

CHESHIRE EAST COUNCIL

REPORT TO: Cabinet

Date of Meeting: 12 November 2012
Report of: Lorraine Butcher, Strategic Director Children, Families and Adults
Subject/Title: Options and process for establishing an Autism Spectrum Condition Special School
Portfolio Holder: Councillor Rachel Bailey

1.0 Report Summary

- 1.1 In 2010, Cheshire East Children and Families Service began the process of reviewing its arrangements for children and young people with Special Educational Needs and Disability (SEND).
- 1.2 One of the priority recommendations emerging from this ongoing review was the identified need to develop local specialist provision for children and young people with Autism Spectrum Condition (ASC) between the ages of 4 to 19.
- 1.3 As a consequence of evidenced need, the SEND review has an aspiration to develop an outstanding ASC-specific special school and service for children with Autism as close to their local community as possible, underpinned by our vision that 'no child, or young person is left behind', enabling every child and young person to achieve the best possible outcomes.
- 1.4 An outline business case for the proposal in principle was submitted to Cabinet in November, 2011. The Cabinet approved the proposal in principle and a feasibility study on siting the school on the former Church Lawton Primary School site endorsed the recommendation to commission.
- 1.5 In February this year, changes were made to the Education and Inspections Act 2006 part 2 in relation to the process for establishing new schools. The changes mean that where a local authority (LA) is seeking to establish a new school, the LA is now under a statutory duty to seek proposals to establish an Academy or Free School in the first instance. This is known as "the Academy/Free School presumption". Where the LA is setting up a new school in this way the Department for Education require that the LA provide the site and all the capital funding.
- 1.5 Consideration has recently been given to the Council's capital programme and whether or not the Council can afford to invest significant capital sums

into a school whose assets will automatically transfer to an Academy Trust or Free School.

- 1.6 In the light of this consideration, this report explains the alternative options for securing an ASC special school for children and young people with Autism in Cheshire East

2.0 Decision Requested

- 2.1 Approval to identify and support the proposals of a suitable partner/sponsor who can make a bid for funding to the Education Funding Agency to establish an ASC special free school in Cheshire East.

3.0 Reasons for Recommendations

- 3.1 Under the new Schools White Paper, Local Authorities have moved from being providers of education to a more strategic role as commissioners of educational services, promoting:

- High standards and fulfilment of every child's educational potential;
- Increase diversity in school provision and greater parental choice, and
- Champion educational excellence and fair access for all.

- 3.2 This involves a shift from managing maintained provision to strategic commissioning by:

- Promoting a good supply of strong schools, encouraging the development of Academies and Free School;
- Ensuring fair access to all schools;
- Supporting vulnerable pupils, including looked after children, those with Special Educational Needs and those outside mainstream provision;
- Supporting maintained schools performing below the floor standards to improve quickly or convert to Academy status with a strong sponsor

- 3.3 In line with the new provisions of s.6A of the Education and Inspections Act 2006 the LA cannot proceed to establish a new school without notification to the Secretary of State for Education regarding an intention to establish a new school and inviting proposals for the creation of an academy/free school in the first instance. The LA must provide the site and capital.

- 3.4 Although a site for the new school has been identified, senior officers and members have considered that the Council cannot at this stage prioritise the capital budget and wishes, in the first instance, to explore whether a suitable partner might be identified who can submit a bid to the Education Funding Agency (EFA) for funding to set up a free school.

- 3.5 Cheshire East Council remains committed to securing an autism specific school and is exploring, in the first instance, whether this can be achieved through a partnership with a Free School provider.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications including - Carbon reduction & Health

6.1 The schools funding formula will need to be changed in negotiation with Schools Forum/ Education Funding Agency to accommodate the establishment of the school and the ongoing costs.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 The feasibility study recommends a capital figure of **£4,786,486** for the demolition of the existing building and the construction of a new school (option 1) or **£5,024,626** for the alteration and refurbishment of the existing building and the construction of an extension (Option 2). The successful partner/provider would be expected to bid for this capital under the Government's Free School Initiative.

7.2 The revenue impact is estimated at approximately **£1,669,915** per annum, once the school is fully populated. The impact comprises the revenue cost of the commissioned places, travel costs and a reduction in grant income to the Local Authority for the pupils in question.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Existing statutory requirements under section 14 of the Education Act 1996 mean that LAs in their role as commissioners must plan and secure sufficient school places for their area.

8.2 Where a LA identifies the need to establish a new school (including a new special school) the amendments contained in the new section 6A Education and Inspections Act 2006 require that the LA seeks proposals to establish an academy/free school in the first instance.

8.3 Under the s.6A procedure, the LA must seek proposals by a specified date and after that date must notify the Secretary of State of the steps taken to seek proposals and the details of any proposals received. The notification to the Secretary of State **must** identify a possible site for the Academy/ Free School and such other matters as may be prescribed, including confirmation that the LA will provide all the capital funding.

8.4 Given that members and senior officers have reluctantly determined that the LA cannot afford any capital funding for the establishment of this new school, the DfE have advised that the only other possible route for the establishment

of the school is for the LA to seek proposals from potential partners who themselves can apply to the DfE to set up a free school and bid for capital under the Government's Free School initiative.

9.0 Risk Management

- 9.1 The establishment of a free school weakens the LA's ability to plan and implement Special Educational Needs and Disability provision locally, due to diminished control over any new special school establishment.
- 9.2 The success of the project overall is entirely dependent on a suitable partner being identified who can make a bid to the EFA for funding within the current window of opportunity.
- 9.3 The current application window for the 2014 wave of new Free Schools opens on Monday 17 December 2012 and closes on Friday 6 January 2013.
- 9.4 In identifying a partner to submit an application to the DfE the Council must demonstrate that it has acted transparently and that the opportunity has been made available to all interested parties. Such an exercise will require advertisement and evaluation and this could be a lengthy process meaning it may not be possible for a potential partner to submit their bid within the window of opportunity.
- 9.5 The DfE has stated that only high quality applications will be approved and will be subject to a rigorous approval process. There is a risk therefore that the LAs preferred partner's application will be unsuccessful.
- 9.6 The New Schools Network would be able to support any partner in their application.

10.0 Background and Options

- 10.1 Where a LA identifies the need to establish a new school, the new s 6A of the Education and Inspections Act 2006 (inserted by the Education Act 2011) places the LA under a duty to seek proposals to establish an academy or free school and to specify a date by which the proposals must be submitted.
- 10.2 The LA has to notify the DfE at the outset of its intentions to seek proposals for a new academy and confirm the site it will make available including confirmation that it will provide the capital costs of the project
- 10.3 If the LA are not willing to provide the capital costs of the new school the only other option available to it to secure the new provision is to seek and identify a suitable partner to work with it and who will then submit an application to the Education Funding Agency for funding independent of the LA.

11.0 Access to Information

- 11.1 The outline business case, feasibility study and other background papers can be inspected by contacting the report writer:

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