

Report to CABINET

High Needs Provision in Mainstream Settings and allocation of S106 resources secured from DB450 – Phase R4 of the Foxdenton Strategic Development Site

Portfolio Holder:

Councillor Mohon Ali, (Cabinet Member for Education and Skills)

Officer Contact: Matthew Bulmer (Director of Education, Early Years and Skills)

Report Author: Andy Collinge (Head of School Support Services)

15th July 2024

Reason for Decision

This report seeks cabinet approval for 4 capital projects that will offer additional places and enhance provision for pupils with additional needs who are based predominately in mainstream settings.

It also seeks approval for the allocation of resources secured through Section 106 Planning Obligations towards the scheme.

Executive Summary

In December 2023 DMT provisionally approved 11 projects to improve and increase the offer of high needs places for children predominantly based in mainstream settings. This report relates to 4 of those projects that are now developed sufficiently for costs and proposals to be placed before Cabinet for a final decision. These projects will create a total of 64 places in mainstream schools for children with additional needs.

Currently the Local Authority has around 4.1 M of Basic Need funding and 5.7 M of High Needs Capital Allocation Funding. It is proposed that where projects will generate additional places that these projects are funded mainly via the Basic Need allocation as this will enable the Local Authority to use a greater proportion of its High Needs Capital Funding on other future projects that are not the subject of this report.

In addition to the funding outlined above the Council has also secured and received just under £600,000 from S106 developer contributions toward the provision of primary school places within a 2-mile radius of the Foxdenton development site. It is proposed to use this funding towards three of the four schemes which are within the 2 mile radius, which are Richmond Academy (20 places), Greenhill Academy (20 places) and Whitegate End community Primary (12 places).

Project Outlines and Recommendation

Project One (Richmond Academy)

This project will enable specialist provision for commissioned integrated places for pupils with SEND at Richmond Academy. The academy already has an existing hub for pupils with complex needs and this development will enable a further 20 additional places to be offered. The total estimated cost for this project is £310,341.

Project Two (Greenhill Academy)

This project will upgrade and develop existing specialist provision at Greenhill Academy which will enable the LA to commission places for pupils with complex SEND. The project will generate an additional 20 places. The total estimated costs for this project are £329,364.

Project Three (St Thomas Moorside Voluntary Controlled Primary School)

This project will enable the school to offer commissioned places for children with ASD and SEMH within a resource unit. This would support some of the schools' current children and in addition offer an additional 12 places. The total estimated costs for this project are £377,340.

Project Four (Whitegate End Community Primary School)

This project will create a "mainstream plus" provision for 12 children in receipt of an EHCP with a primary need of SEMH. These places would be commissioned by the LA and ring fenced for children who currently attend Oldham schools. The total estimated costs for this project are £300,000.

The total cost of the four projects is £1,317,045 and projects one, two and four are within the 2-mile radius to utilize the circa £600,000 of Section 106 contributions along side the Basic Need Grant and project three would be funded by Basic Need Grant alone.

All four schools above currently had a 'good' Ofsted rating and have excellent track records of supporting children with additional needs.

It is strongly recommended that Cabinet support these projects which represent the first step in some significant planned developments for children with additional needs.

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- 1.1 Demand for resourced based provision in maintained schools have risen substantially in recent years.
 - 1.2 Planning permission for the development at Foxdenton has been granted in phases that have been subject to the developer entering into a Section 106 planning obligation. There are two S106 obligations which relate to this report.
 - 1.3 The first S106 relates to the site of the R5 and R6 phase of the housing scheme which was granted permission under planning ref (PA/345659) and subject to a Section 106 planning obligation signed on 02/06/2021 and given the reference DB 450. The agreement required the developer to pay £540,000 to the Council to fund the provision of primary school places within a 2 mile radius of the site in the following instalments: -
 - £110,000 prior to Occupation of 50% of the Dwellings on Phase R5
 - £110,000 prior to Occupation of 75% of the Dwellings on Phase R5;
 - £160,000 prior to Occupation of 50% of the Dwellings on Phase R6; and
 - £160,000 prior to Occupation of 75% of the Dwellings on Phase R6.
 - 1.4 To date, the developer has paid 3 of the installments totaling £430,000 and with interest, this now stands at £449,033.03 and it is proposed to use this whole amount including the interest towards the provision of places at the three schools within the 2 mile radius of the site. There is no expiry on the length of time the council must spend these contributions. (There are other schemes in the pipeline which will be put forward when the final £110,000 is received)
 - 1.5 The second S106 relates to the site of the R4 phase of the housing scheme which was granted permission under planning ref PA/351514 and subject to a Section 106 planning obligation signed on 24/01/2024 and given the ref DB483. The Planning Obligation requires the landowner to pay a commuted sum of £150,000 to fund the provision of primary school places within a 2 mile radius of the Site. The commuted sum is to be paid £75,000 prior to occupation of 50% of the dwellings on Phase R4 and £75,000 prior to occupation of 75% of the dwellings on Phase R4.
 - 1.6 The developer has paid both of the installments totaling £150,000 on 30th April 2024 and as such the sum hasn't earned any interest. It is proposed to use this whole amount towards the provision of places at the three schools within the 2 mile radius of the site. The council has ten years in which to spend this commuted sum.
 - 1.7 The S106s to be used are DB450 £449,033.03 and DB483 £150,000 totaling £599,033.03.
 - 1.8 There are risks around the capital projects contractors should be procured in line with the Contract Procedure Rules. When the contractors are appointed, the Council will need to ensure that they have appropriate insurance and risk assessments in place. Where the work is being carried out on maintained schools the insurance team should be notified and where the work is being carried out on academy school, the academy should comply with their notification procedures. There are increased risks around the contracts with academy schools who are part of the RPA and this will need to be discussed at an early stage with legal and insurance colleagues.

2 **Current Position**

- 2.1 The LA has a statutory obligation to create suitable school places for all children, this includes those with SEN and EHCP's. It is the LA's SEND and Inclusion Strategy to increase places in mainstream settings for children with additional needs. This enables children to have their needs met as part of an inclusive education offer leading to better outcomes for these children. It also has the additional benefit of reducing the need for costly independent provision outside the borough.

3 Options/Alternatives

3.1 Option 1: Approve the above capital investment for the project listed above and achieve the councils' obligations contained within the S106 obligations.

3.2 Option 2: Do not approve the projects and risk having to return the S106 contributions to the developer and not achieve the additional school places required.

4 Preferred Option

4.1 Option 1.

5 Consultation

5.1 All Primary and Secondary schools including all MATS (Multi Academy Trusts) that operate in Oldham.

6 Financial Implications

6.1 The £1.277m costs of the four projects will be capital expenditure and will be a charge against the Education Capital Programme. The costs can be financed from within the Council's existing allocation of Basic Need Grant, supplemented by s106 allocations for the eligible schools (Richmond, Greenhill and Whitegate End). The total costs and financing for the schemes are contained in the Table below:

School	Cost £000
Richmond Academy	310
Greenhill Academy	329
St Thomas Moorside	371
Whitegate End	300
Total Cost	1,317
Financed by	
Basic Need Grant	(718)
S106 Contributions	(599)
Total Financing	(1,317)

6.2 The schemes will be commissioned directly by the schools under separate grant agreement with the Council for each school. Project progress and spend will need to be closely monitored by the Council to ensure that the schemes can be delivered within the available budgets and in line with the grant agreements.

(James Postle/Liz Whitehead)

7 Legal Implications

7.1 The Council has a duty under part 3 of the Children and families Act 2014 to suitably provide for those with SEND requirements in the Borough. It is therefore imperative that the Council regularly review its SEND provision and the number of placements within the borough. Failure to comply with the legislation would lead to not only a negative reputational outcome for the Council but also a likelihood of legal challenge. The option in the report seeks to expand the Council's SEND provision within the Borough demonstrating the Council's

attempts to expand its SEND provision and be inclusive to the vulnerable individuals within the Borough.

(Alex Bougatef – Interim AD Legal Services)

7.2 The proposals are an appropriate use of the section 106 funding.

(Alan Evans – Group Solicitor)

8 **Equality Impact - including implications for Children and Young People**

8.1 There are no negative implications for vulnerable groups or children and young people.

9 **Key Decision**

9.1 Yes

10 **Key Decision Reference**

11.1 EDS-03-24.

12 **Background Papers**

12.1 None

13 **Appendices**

13.1 None.