sites (detailed below) including further detailed feasibility and survey work for the Portcullis Lodge site and the costs in the total sum of £479k already invested to undertake this work.
9. To note the funding requirement of £1.6M to develop detailed designs to take forward prioritised sites at Portcullis Lodge and Addison House to submission of a planning application (RIBA Stage 3). The detailed costs for individual schemes are included in the Restricted Appendix A and A1. Costs shown in Restricted Appendix A1 are at current rates and it should be noted that these costs are subject to change. Delays in approving the required funding for individual projects is likely to result in increased costs and delays to progressing the programme.
10. The two priority sites have the potential to provide between 136 additional SEND places (this will rise to circa 184 places when other sites are brought forward in a future phase of the programme). Phasing of bringing forward sites is due to the Council's constraints to funding delivering the programme due to the wider demands across the Council and available capital through borrowing.
11. To note as a decision to be brought forward to Full Council for a capital investment in a SEND Development Programme, recommend further analysis, strategic business case development and financial modelling for approval and inclusion in the Council's 10-year Capital Programme. A significant amount of additional work is required prior to understanding the precise amount of capital required. However, currently the value of this investment estimated to deliver the two priority sites is estimated at £26m (£54m for four sites).
12. To agree an approach for all developments to target a net zero carbon approach in line with the Council's Climate Change Strategy and Planning Policy, where this is affordable for the Council.
13. For Members to note the Programme subject to the DfE Free School Wave decision.

Reason for Proposal(s)

14. In recent years there has been a significant increase in demand for SEND provision due to an increasing number of Educational Health Care Plans (EHCP) for pupils within the borough. This ongoing rise requires an approach that addresses the current demand impact, in particular the costs of out-of-borough placements and related transport costs.
15. Between May 2020 and May 2021, the number of EHCPs increased from 3,262 to 3,783 (figures at October 2021). The average growth in EHCPs in the last three years in Enfield is 16.67%. This compares to an average 10% growth nationally.
16. With the current trend data available the projections indicate that the number of EHCPs will increase to 4595 in 2023 and by 2025 this will reach 6283.
17. Provision for children within the borough is varied and the number of pupils is subject to constant change as children being identified with special educational needs currently within mainstream settings may change throughout the academic year. At July 2022 over 687 children are educated in out-of-borough provision (See Appendix 1: Impact of Increased Need for SEND Places).
18. In addition to the capacity and cost related aspect of the current position there is a significant negative impact on parents and children who are required to travel to out-of-borough provision.
19. The average cost of an out-of-borough placement is circa £25.5k pa compared to £11.52k for a place in-borough. In addition, average transport costs are more than twice as expensive for out-of-borough pupils at circa £15.18k versus £7.4k in-borough. Therefore, the saving for every in-borough place created on average will be circa £21.7k per annum (at current rates).

20. The impact of the increase demand has put pressure on the High Needs Budget (HNB) element of the Dedicated Schools Grant (DSG) received from the DfE to such an extent that the deficit budget which will be carried forward to 2022/23 will be circa £12.62M (the deficit brought forward from 2021/22 was £8.048M). The forecast for 2022/23 indicates that the overspend will continue to increase by approximately £3m. Out-of-borough placement is the most significant contributor to the overspend.

Relevance to the Council Plan

Good homes in well-connected neighbourhoods

21. This project will contribute to the Council's strategies and programmes for supporting communities through the delivery of education services to the benefit of the community.

Safe, Healthy and Confident communities

22. The Borough needs to ensure appropriate infrastructure is in place to allow the growth of the population. Increasing the capacity of special schools to provide high quality education within the borough to meet demand directly delivers essential services to protect and support vulnerable residents. This provision will aim to inspire and empower young people to reach their full potential.

An Economy that works for everyone

23. The provision of good quality schools and buildings helps to ensure a stable strong community enhancing skills and connecting local people to opportunities.

Background

24. In November 2021, EMT agreed that the Education Strategic Resourcing and Partnerships Service (ESRP) and the Construction Maintenance and Facilities Management Team (CMFM) should identify potential sites to establish brand new provision on a scale that would make a significant contribution to addressing demand. The ESRP Service has identified four sites currently which have the potential to establish SEND provision. An initial £60k was approved by the Interim Director of Finance & Commercial from revenue reserves for viability studies under delegated authority from the Executive Director of Resources in consultation with EMT.

25. Four sites have been identified as having the potential to establish new SEND provision. sites are noted as follows:

- Addison House, Addison Avenue, N14 4AL
- Portcullis Lodge Car Park (opposite Civic Centre), EN1 3XA
- Former Eldon Road Tuition Centre, Eldon Road, N9 8LG
- Albany Youth & Community Centre & Caretaker's House, Bell Lane, EN3 5PA

26. The SEND Programme Board was set up in May 2022 as a formal governance body for the delivery of potential SEND schemes to provide governing steer, direction, oversight and assurance to the work of officers and service areas involved in all aspects of delivering the Programme. This is a cross directorate group of senior officers.

27. Work on the sites at Portcullis Lodge and Addison House have been progressed to an initial pre-planning stage. In March 2022, an Operational Decision was approved by the Executive Director for People for an additional £398,750 to provide architectural concept design

incorporating the strategic engineering requirement aligned to a cost plan and outline specification for the site at Portcullis lodge (See Appendix 5. Operational Decision - Funding to undertake feasibility work for the development of additional SEN Provision at Portcullis Lodge).

28. Cost estimates have been prepared for taking forward all four identified schemes to the submission of planning applications.
29. The type of SEN provision will be identified for each site in consultation with the SEN team based on the demand for places, considering site constraints and suitability of accommodation that can be provided.

POTENTIAL DEVELOPMENT SITES

Portcullis Lodge

30. The Portcullis Lodge Car Park site is situated opposite the Civic Centre LBE offices and is accessed from Baker Street via a single-track road, which runs alongside the New River. The site is bordered to the north, west and south by playing fields, used by the Enfield County Upper School and the Enfield Grammar School. The overall site area is approx. 10,909m². and located within a conservation area and within an area designated as Metropolitan Open Land. Approximately a third of the site area accommodates an overspill car park, for the Enfield Civic Centre, the rest of the site is heavily wooded and very overgrown.
31. This project has been significantly more progressed than the other three schemes. Subject to the necessary planning approval processes the site could accommodate the construction of a two-storey building, including external facilities, car park and drop off, to accommodate a cohort of 100 ambulant pupils.
32. Work undertaken thus far has included progressing the concept design including; site investigation surveys, design development workshops and investigation into the legal aspects of the site. Investigations carried out thus far have identified several constraints of the site, pertaining to tree conservation restrictions, re-habitation of badgers and removal of Japanese Knotweed, along with easement and land ownership matters.
33. As this project is at an advanced stage of design, the total project costs are estimated to be circa £16.5m. The construction costs alone are calculated to be approximately £11m. The estimated budget allows for risks relating to delivering the site which will be clarified as the project proceeds through the next work stages.
34. An Operational Decision approved by the Executive Director for People £392k has funded the work undertaken thus far (see Appendix 5).
35. Detailed costs for future stages are shown in Restricted Appendix A1. The approved funding to progress this work will shortly have been expended. Delays in approving these funds will impact on the costs going forward as construction related costs continue to increase nationally. Therefore, it is important for funding for the next phase of works is approved as soon as possible to ensure the project continues to work towards the identified milestones.

Addison House

36. The overall site area is approx. 3,053 m² and the site is situated on the corner of Green Road and Addison Avenue in the northern part of Southgate. The site currently accommodates an existing 1.5 storey single storey mock Tudor building built in the 1930s, as a community hall.

The building previously accommodated the Primary Behaviour Support Service which has been relocated to Houndsfield Primary School.

37. Subject to planning approval this site could possibly support a two-storey building for 36 plus SEND pupils.
38. An initial pre- planning application meeting was held with the planning team where concerns were raised about the demolition of the existing building which is of local heritage interest although not being listed.
39. Two options have been developed for consideration at pre-planning advice prior to the main planning application being submitted:
 - Option A - Retaining the existing with a new 2-storey build abutting with internal links.
 - Option B – Demolition of the existing building and replacing it with a new 2-storey building.
40. It is estimated at this very early stage of the project that the construction (only) costs will be in the region of £6.2m, which has been used to calculate the professional fees and surveys required to take the application to planning stages as set out in Appendix A. At the end of Stage 1 (feasibility stage) the estimated costs to deliver the project inclusive of construction costs, construction works contingencies, market volatility risks, fees for professional services, specialist surveys, statutory fees, internal fees, loose furniture, equipment & ICT and project risk contingencies will be known.

Former Eldon Road Tuition Centre

41. The site at Eldon Road in Edmonton was formerly used as a Secondary Tuition Centre. The site has been vacant for approximately four years following the building of Orchardside School in Bullsmoor Lane which now accommodates students that attended the Eldon STC site. The overall site area is approx. 1,321m² and the site is situated on the corner of Eldon Road and Cumberland Road.
42. Subject to the necessary planning approval processes, the site may support a three-storey building, sited along the northern side of the site running parallel to Cumberland Road.
43. The initial viability study identified that 8 SEND pupils could be accommodated, treating this site as a standalone provision. However, this site neighbours Eldon Primary School with Early Years Provision on a large site with extensive playing fields. Earlier development options considered 3 storey options with and without a catering kitchen. These offered SEND pupil number's accommodation between 32 and 40. To provide additional external space for this development there is the opportunity to share the Eldon Primary School playing fields. The previous expansions on the primary school, the Early Years / Children's Centre and Dining Hall buildings raised concerns from Sport England. Provision of a Multi-Use Games Area may mitigate their objections to provide a whole site solution to accommodate a minimum of 32 SEND pupils
44. It is estimated at this very early stage of the project that the construction (only) costs will be in the region of £3.9m, which has been used to calculate the professional fees and surveys required to take the application to planning stages as set out in Appendix A. At the end of Stage 1 (feasibility stage) the estimated costs to deliver the project inclusive of construction costs, construction works contingencies, market volatility risks, fees for professional services, specialist surveys, statutory fees, internal fees, loose furniture, equipment & ICT and project risk contingencies will be known.

Bell Lane

45. The site currently accommodates three separate buildings:
- a) The Bell Lane Youth centre
 - b) Waverley Pre-school (SEND school)
 - c) Former Albany Caretaker's House
46. The western part of the site contains the Bell Lane Youth Centre. The Youth Centre has a building typology similar to that of a community hall. Originally, the large space at the core of the building would have accommodated the hall function and this would have had a vaulted roof. The building is currently being used by Enfield Council as an 'outreach' centre and youth club. The central part of the site contains the Waverley Pre-school building for special educational needs. It is a modern building that was presumably built within the last 20 years.
47. The site shares a boundary to the north with the Ark John Keats Academy's hard surfaced playing courts, external amenity space and playing fields. The Academy is a 3 to 18 all-through school with a mixed comprehensive intake.
48. Initial viability studies have indicated that this site could support a two-storey school building, situated along the northern side of the site on the footprint of the existing Waverley pre-school building and running parallel to Bell Lane. This could extend the existing provision at Waverley Pre-school by at least 16 pupils. Waverley School accommodates the pupils with Profound Multiple Learning Difficulties (PMLD) who have the greatest need of any SEND children within the borough. These pupils a high ratio of staff to pupils and specialist equipment.
49. It is estimated at this very early stage of the project that the construction (only) costs will be in the region of £4.7m, which has been used to calculate the professional fees and surveys required to take the application to planning stages as set out in Appendix A. At the end of Stage 1 (feasibility stage) the estimated costs to deliver the project inclusive of construction costs, construction works contingencies, market volatility risks, fees for professional services, specialist surveys, statutory fees, internal fees, loose furniture, equipment & ICT and project risk contingencies will be known.
50. Relocation or colocation of youth provision will also need to be considered when developing any plans.

Main Considerations for the Council

51. The SEND Development Programme will seek to significantly increase in-borough SEND provision with high quality large scale provision ideally managed by established maintained SEND providers with a track record of successful delivery within the borough.
52. To achieve the aims of the programme the Council is required to make a substantial financial investment for the development and construction costs related to establishing new provision. The level of the DfE capital grant funding to Enfield (*See Appendix 4: KD5383 Updated School Condition and Fire Safety Programme 2022/23 to 2023/24*) is not sufficient to contribute to the programme and is focussed on the maintenance and improvement of existing maintained schools.
53. The maintenance of school buildings (a shared responsibility with schools) has seen an increasing number of reactionary works due to lack of attention by schools. The pressure on school budgets is a contributory factor to the lack of required maintenance undertaken by

schools. The ESRP is refocussing its approach to better understand the state of school building stock through a programme of condition surveys. The result of these survey is likely to identify works which will be reflected in the future Schools Capital Programme and distribution of grant funds. In addition, the rise in maintenance and construction costs alongside the requirement to work towards achieving decarbonisation and other climate change targets will also exert additional pressure on the funds available for works to existing schools.

54. Without the interventions suggested within this report there will be increasing pressure on the HNB and the deficit will continue to increase. When delivered the SEND Development Programme will help to address this situation.

Safeguarding Implications

55. The design works will ensure that the proposed facilities will be a safe and secure environment for Enfield's young people.
56. The health and safety of pupils is first and foremost in all designs ensuring the site and buildings are secure with public and pupil areas securely separated.
57. The SEND Development Board are to implement an advisory group of Enfield SEN school Headteachers to ensure all safeguarding and operational issues are resolved during the design process.
58. Design work will be undertaken in full accordance with Health & Safety and Construction Design Management Regulations.

Public Health Implications

59. The provision of high quality schools helps ensure a stable, strong supportive community giving Enfield's young people better outcomes ensuring they are given the tools to become productive members of the community.
60. Schools can offer strong support networks for our SEND young people and their families being able to sign post them to all available resources.
61. There are positive long-term implications for SEND children as they progress into adulthood and independence, through having local community connections and friendships, developed during school aged years. Ensuring we provide places for Enfield's young people within the Borough has a significant impact on the wellbeing of the individual.
62. Good quality school accommodation and external learning environments are essential for the development, social integration and well-being of Enfield's young people.

Equalities Impact of the Proposal

63. An Equality Impact Assessment has been carried out (attached). It is the Council's statutory responsibility to ensure that there are sufficient pupil places across the Borough to meet demand, that these places are not discriminatory and to ensure that all children have access to quality education.

64. Design proposals brought forward will have due regard to the suitability of plans for the intended purpose and performance, durability. The provision of local schools across the borough ensures quality of rights to good education provision. Additional SEN places will positively impact the lives of children and their families by ensuring that pupils can be educated within their own communities and reducing the negative impact of travelling out-of-borough.

65. An Equalities Impact assessment of the Programme (through this report) has been completed and considers the initial impacts of the proposed programme. It establishes that at this stage the Programme does not indicate any discrimination against the service users, residents and in particular young people in Enfield. Further assessment will be made as individual schemes are brought forward for decision.

Environmental and Climate Change Considerations

66. The SEND Development Programme will support the Council to become carbon neutral by 2030, as set out in the Climate Action Plan. Where possible a ‘Passivhaus’ efficiency standards and construction concepts will be applied. Where this is not possible design guidance will ensure we deliver buildings that are net zero carbon in both construction and operation energy use and powered from on-site and/or off-site renewable energy sources, with any remaining carbon balance offset.

67. This approach will provide both environmental benefits and operational energy cost savings for the users of any facilities developed within the programme.

Risks that may arise if the proposed decision and related work is not taken

Risk	Mitigation
Ongoing need to fund High Needs budget from Council resources	<ul style="list-style-type: none"> • The SEN team continue to identify children whose needs can be met in mainstream settings • Development of Additionally Resourced Provision (ARPs) and SEN Unit in mainstream settings will contribute • Govt White Paper may introduce cap on out-of-borough charges from providers in the future • Enfield is likely to receive an increase in funding allocation from the DfE which may reduce the funding gap (this will not be known until revised regulations are published) (<i>see Appendix 2: DMT Schools Funding Update</i>)
SEN Pupil Numbers levels maintained or increase	<ul style="list-style-type: none"> • Continued dependency on out-of-borough provision • Increased contribution by the Council to the HNB
Revenue Expenditure spent thus far abortive	<ul style="list-style-type: none"> • If Capital schemes are not delivered or current feasibility work does not continue funds invested thus far will be abortive

	<p>costs (not able to be capitalised)</p> <ul style="list-style-type: none"> • If the DfE application is successful it may be possible to negotiate with the DfE to recover costs if they take forward the current proposals (this is not guaranteed)
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Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

Risk	Mitigation
<u>Delay</u> – volatility in the construction sector has resulted in increasing costs to delivery capital projects (feasibility, design and construction)	<ul style="list-style-type: none"> • The aim is to bring forwards projects as quickly as possible to ensure that costs are more accurately assessed • Increased contingency has been applied to the programme to accommodate potential rises in delivery costs
Capital resources required to successfully deliver the Programme and Projects are insufficient and/or not approved	<ul style="list-style-type: none"> • The process of clarifying the likely capital funding required is underway to allow Capital Finance Board to indicate whether the Programme can be funded • Application to the DfE Special Free School Wave 2022 may provide funds necessary for additional provision • Sale of Caretakers Houses may be able to support the School Capital Programme and potentially allow funds to be made available to contribute to large scale provision (although this is being considered to support expansion of existing provision and establishing ARPs/SEN Units). See Appendix 3: KD5373 Strategy for Disposal and use of Caretakers Houses. • The annual Schools Capital Programme will be reviewed subject to the future DfE allocation to ascertain whether a contribution can be made towards large scale provision • The number of schemes can be reduced or phased. Alternative options will also be investigated
DfE Approval of Free School Wave Applications	<ul style="list-style-type: none"> • Education Service will negotiate with DfE to adopt proposals and reimburse Council for investment to date (not guaranteed) • <i>Free School provider will be allowed their own admission criteria and may not guarantee all/the majority of places are provided for Enfield children</i>
Proposals not approved by	<ul style="list-style-type: none"> • Pre-planning discussions to take place at

Planning	the earliest opportunity to ensure that proposals are likely to be successful
Poor and/or inadequate Governance and control	<ul style="list-style-type: none"> A cross service SEND Sites Development Board has been established to provide robust governance and controls to monitor workstreams and provide regular reporting to People and Place DMTs, EMT and Members.

Financial Implications

68. Report is requesting £1.6m of revenue funding to continue feasibility work to establish new SEND provision at 2 sites across the borough. Further approvals on each site will be required to progress the proposal to a fully initiated capital scheme. This would initially be funded from reserves, but as schemes progress to become capital schemes these costs will be capitalised.

69. Approximately £500k of feasibility works have already been approved, taking the total feasibility costs to £2.1m. The impact on revenue will range from £0 to £2.1m depending on which sites are progressed.

70. The indicative estimate of progressing the two priority sites to develop new SEND provision is estimated at £26m in total. The feasibility work will allow for an updated estimate of the total cost by site.

71. Where sites are progressed as capital schemes the feasibility costs can be capitalised. If a site is not considered viable the feasibility costs associated with that site will be charged to the revenue budget.

72. A bid for funding from central government is in progress. Should this bid not be successful the proposal is for the estimated cost of £26m to be funded from council borrowing, resulting in an annual financing cost of £1.2m (using a 4.5% interest charge, 40-year MRP).

73. If the Application to DfE SEND Special School Wave 2022 is successful it is possible that any expenditure will be abortive but the DfE may consider the Councils cost thus far if they agree to take forward the proposal as developed, resulting in any costs spent to date being charged to revenue.

74. The two priority schemes in the programme are estimated to deliver 136 new SEND places within the borough. The average cost of an out-of-borough placement and transport provision is £40.5k, compared to £18.9k within the borough (i.e. our average cost per out-of-borough placement is more than twice as much as an in-borough placement). If 136 places are created and filled (assuming they would go out-of-borough if not) then there is a potential gross cost reduction on placements of £3m a year, of which £1.9m would be to the ringfenced Dedicated Schools Grant (DSG) and £1.1m to General Fund. This would be offset by the interest and annual revenue charges to repay the initial investment (Minimum Revenue Provision). This means that, at a high level, assuming the complexity of needs of the current in-borough and out-of-borough cohort is the same, a £26m investment could achieve a potential of up to £1.6m per annum net saving for the revenue budget (£3m cost avoidance offset by £1.4m interest and MRP costs).

75. Finance officers are seeking advice on how the interest and capital repayment (Minimum Revenue Provision) charges can be charged to the DSG. Otherwise, there would be a financial pressure in the General Fund, while the savings are in the ringfenced DSG account.

	Average Costs of SEND Placement £	Average Cost of SEND Transport Provision per pupil £	Total £
Out-of-borough	25,340	15,177	40,517
In Borough (Enfield)	11,525	7,410	18,935
Difference	13,815	7,767	21,582

76. This means that, at a high level, assuming the complexity of needs of the current in-borough and out-of-borough cohort is the same, £26m investment could achieve a potential of up to £1.8m per annum net saving for the revenue budget (£3m cost avoidance offset by £1.2m interest and MRP costs). If location was responsible for 50% of the cost differential, the saving for 136 places would be around £0.2m.
77. This saving calculation is assuming that in and out-of-borough placements are on average of the same complexity requiring a similar level of support – this assumption will be tested as part of the business case development. Further analysis is being conducted to establish how much of the cost differential is purely due to the placement being in or out-of-borough and how much may be due to other correlating factors (for example are complex needs more likely to require specialist out-of-borough provision).
78. This means that, at a high level, assuming the complexity of needs of the current in-borough and out-of-borough cohort is the same, £26m investment could achieve a potential of up to £1.6m per annum net saving for the revenue budget (£3m cost avoidance offset by £1.4m interest and MRP costs). If location was responsible for less than 50% of the cost differential, there would not necessarily be a financial saving for 136 places (using the assumptions of £26m investment, 4.5% interest charge and MRP over 40 years).
79. More detailed financial implications will be provided in line with the final business case and progressed feasibility studies.

Legal Implications

80. The Development Programme proposed is for the provision of education to primary and secondary school pupils with special educational needs and disabilities. As a local authority, Enfield has a statutory duty under section 14 of the Education Act 1996 (EA 1996) to ensure the provision of sufficient schools for providing primary and secondary education in its area. Furthermore, pursuant to section 315 of the EA 1996, it has to keep the arrangements for special educational provision under review.
81. The Education Act 2011 requires that local authorities secure sufficient suitable education and training provision for young people in their area. This includes those over compulsory school age but under 19, or those aged 19 to 25 and for whom an Education, Health and Care plan (EHCP) is maintained. The Children and Families Act 2014 places significant emphasis on a more ambitious approach to developing and delivering services for young people with SEND.
82. Statutory Guidance must be followed when seeking to make changes to or to open or close a maintained school specifically to meet increased basic need in the local authority's area.

83. Section 6A of the Education and Inspections Act 2006 (EIA 2006) may become relevant with the proposed Development Programme in addition to referral to the Secretary of State for consent for the publication of the proposals and a consultation process. Section 6A EIA 2006 places local authorities under a duty to seek proposals to establish an academy (free school) via the 'free school presumption' process. The local authority is responsible for providing the site for the new school and meeting all associated capital and pre- /post-opening revenue costs. The final decision on all new free school presumption proposals lies with the Regional Schools Commissioner (RSC) on behalf of the Secretary of State.
84. As a local authority, there are duties under the Equality Act 2010 (EqA 2010), including, duties concerning special educational needs (SEN) and accessibility for disabled pupils. Schedule 10 to the EqA 2010 sets out the accessibility arrangements for local authorities and responsible bodies in schools to prepare and further an accessibility strategy under section 88 of the EqA 2010. An accessibility strategy is a written strategy and must be maintained and reviewed as the local authorities 'planning duties' under this section of the EqA 2010. There is additional technical guidance currently available and that may be relevant, from the Equality and Human Rights Commission on various related aspects for future provision as proposed by the Development Programme. The Council is also required to act in accordance with the Public Sector Equality Duty under section 149 of the Equality Act 2010 and have due regard to this when carrying out its functions. In this regard, it is noted that an Equality Impact Assessment has been carried out and its recommendations should be followed.
85. All contract award decisions must comply with the Council's Constitution and, in particular, the Contract Procedure Rules. Where the value of a contract procured pursuant to this report is above the threshold under the Public Contracts Regulations 2015 (PCR 2015), the procurement of such contract(s) must comply with the requirements of Part 2 of the PCR 2015.
86. Where the value of any contract arising from this report is above the Key Decision threshold (£500,000) or where the contract has a significant impact on the local community in two or more wards in the area of the Council, the decision to award the contract must comply with the Key Decision process under the Constitution.
87. The Council must ensure that the contracts and any legal agreements arising from the matters described in this report are in a form approved by Legal Services on behalf of the Director of Law and Governance. Any contract with a value above the Key Decision threshold must be sealed.
88. The Council must ensure value for money in accordance with the Best Value principles under the Local Government Act 1999.
89. All planning applications will need to be submitted to the Local Planning Authority for approval, along with building control consent. This planning process requires statutory and public consultation and works should not commence until such time as approval is given and any pre-commencement conditions (if required) by the planning permission are discharged, in compliance with the Town and Country Planning Act 1990.
90. The Council will need to undertake title checks and due diligence on each of the sites to ascertain any impediments and must comply with all requirements of its Constitution including, in relation to any property transactions its own Property Procedure Rules which set out mandatory procedures regarding (amongst other things) the acquisition, management and disposal of property assets.

(Legal imps prepared by DB, ZS and EP on 11.08.2022 based on a report circulated on 08.08.2022 and updated by ZS on report circulated on 12.08.2022).

Workforce Implications

91. There are no workforce implication at this stage. These will be identified when individual projects/site are brought forward for Authority Decision.

Property Implications

92. The Education team and Strategic Property Services have been liaising over these SEN School requirements. SPS are aware of all sites being considered for additional SEN provision and have contributed towards initial site identification work and project meetings.
93. The vision of the Strategic Asset Management Plan (SAMP) is to reduce the Council's leased-in portfolio, and operate out of freehold-owned assets, wherever it is feasible. All the locations identified in this report are within Council freehold ownership and no sites with non-freehold ownership have been considered for RIBA development stages 1-2.
94. There are ingress/egress and rights of access issues identified at Portcullis Lodge which are subject to further investigation and site design consideration (namely Enfield Grammar School to land ownership and rights of access across the site). The Portcullis site only will need to be designated for Education use.
95. Planning permission will be required for the new buildings construction and use and should be programmed early into the projects to ensure permission is granted as early as possible and before large spend is committed.
96. All new or revised asset data arising out of the proposed works must be sent by the Project Manager to Strategic Property Services for input onto the Asset Management Data System, including revised site plans, floor plans, asset information, etc. All relevant compliance-related activities will need to be put into place for these assets and appropriate contracts for servicing activities may be required. All works should be compliant with relevant legislation including CDM and Building Regulations. An inventory list of any materials procured and produced will need to be kept. In the event of failure, appropriate arrangements will need to be made for these supplies to be retained and secured for the Council until a decision is made on how best to dispose of them.
97. The proposals in this report will likely require an increase in workforce. It is assumed that all new staff will be housed within the existing and new buildings detailed in this report. If there are any future workforce requirements then additional accommodation implications will need to be understood through detailed interaction with relevant teams, being Operational Estate Management, Facilities Management, and Build the Change. Should new accommodation requirements be required, these will need to be presented to the Accommodation Board, as well as any other relevant Board, such as Build the Change board or the Property Board. Any new accommodation requirement is likely to have their own financial and property implications.
98. Consideration of future property implications will arise once proposals are developed and the project/s progress to planning application.

Other Implications

99. The DfE deliver the Free Special School Wave 2022 will not guaranteed Passivhaus and net zero carbon buildings unless planning policy instructs this. The DfE will apply their own Building Bulletin guidance which will inform the design standards for any new provision.

Options Considered

100. Alternative sites not in the Council's ownership have not been considered or prioritised ahead of the sites identified as land purchase costs would increase costs of delivering additional provision. Three of the sites are already have an education planning designation.
101. Increasing small scale provision is already in train but is not able to deliver a level of impact on the increasing demand to significantly address the deficit in SEND places available in the borough.
102. Due to declining rolls particularly impacting on primary schools over the next 3-5 years, consideration has been given to the potential use of a school site. However, there are no current plans for a school closure to allow this to happen nor to use part of a school site. This though will be kept under review.

Conclusions

103. The recommendation of this report is for Cabinet to agree the SEND Development Programme and consider approval funding from central contingency for unanticipated expenditure to meet the costs of progressing development works to a maximum of £1.6M and/or seek approval from Full Council to fund both development and capital costs.
104. The SEND Development Programme is central to addressing the increasing demand for SEN places and reducing the ongoing financial burden on the High Needs Budget. Without significant investment in new provision the Council's contribution will continue to rise given the projected increase in the number of SEN pupils making up the Borough's pupil population.
105. This report notes that a further Key Decision report is to be brought forward for consideration by Members, subject to the approval of the strategic business case for inclusion in the Council's 10-year Capital Programme for circa £26M to deliver the initial two sites (noting that the complete programme of four sites requires a further £28M).
106. In the event that the Council's application to the DfE Free School Wave 2022 is successful the Programme's requirement for capital funding will be revised and reviewed by Cabinet.

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Date of report

Appendices

Part 2: Restricted Appendix A: Costs for Potential SEND Sites

Part 2: Restricted Appendix A1: Details Development Costs for Priority SEND Sites

Appendix B: **Equality Impact Assessment**
Appendix 1: **Impact of Increased Need for SEND Places**
Appendix 2: **DMT Schools Funding Update**

Background Papers

The following documents have been relied on in the preparation of this report:

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Appendix 3: **KD5373 Strategy for Disposal and use of Caretakers Houses**
Appendix 4: **KD 5383 Updated School Condition and Fire Safety Programme 2022/23 to 2023 (Schools Capital Programme)**
Appendix 5: **Operational Decision - Funding to undertake feasibility work for the development of additional SEN Provision at Portcullis Lodge**