

## **Children and Families Committee**

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<b>Date of Meeting:</b>	16 January 2023
<b>Report Title:</b>	School Organisation: Proposed reduction in SEN resource provisions at Middlewich Primary School, Middlewich and Lindow Community Primary School, Wilmslow
<b>Report of:</b>	Deborah Woodcock, Executive Director of Children's Services
<b>Report Reference No:</b>	CF/62/22- 23
<b>Ward(s) Affected:</b>	All wards

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### **1. Purpose of Report**

- 1.1.** The purpose of this report is to seek approval for the proposed reduction in special educational needs (SEN) resource provision places for learners with a hearing impairment at Middlewich Primary School from 10 to 5 places and at Lindow Community Primary School from 12 to 6 places.
- 1.2.** The rationale for this reduction is due to the changing profile of SEN learners coming forward and the predicted numbers who require very specialist support for hearing impairment (HI) in a specialist setting. These places have not been fully utilised for several years and the reduced places will provide adequate provision.
- 1.3.** The proposed reductions will enable the council to redistribute SEN funding and resources in line with the SEN high needs management plan and will ultimately contribute to the council's priority to ensure that all children have a high quality, enjoyable education that enables them to achieve their full potential. This aligns with the ongoing monitoring of spend as part of the SEN high needs, dedicated schools grant (DSG) management plan as previously considered by committee.

## **2. Executive Summary**

- 2.1** As the strategic commissioner of school places, Cheshire East Council has a statutory duty to ensure that there are sufficient schools in its area which must be sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. Having the right educational placement for all children and young people is key to supporting children and young people achieve their potential and to develop the range of skills and experiences they need to equip them for adulthood. Based on the reduced need for resource provision places for children with hearing impairments, this proposal will allow the council to redistribute the funding to support other areas of SEN need. Both of the two schools are community primary schools and therefore the decision maker in terms of the reduction in SEN places for the resource provision is the local authority. Neither school is a diocesan school.
- 2.2** The data provided within the background section shows the current and forecasted numbers within our specialist SEN provisions for hearing impairment. Based upon this data, the requested reduction will allow for efficiencies of SEN funding and resources but retains provisions for this primary area of need. There are no closures of SEN provisions and if the projections going forward change, there remains the ability to increase provisions as required.
- 2.3** The reduction in specialist SEN places at a time when the demand for additional SEN capacity is high needs an explanation. We are constantly needing to review levels of demand according to SEN primary need and whilst we have growth for certain needs (e.g., social emotional mental health), other needs are reducing. This report seeks support for a reduction in numbers but not a change of specialist provision as this would require a further consultation and see a loss of the provision in full.

## **3. Recommendations**

- 3.1.** That committee gives approval: -
- 3.2.** To reduce the number of specialist SEN places in the hearing impairment resource provision at Middlewich Primary School from 10 to 5 with effect from April 2023 having given due consideration to the responses to the statutory public notice and consultation process as per DfE statutory guidance.
- 3.3.** To reduce the number of places in the hearing impairment resource provision at Lindow Community Primary School from 12 to 6 with effect from April 2023 having given due consideration to the responses to the statutory public notice and consultation process as per DfE statutory guidance.

## **4. Reasons for Recommendations**

- 4.1.** This recommendation is made based on the publication of a public notice and the outcomes of the subsequent 5-week representation period, which

ran from 13 October 2022 until 17 November 2022. The committee are required to consider the feedback received in considering the recommendation to reduce the provision.

## 5. Other Options Considered

### 5.1.

Option	Impact	Risk
<b>Do nothing</b>	Identified schools continue to receive SEN funding for the higher number of places than are attending. This causes inefficiencies in SEN resources and directly impacts on the SEN high needs funding levels as higher levels of expenditure continue.	Medium: The council would not be demonstrating commitment to effectively manage the overspend within the SEN high needs management plan. This reduction in places is an identified mitigation plan linked to the DfE 'Developing Better Value' Programme
<b>Close both HI resource provisions</b>	Existing pupils in the two provisions would likely need to be placed outside of Cheshire East resulting in higher cost placements, additional travel time and travel costs, which does not deliver the best outcomes for the children.	High: Vulnerable learners would not be able to attend a local school to meet their educational needs.  Loss of specialist resources which stops the ability to increase size of provisions if forecast data changes over time.
<b>Merger of specialist resource provisions</b>	Whilst this would maintain pupils within the borough, the geographical location of the two schools makes merger an unviable option. Change of school placement and travel would again apply to this option.	Medium – geography does not allow for such an option and further reduces capacity if changes in numbers occur over time.

## 6. Background

6.1. A SEN resource provision is a specialist education provision within a mainstream setting to meet the specific needs of SEN learners; these provisions have varying specialist staff and resources based upon the SEN primary need. Resource provisions have one or more dedicated classrooms for pupils with SEN, and provide specialist individual learning packages for pupils, considering the full needs of the child. A key advantage of resource provisions is that pupils attend mainstream classes in addition to the specialist time within the provision and therefore can integrate with their mainstream peers. This approach better enables pupils to experience a full

and integrated learning curriculum in their school community, whilst also having their specialist needs met using specialist staff.

- 6.2.** Currently, the local authority has 22 places dedicated for primary pupils with hearing impairment across the borough, located within 2 specialist settings. However, in recent years the number of children requiring places in specialist hearing impairment resource provision has declined – see table below:

	Place Numbers	October 2022	October 2021	October 2020	October 2019
Lindow Primary	12	3	4	5	6
Middlewich Primary	10	3	4	3	4

- 6.3.** A key reason for this change in profile of HI learners is due to advancements in specialist technology and equipment. Increasingly, the needs of the Education Health Care Plan (EHCP) for pupils with hearing impairment is being met in mainstream with the introduction of such facilities as whole class hearing loops as well as specialist support from Speech and Language and Sensory and Inclusion Teams. Hearing Impaired resource provision places have been less than half full for the past 5 years and this impacts on funding as the local authority is still required to fund those empty places.
- 6.4.** It is important to note that this proposed change in HI specialist placements does not impact on secondary provision. There remain two specialist HI resource provisions dedicated for secondary age pupils, and we will continue to monitor the numbers going forward coming through to this phase of education.
- 6.5.** It is also important to state that the local authority retains a specialist service team as part of Children and Family services who provide dedicated support for learners with hearing and sight impairments. This specialist team support pupils with HI and therefore allows adaption of teaching spaces in mainstream settings which can allow the learner to stay in their local school and not require a specialist setting.

## **7. Consultation and Engagement**

- 7.1.** Any change in the size of specialist SEN provisions requires formal consultation and decision making in accordance with the guidance issued by the Department for Education Making significant changes to schools ('prescribed alterations ') to maintained schools Statutory Guidance for proposers and decision-makers October 2018). In terms of consultation, detailed discussions have previously taken place with school leaders

including governance to discuss the implications and rationale for these proposed changes.

**7.2.** Committee members are advised that this statutory process provides the opportunity for any person with an interest to submit representations which can be objections as well as expressions of support for the proposal. Committee members must take any views received into account when making their decision.

**7.3.** As part of the consultation and engagement process, the local authority has undertaken the following: -

- A public notice was published in the Wilmslow and Knutsford Guardian on 13 October 2022 in respect of Lindow Community Primary School and in the Northwich Guardian in respect of Middlewich Primary School. A 5-week representation period ran from 13 October 2022 to 17 November 2022.
- Information was available on the Cheshire East website and key stakeholders including Ward Members, MP, Diocese, Town and Parish Councils, Cheshire East Parent Carer Forum and East Cheshire Deaf Children’s Society were informed of the process.
- Information was emailed to all local schools together with a letter for distribution to their staff, governors, and parents so that school communities could respond.

**7.4.** For the two schools, the following summary is provided in terms of responses received to consultations. In total, only one response was received.

Yes support	At present I have no objection to reducing the funded places from 12 to 6 pupils in view of the low numbers at present, but only with the reassurance and capability that the funded places can be increased in the future if required.	School governor, teacher, or employee	Lindow Primary School	
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## 8. Implications

### 8.1. Legal

**8.1.1** The DfE statutory guidance “Making significant changes (‘prescribed alterations’) to maintained schools’ statutory guidance for proposers and decision -makers October 2018 (‘Prescribed Alterations ‘Guidance) provides statutory guidance which recipients must have regard to when making ‘prescribed alterations ‘to maintained schools. Prescribed alteration changes can include mainstream school; establish/remove/alter special educational needs (SEN) provision

**8.1.2** Under section 14 of the Education Act 1996 Local authorities have a statutory duty to ensure that there are sufficient schools for primary and secondary education in their areas and to have regard to the need for securing that special educational provision is made for pupils who have special educational needs (section 14(6)(b) of the Education Act 1996). Local authorities can propose changes to provision that it recognises as reserved for pupils with special educational needs in community, voluntary and schools. When doing so, they must follow the statutory process as set out in The School organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013

**8.1.4** The statutory process: prescribed alterations are set out in Part 5 of the Guidance as set out below:

#### 8.1.5

<b>Stage 1</b>	<b>Publication</b>	Statutory proposal published – 1 day.
<b>Stage 2</b>	<b>Representation (formal consultation)</b>	Must be at least 4 weeks, as prescribed in the ‘Prescribed Alterations ‘regulations.
<b>Stage 3</b>	<b>Decision</b>	The decision-maker (usually the LA) must decide proposals within 2 months of the end of the representation period or decision defaults to Schools Adjudicator (OSA). Any appeal to the adjudicator must be made within 4 weeks of the decision by the local Church of England diocese or the local Roman Catholic diocese – (not applicable in these two schools)
<b>Stage 4</b>	<b>Implementation</b>	No prescribed timescale but must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker.

**8.1.6** If a local authority fails to decide about a proposal within 2 months of the end of the representation period the local authority must forward the

proposal, and any representations received, excluding those withdrawn in writing, to the Schools Adjudicator for a decision.

**8.1.7** Committee members are advised that they must have regard to the guidance when making their decision. The Guidance states ....When considering any reorganisation of provision that the LA recognises as reserved for pupils with special educational needs, including that which might lead to children being displaced, proposers will need to demonstrate how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for these children.

**8.1.8** The guidance provides as follows:

- Decision-makers will need to be satisfied that the appropriate fair and open local consultation and/or representation period has been carried out and that the proposer has considered all the responses received.
- Decision-makers should not simply take account of the number of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most affected by a proposal – especially parents of children at the affected school(s).

**8.1.9** When issuing a decision, the decision maker can:

- reject the proposal:
- approve the proposal without modification:
- approve the proposal with modifications, having consulted the LA and/or Governing Body (as appropriate): or
- approve the proposal, with or without modification – subject to certain conditions (such as the granting of planning permission) being met.).

## **8.2. Finance**

**8.2.1.** Resource provisions currently receive place funding to operate the provision. The cost of the place funding is £10,000 per place. This is funded regardless of whether the resource provision is occupied by any pupils. For several years Middlewich Primary and Lindow Primary have had significantly low occupancy.

**8.2.2.** Place funding is funded from high needs funding which is part of the dedicated schools grant (DSG).

**8.2.3.** The council has produced a DSG management plan to help set out forecast spending pressures, income levels and DSG reserve deficit.

- 8.2.4.** As a result of a national high needs funding shortfall, where funding has not matched demand, the council's DSG reserve deficit is forecast to be 90% of the annual allocation at the end of 2022/23. This deficit is forecast to significantly increase in value over the medium term and it is not recoverable under current forecasts.
- 8.2.5.** Within the DSG management plan there are a series of mitigations that are within current capacity levels to reduce the impact on the deficit as much as possible.
- 8.2.6.** Included in the mitigations within the plan is to reduce the number of HI resource provision places. This is to allow resources to be used more efficiently by directing spend where it is most needed.
- 8.2.7.** The reduction of a total of 11 HI resource provision places will result in a cost avoidance of £111,000 per year which is factored into the high needs management plan.

### **8.3. Policy**

- 8.3.1.** Under section 14 of the Education Act 1996 Local authorities have a statutory duty to ensure that there are sufficient schools for primary and secondary education in their areas and to have regard to the need for securing that special educational provision is made for pupils who have special educational needs ( section 14(6)(b) of the Education Act 1996) When exercising functions under The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 decision makers must have regard to the DfE statutory guidance for proposers and decision-makers "Making significant changes ('prescribed alterations') to maintained schools". The purpose of the guidance is to ensure that good quality school places can be provided quickly when they are needed; that local authorities and governing bodies do not take decisions that will have a negative impact on other schools in the area; and those changes can be implemented quickly and effectively where there is a strong case for doing so.

### **8.4. Equality**

- 8.4.1** Equality impact assessments were completed for this proposal. The proposed reduction impacts primary aged pupils with hearing impairment as their primary need. However, it is not considered there will not be a negative impact on the protected classifications as most pupils are now supported in the mainstream classroom with better technology and equipment. Sufficient places will remain for those pupils who would still benefit from resource provision.

**8.4.2** See appendix 1 and 2 for the equality impact assessments.

## **8.5 Human Resources**

**8.5.1** There are specific human resource implications for the local authority / schools as any reduction in numbers will result in a reduction of their funding and may result in the potential loss of specialist staff. Schools can work with specialist HR services to manage any potential impact on staffing to redeploy staff to meet needs of children in mainstream. Current challenges in recruitment across the education section will provide opportunities.

## **8.6 Risk Management**

The risk management is outlined in the table as shown in 5.1

## **8.7 Rural Communities**

**8.7.1** There are no direct implications for rural communities.

## **8.8 Children and Young People/Cared for Children**

**8.8.1** The proposed reduction in places impacts on primary aged pupils. As previously mentioned, due to the advancements in technology and equipment the number of pupils requiring separate resource provision teaching has reduced and the majority of pupils with hearing impairment are taught in mainstream with the appropriate support and consequently the need for specialist resource provision places has reduced.

**8.8.2** Although this is a planned reduction, sufficient places remain for those pupils who would still benefit from a specialist provision.

**8.8.3** It is essential that the council makes best use of resources to ensure that children and young people receive the services they need and those services must be provided.

**8.8.4** The council has approved its Children's vision which contains a priority around children with additional needs.

## **8.9 Public Health**

**8.9.1** There are no direct implications for public health. However, there may be implications for health services in terms of the demand for specialist speech and language services.

## **8.10 Climate Change**

**8.10.1** This is no direct implications. The retention of more pupils accessing their local schools means a reduction in travel to move to specialist provisions.

**Access to Information**

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Appendices:	Appendix 1 – EIA Middlewich Primary School Appendix 2 – EIA Lindow Community Primary School Appendix 3 – Consultation document – Middlewich Appendix 4 – Consultation document - Lindow
Background Papers:	<a href="http://www.gov.uk">School organisation: local-authority-maintained schools - GOV.UK (www.gov.uk)</a>