

**From:** Roger Gough, Cabinet Member for Children, Young People and Education

**Matt Dunkley, Corporate Director of Children, Young People and Education**

**To:** Children's, Young People and Education Cabinet Committee – 7 May 2019

**Subject:** Establishment of a New Special Free School on the Isle of Sheppey through the successful bid to DfE in Wave 2 (Special School and Alternative Provision)

**Classification:** Unrestricted

**Key Decision:** 19/00034

**Past Pathway of Paper:** N/A

**Future Pathway of Paper:** Cabinet Member decision

**Electoral Division:** Andy Booth and Ken Pugh – Sheppey

**Summary:**

This report informs and outlines to the committee, the processes and conditions set out by the DfE to establish a new special free school on the Isle of Sheppey, after the successful application bid to the DfE (Wave 2 Special and Alternative Provision).

**Recommendation(s):**

The Children's, Young People and Education Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Children, Young People and Education on the proposal to:

- i. Support the DfE competition process to select a sponsor to establish a new special free school on the Isle of Sheppey.
- ii. Commit to the conditions of the bid as set out in Appendix A of the DfE letter of the 11 March 2019 in particular:
  - a. provide a site on a 125 year lease
  - b. meet any abnormal costs relating to access works or any section 278 costs which may be imposed.

**1. Introduction**

- 1.1. The Isle of Sheppey has long had a gap in specialist provision to serve the needs of those children who currently have to travel considerable distances to access the specialist education they require. A high percentage of those children currently travel to Bower Grove in Maidstone. The growth in population in and around Maidstone is putting considerable pressure on

places at Bower Grove and this new special school would meet the needs of those children living on the Isle of Sheppey, whilst creating capacity to meet the needs of those living closer to Bower Grove.

- 1.2. The 'Strategy for children and young people with Special Educational Needs and who are Disabled' (SEND Strategy) "has a priority to create at least 275 additional places for ASD and BESN" and aims to: -
  - Increase the educational, health and emotional wellbeing outcomes for Kent's children and young people with SEN and disabilities.
  - Ensure Kent delivers the Statutory changes (required by the Children and Families Act 2014)
  - Address gaps in provision for children and young people with SEN and disabilities, improve the quality of provision, develop the broadest range of providers, and encourage a mixed economy of provision.
- 1.3. The Commissioning Plan for Education Provision in Kent 2019-23 sets out how we will carry out our responsibility for ensuring there are sufficient places of high quality, in the right places, for all learners and this proposed new Special Free School supports that aim to provide sufficient places, where they are needed.

## **2. Background**

- 2.1. Currently there is no special school on the Island. The result is that students requiring a special school place are transported off the Island to a combination of maintained special school provision in Maidstone and costly independent provision. Consequently, students spend up to 3 hours in transport, at considerable cost to the SEN Transport budget and with an inevitable impact on those children's learning and overall school experience.
- 2.2. Swale district already has the highest number of EHCPs and Statements in the County at 1325 and this number is set to continue to increase. Growth forecasts indicate that the number of children and young people in Swale with ECHPs will increase by a further 23% between 2017 and 2024.
- 2.3. KCC therefore identified the need for a special free school on the Isle of Sheppey. A Wave 2 (Special School and Alternative Provision) bid was submitted to the DfE in October 2018 for funding for a new special free school for secondary pupils on the Isle of Sheppey.
- 2.4. KCC were advised in March 2019 that the bid was successful and that a competition process to find a sponsor for the proposed school needed to commence.

## **3. Proposal**

- 3.1. The new proposed special free school will provide 120 places for Secondary aged pupils with social, emotional and mental health difficulties including autism spectrum conditions or social communication difficulties.
- 3.2. It will enable local children requiring a special school place to access suitable provision within their local community, enhancing their opportunities to develop social links and become more independent. It will also help the County Council

to ensure maximum effectiveness of High Needs budgets by reducing costs of SEN Transport and independent provision.

3.3. All pupils who would attend the new special school on the Isle of Sheppey would have an Education Health and Care Plan identifying social, emotional and behavioural difficulties with associated learning needs as their primary need.

3.4. The aims and outcomes of the new special free school on the Isle of Sheppey are to: -

- Ensure that there is sufficient local specialist provision through the establishment of a New Special Free School on the Isle of Sheppey.
- Enhance the educational experience for local children by significantly reducing journey times to school.
- Enable children to establish relationships and to interact with children from their own community
- Support local mainstream schools on the Isle of Sheppey with specialist expertise shared via outreach and in-reach work.
- Enhance local inclusion/fair access processes.
- Reduce demands on the school transport budget and ensure efficient use of funding.
- Reduce the requirement for high cost independent placements outside of the local area.

3.5. Below are the key dates for the competition process in line with the DfE requirements:

<b>24 July 2018</b>	Special and AP free schools Wave is launched – the guidance and criteria for local authorities seeking to establish new special or alternative provision free schools is published.
<b>11 March 2019</b>	Announcement of successful LA bids. Competitions in successful areas subsequently open.
<b>19 March 2019</b>	KCC website to publish specification of the new school Link to web page: <a href="https://www.kent.gov.uk/education-and-children/schools/education-provision/provision-of-new-schools#tab-4">https://www.kent.gov.uk/education-and-children/schools/education-provision/provision-of-new-schools#tab-4</a>
<b>26 March 2019</b>	Written confirmation of acceptance of conditions by Matt Dunkley to DfE
<b>Within 6 weeks by 2 April 2019</b>	Meeting to engage Local Planning Authority.
<b>29 April 2019</b>	Stakeholder Engagement Event at Oakwood House 09:30 to 11:30
<b>Within 12 weeks by June 2019</b>	Meeting to engage Sport England
<b>30 September 2019</b>	Deadline for trust applications.

<b>Autumn 2019</b>	Kent County Council and DfE to evaluate submitted applications and interview trusts
<b>TBC by DfE</b>	Approved applications announced.

- 3.6. KCC on behalf of the DfE are required to arrange a Stakeholder Engagement event and commence engagement with the of Local Planning Authority and Sport England.
- 3.7. A Stakeholder engagement event has been arranged for the 29 April 2019 at Oakwood House, inviting potential sponsors of the new special free school.

#### **4. Consultation**

- 4.1. The approved sponsor will undertake a consultation with the local community and other statutory consultees in order to engage them in the establishment of the new school.
- 4.2. A consultation will be undertaken at an appropriate date as part of the approved sponsor's community consultation on establishing the new school and will engage all stakeholders.
- 4.3. The Local Members, Ken Pugh and Andy Booth are both fully supportive of the proposal.
- 4.4. The build will be subject to the usual statutory planning process. As this is a DfE funded project, it is likely that the Planning Authority in this case will be Swale Borough Council.

#### **5. Financial Implications**

- 5.1. The cost of capital build for the school will be met by the DfE through the wave process.
- 5.2. The current proposal is that the school would be situated on a site owned by KCC. This land is part of the former Danley Middle School site and situated next to the new Halfway Houses Primary School. As this site carries some environmental and archaeological planning risks and there will be issues related to highways access that will have to be addressed, the DfE has requested that KCC also explores the possibility of alternative sites in parallel with further work on this site.
- 5.3. As part of the acceptance of the conditions of the successful bid, KCC is required to provide any site on a 125 year lease and will also be expected to meet any abnormal costs relating to access works or any section 278 costs which may be imposed. These costs are not available at this stage of the project.
- 5.4. KCC will commission the places at the proposed new school and based on current agreed rates would expect to pay £19,113 per pupil.

## 6. Equalities Implications

- 6.1. An Equality Impact Assessment has been produced for the proposal and can be accessed via the link below:  
<https://democracy.kent.gov.uk/documents/s90179/14b%20-%201900034%20-%20EQIA.pdf>

## 7. Legal Implications

- 7.1. As part of the approval from the Secretary of State the bid is subject to specific conditions as set out in Appendix A of the letter from the DfE dated 11 March 2019 informing KCC of the success of the Wave 2 (Special and Alternative provision) bid which KCC have formally agreed in a letter from Matt Dunkley.

## 8. Recommendations

The Children's, Young People and Education Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Children, Young People and Education on the proposal to:

- i. Support the DfE competition process to select a sponsor to establish a new special free school on the Isle of Sheppey
- ii. Commit to the conditions of the bid as set out in Appendix A of the DfE letter of the 11 March 2019 in particular:
  - a. provide a site on a 125 year lease
  - b. meet any abnormal costs relating to access works or any section 278 cost which may be imposed.

## 9. Background Documents

- 9.1. Vision and Priorities for Improvement:  
[http://www.kelsi.org.uk/\\_data/assets/pdf\\_file/0008/68498/Children-Young-Peopleand-Education-Vision-and-Priorities-for-Improvement-2018-2021.pdf](http://www.kelsi.org.uk/_data/assets/pdf_file/0008/68498/Children-Young-Peopleand-Education-Vision-and-Priorities-for-Improvement-2018-2021.pdf)
- 9.2. Commissioning Plan for Education Provision in Kent 2019-23  
[www.kent.gov.uk/educationprovision](http://www.kent.gov.uk/educationprovision)
- 9.3. SEND Strategy: [www.kent.gov.uk/sendstrategy](http://www.kent.gov.uk/sendstrategy)
- 9.4. Increasing Opportunities, Improving Outcomes: Kent County Council's Strategic Statement 2015-2020:  
<https://www.kent.gov.uk/about-the-council/strategies-and-policies/corporate-policies/increasing-opportunities-improving-outcomes>
- 9.5. Isle of Sheppey new special free school service specification  
<https://www.kent.gov.uk/education-and-children/schools/education-provision/provision-of-new-schools#tab-4>

## **10. Contact details**

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## **Appendix A**

### **Conditions as set out in the DfE letter dated 11 March 2019 informing KCC of the success of the bid.**

The approval of your bid is conditional upon:

#### **i. Fair and open competition**

This process is intended to create open competition, which will be available to all types of proposer groups.

It is not designed for co-located schools where there is only one feasible proposer. This is particularly important where the new school will be co-located with an existing school. You and the co-located school in question must confirm that you understand and accept that another provider could win.

It is also crucial for you to give an equal chance to all proposer groups, whether or not you think they are likely to submit a high quality application – you cannot give information only to favoured proposers, or only to established providers. If we believe a competition is not treating all potential applicants equally, we may either terminate the process or coordinate the competition internally. The information in the bid will form the basis of the information local authorities will need to publish.

#### **ii. Deliverability**

The LA to provide the site on a 125 year peppercorn lease without premium or the freehold subject to agreed precedent documents. Heads of Terms to be agreed within 3 months of project entering pre-opening and exchanged within 5 months. LA to meet any abnormal costs in relation to current access road and infrastructure on site or any section 278 costs which are imposed.

The LA/applicant to engage with the Local Planning Authority to arrange a meeting between the Head of Planning (or equivalent), the Director of Children Services, other LA and Local Planning Authority representatives where appropriate, and a Department for Education official, to be held within 6 weeks of the Secretary of State's formal approval of the project. A minute of the meeting, setting out the strategy for, and prospects of, securing the necessary planning permission in a timely manner, to be circulated and agreed by all parties within two weeks of the meeting.

With regards to playing pitches, the LA/applicant to engage with relevant parties to arrange a meeting with Sport England, a representative of the Local Planning Authority and a Department for Education official, to be held within 12 weeks of the Secretary of State's formal approval of the project. A minute of the meeting, setting out the strategy for, and prospects of, securing Sport England's support in principle for a strategy to mitigate the loss of playing fields to be circulated and agreed by all parties within two weeks of the meeting.

### **iii. New provision**

The process is to establish a new special free school and not to replace or expand existing provision. This is not a mechanism to close a school and re-open it as a special free school in a new building.

However, strong independent schools wishing to join the state sector may apply to become free schools on the condition that the new places that are created meet the specification and are in addition to the number of existing places that they plan to convert.

### **iv. Financial viability**

The school must be affordable and sustainable within your local authority's high needs block funding allocations, and the high needs funding of other local authorities commissioning places. To enable prospective proposers to develop realistic applications including robust financial plans, you must be able to state clearly in the specification the number of places your authority (and any other local authorities) will be commissioning, at a cost of £10,000 per place and the top-up funding rates your authority and other authorities will expect to pay in addition to the place funding to secure the required provision.

### **v. Eligible places**

For special schools, the provision is only for pupils with an EHC plan, or, without an EHC plan in accordance with the SEND Code of Practice.

Alternative Provision is: education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour. Pupils attending AP may or may not have an EHC plan.

In many cases, the aim is for the child to reintegrate back into mainstream or move onto special education, after their placement. Where this is not possible, the Department expects schools and providers to work together to ensure that the young person can move on to suitable education, employment or training.

### **vi. Impact assessment**

As part of the planning process for new schools, local authorities must also undertake an assessment of the impact of the proposal, both on existing educational institutions locally and in terms of impact on particular groups of pupils from an equalities perspective. This is to enable the Secretary of State to meet his duties under section 9 of the Academies Act 2010 and under section 149 of the Equality Act 2010. Most local authorities will do this when putting together the specification, so in practice, we anticipate that it will just be a matter of providing the Secretary of State with a copy of their assessment.

However, in the unlikely event that the Secretary of State has concerns about the level or quality of analysis, he may require the relevant local authority to undertake



further work on the impact of the proposed new school and/or the equalities assessment so as to ensure the effective discharge of the duties mentioned.