

Report of Director of Children and Families

Report to Executive Board

Date: 25th November 2019

Subject: Proposal to establish a new special free school on the Elmete Wood Site.



Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name(s) of ward(s): Roundhay	
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number: Appendix number:	

Summary

1. Main issues

- This report contains details of a proposal brought forward to meet the local authority's (LA) duty to ensure sufficiency of learning places. The proposal would establish a new school under the free school presumption process, in accordance with the requirements of section 6a of the Education and Inspections Act 2006 and the guidance set out in 'The free school presumption departmental advice for local authorities and new school proposers' (May 2018). The legislation that relates to this guidance includes The Education Act 2011, The Educations and Inspections Act 2006 and The Academies Act 2010.
- The number of children and young people living in Leeds has increased over the past decade, which has resulted in the demand for both mainstream and specialist provision places across the city rising. In line with this, there has been a substantial increase in the number of new Education, Health and Care Plan (EHCP) assessments and the need for additional specialist school places across the city. Current projections indicate that there is a need of up to 200 additional specialist school places each academic year from now to 2022/23. We are now bringing forward proposals to provide the additional specialist places to manage this increase.

- A consultation on proposals to create new specialist places across the city took place between 19 June and 24 July 2019. This included the proposal to establish a new 200 place special free school on the Elmete Wood site, Elmete Lane, Roundhay.
- A total of 97 consultation responses were received of which 69.8% either strongly or somewhat supported the proposal. 28.1% somewhat opposed or strongly opposed the proposal. 2.1% neither supported nor opposed the proposal. Further details about the responses and issues identified by stakeholders and respondents during the consultation period are detailed in the main body of this report.
- This report summarises the consultation responses and seeks approval from Executive Board on the recommendations below.

Recommendations

Executive Board is asked to:

- a) Note the outcome of consultation on the proposal to establish a new 200 place special free school on the Elmete Wood site.
- b) Note that the Department for Education are delivering and funding the capital costs of the scheme under Wave 2 – Special Educational Needs/Alternative Provision (SEN/AP) free schools funding.
- c) Under the specific conditions of the funding bid, approve the transfer of the Elmete Wood site under a 125 year peppercorn lease without premium to the successful sponsor identified through the free school presumption process.
- d) Note that within the funding conditions Leeds City Council must meet any associated highways costs required under planning. In addition the LA must meet any ground abnormal costs where remediation is required under planning. Once these costs were determined, authority to spend would be sought through a design and cost report.
- e) Note that the successful sponsor will be determined by the Secretary of State following an assessment and interview process. The announcement on the successful sponsor is expected to be made in February 2020.
- f) Note the responsible officer for implementation is the Head of Learning Systems.

2. Best Council Plan Implications

- This proposed new special free school would support the achievement of the Best City Priority to help ‘young people into adulthood, to develop life skills and be ready for work’ through providing high quality specialist provision places.
- The proposal actively contributes towards achievement of the Child Friendly City aspiration to ‘improve educational attainment and closing achievement gaps for children and young people vulnerable to poor learning outcomes’

- The proposal offers good value for money through its capacity to support the achievement of the Best Council Plan outcome that states ‘We want everyone in Leeds to do well at all levels of learning and have the skills they need for life’

3. Resource Implications

- The proposed scheme would be delivered and funded by the Department for Education (DfE) who have allocated a Project Director to liaise with the City Development team on the development of the site. At this early stage in the process the LA have not been provided with the total funding package for the capital proposal. A feasibility study for the site will soon commence, undertaken by the DfE). The City Development team are working closely with the planning department and once further design work is complete, a budget for the associated planning costs, which must be met by the LA, would be determined and detailed in the relevant Design and Cost report (DCR).

1. Purpose of this report

- 1.1 This report contains details of a proposal brought forward to meet the local authority’s duty to ensure a sufficiency of learning places including provision for children and young people with Special Educational Needs and Disabilities (SEND).
- 1.2 This report describes the outcome of a consultation regarding a proposal to establish a new 200 place special free school on the Elmete Wood site following the Leeds City Council successfully securing funding through Wave 2 – SEND/AP free schools funding.

2. Background information

- 2.1 The number of children and young people living in Leeds has increased over the past decade, which has resulted in the demand for both mainstream and specialist provision places across the city rising. In line with this, there has been a substantial increase in the number of new Education, Health and Care Plan (EHCP) assessments and the need for additional specialist school places across the city. The proposals being brought forward are in-line with the priorities identified within the Strategic Review of Special Educational Need and Disability (SEND) Provision in Leeds 2017-2021. The Leeds SEND strategy is currently under review in light of the recently approved 3As strategy. Both strategies have a focus on providing specialist places in the areas and local communities where the demographic need is the highest. Although the increase in demand for SEND places is citywide, the highest growth is within the East and South areas of the city.
- 2.2 In Leeds there are five maintained special schools - Specialist Inclusive Learning Centres (SILCs) which are all generic rather than specialising in just one type of need. South SILC and North West SILC are currently progressing through academy conversions. The SILCs are very popular and demand is greater than the number of places available. Pupils are admitted to specialist provision through their Education, Health and Care Plans. We are therefore planning in the additional places to manage this increase.
- 2.3 All proposals which involve changing or creating new SEND provision must meet the requirements of the SEN Improvement Test. This test has been carried out for the special free school proposal and it is deemed to be sound. The test involves demonstrating how any proposed changes would improve the range and quality of

SEND provision, including access to wider support services and specialist teaching and that these are in line with the local authority's wider strategic plan for SEND provision and also the drive to enable mainstream inclusion.

- 2.4 Current projections indicate that there is a need of up to 200 additional specialist school places each academic year from now to 2022/23. The need in the city continues to grow with particular increases in the areas of complex learning difficulties and complex communication difficulties.
- 2.5 As part of the local authority strategy to establish additional SEND places, a stakeholder engagement event was held in April 2019 to explore and develop the potential options across the city. The proposed new 200 place special free school was included in these discussions. Interested sponsors were invited to join this event which was followed by a sponsor engagement event which provided them with an opportunity to learn more to the local context, the rationale for a new special school and the detail within the published specification.
- 2.6 The Elmete Wood site is within local authority ownership as educational land, and is located on Elmete Lane. The site has accommodated a special school within it for over 40 years.
- 2.7 Elmete BESD (Behaviour, Emotional and Social Difficulties), a 100 place SILC, formerly stood on this site until its closure in 2016. The site was temporarily closed leaving a 2.2 hectare site to be developed for the proposed new free school.

3. Main issues

- 3.1 There is an identified need for additional specialist places within both primary and secondary phases across Leeds, to meet projected demand over future years. The site for the proposed new special school is located in an area of high demographic need and population density and the proposal aligns with the council's ambition to educate children within the communities that they live. The proposed 200 additional places through the new special free school forms part of the solution to address anticipated future pressure on specialist provision in Leeds. However the DfE are now reporting a potential delay with the current capital programme. It is highly likely that these places will not be available until September 2023 leaving a shortfall for the 2022/23 academic year.
- 3.2 The LA are therefore looking to acquire the Rose Court site to develop specialist places. This will meet an identified demand from September 2021 onwards and also the shortfall in places due to the reported delay at Elmete site for the 2022/23 academic year. As part of a longer term strategy for creating additional specialist provision, both Elmete Wood and Rose Court sites would support this need. The request to proceed with the acquisition of Rose Court is presented in a separate Executive Board report.
- 3.3 Under the free school presumption process, in accordance with the requirements of section 6a of the Education and Inspections Act 2006, the proposed new special school will be sponsored by an academy trust, identified through a competition process. This process is being conducted in partnership between the Local Authority and the Department for Education as outlined in the Wave 2 funding documentation. In total four academy trusts were interested in becoming the sponsor and submitted a free school application by the 30th September 2019 deadline. All applications have been assessed and those shortlisted will be interviewed by LA and DfE representatives and an independent education specialist. Interviews are expected take place in January 2020.

- 3.4 Following the interview stage, a decision between the LA and the DfE will be made on the preferred applicant. The Secretary of State will ultimately make the final decision on the successful sponsor. This announcement is expected around March 2020.
- 3.5 During the consultation period there were 97 survey responses received.
- 3.6 In total, 67 out of the 97 respondents (69.8% of the total) strongly or somewhat supported the proposal. In comparison a further 27 who somewhat or strongly opposed it (28.1% of the total). 2 respondents stated that they neither supported nor opposed the proposal.
- 3.7 72 of the 97 respondents stated that they found the consultation process useful.
- 3.8 A copy of the responses received can be requested from the Sufficiency and Participation Team at educ.school.organisation@leeds.gov.uk
- 3.9 A summary of the main themes from the comments submitted by the survey respondents who strongly or who somewhat supported the proposal to establish a new special free school are listed below;

- More specialist school places are needed to meet demand from the growing number of children and young people with SEND in the city
- There are increasing numbers of children and young people whose needs should be met within specialist provision
- Children and young people with SEND are waiting too long for a place
- The proposal would provide more choice for families
- Support was received for the Elmete Wood site being used for this proposal

- 3.10 The main concerns raised by respondents and responses to those concerns are summarised as follows;

3.11 **Concern that the new special school will be a free school/ academy**

Several respondents expressed a view that they did not agree with the new special school being a free school/academy, or that the special free school should be under the jurisdiction of the local authority.

Response: Local Authorities are no longer able to open new local authority run community schools. The 2011 Education Act introduced the 'free school presumption' meaning that, where local authorities identify a need for a new school, this must be a free school ('free school' is the DfE's term for any new provision academy) established through the 'Free School Presumption' process. Under the conditions of the Wave 2 funding, this process for the new special school proposal is being conducted in partnership with the DfE. The local authority has provided the site for the proposed new school and a detailed specification which the identified sponsor trust would be expected to deliver against.

3.12 **Concern that the proposed new school is planned to provide generic specialist places which will not meet the needs of some learners with specific conditions who are more academically able.**

Response: The new special free school is being proposed as a solution to meet the projected demand for generic SILC places in future years. It is recognised that there is also a gap in specialist provision for learners who are more academically able. The local authority are exploring opportunities to develop new provision to meet this

demand through establishing partnership and resourced provision within mainstream primary and secondary schools.

3.13 Concern around the suitability of the current highways infrastructure, the safety of road users at the site

Respondents expressed concerns that the existing road infrastructure would be unable to cope with additional traffic generated by the proposed new school particularly with its proximity to the existing primary school. The suitability of the Elmete Lane as an access road has also been raised. Some respondents shared concerns that any additional traffic would compromise the safety of pedestrians and road users, lead to inconsiderate parking on residential streets, generate more noise and increase air pollution.

Response: Response: Leeds City Council's Highways team have provided initial comments in regard to the proposal and have stated that from a highway perspective there are a number of issues that would need to be addressed. A statutory Transport Statement (TS) would be carried out to inform and enable the travel implications of the proposed development to be properly considered. The TS should demonstrate that the site would be provided with suitable pedestrian, vehicular and cycle access points from the adopted highway and that sufficient on-site car parking provisions would be provided. Based upon the information available at this stage, it is expected that the majority of learners would be transported to the special school by minibus or taxi therefore provision would be made for an on-site drop-off point and turning circle, off the adopted highway. Following that assessment, a package of measures to acceptably mitigate the effects of the development on the surrounding roads would be put forward. Until the assessment has been completed, specific detail on what those measures may be or their acceptability cannot be provided. Should the proposal proceed past the initial consultation stage, the impact of the proposed development on air quality will be assessed.

If this proposal proceeds to the next stages, any plans produced would be subject to the normal planning process, where a full transport appraisal would be carried out; and when any interested parties would have the opportunity to comment on those plans as part of the planning approval process.

3.14 Concern raised about the suitability and the cost of developing the site as a school, with suggestion made that an alternative site should be found.

Respondents expressed concern that the site was not suitable for the proposed 200 place special free school, as the capacity of former Elmete BESD was 100 specialist places. Respondents also questioned why this site was being proposed for SEND provision, when a previous mainstream primary school proposal, put forward by a free school group on this site was not progressed. Comments were received about the site being within a conservation area and would therefore be costly to develop. Suggestions included Leeds City Council selling off the site for housing and finding an alternative site, closer to the need.

Response: The principle of a special school on the Elmete Wood site in planning terms is well established. A school has been in occupation of the site since 1955 when it opened receiving planning approval for the use of this site prior to that. As a

result, with the existing buildings still in place, the Council or the Department for Education, could simply in planning terms decide to reopen the school as a special school tomorrow should it wish to do so, with no additional approvals being required. Refurbishment of the existing facility could also take place without any further approvals being required. If the condition of the existing buildings was deemed too poor for reuse and there was a requirement to reconstruct the building as per the original planning approval or rebuild it in a different form planning approvals would be required and consideration would need to be given to all of the developments that have taken place since the previous planning submission. Albeit there would be strong presumption of ongoing educational use on the same local impact level as the previous occupation as a basis of any permission.

Land brought forward by any education provider that either is approved through a planning route or designated through Secretary of State Approval, cannot be brought forward for any other purposes for a period of 8 years, unless a change of use is approved by the Secretary of State. Should the Council cease occupation and use of a site for educational purposes, the DfE can occupy or reacquire the site themselves and utilise it to deliver education. As the BESD SILC closed in 2016 Elmete Wood site would fall under this ruling.

Although a free application was submitted to the DfE by the Fair Access Group in 2015, the Elmete Wood site was deemed too far away from the area of demographic need and would not have addressed the need for additional primary school places in the Roundhay area at that time.

As part of any new school development (regardless of its location in the city) we always work closely with colleagues in the planning department to ensure the design is aesthetically pleasing and compliments the surrounding buildings/landscape.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The process in respect of all the proposals has been managed in accordance with the relevant legislation and with local good practice.
- 4.1.2 The consultation was carried out over a five week period and included use of an on-line survey. A number of drop-in sessions were held at a variety of venues supported by officers from Highways, Sufficiency and Participation, and City Development teams. The drop-ins provided opportunities for parents, carers, SILC staff, and local residents to ask questions and find out more about the proposals. Information about the consultation was distributed widely, including all the parents of pupils currently attending a SILC provision, all Leeds schools and academies (primary and secondary), SEND parents support groups, on the Leeds City Council website, the Family Information Service website, Twitter and Facebook. Leaflets highlighting the consultation, and the timings of the consultation drop-in meetings were distributed to local residents and displayed at a number of prominent locations in the area.
- 4.1.3 As the proposal is part of a city wide strategy for SEND places, the details of the consultation were shared with all ward members across Leeds. In addition, a briefing was offered to the local ward members.

4.2 **Equality and diversity / cohesion and integration**

4.2.1 The EDCI screening form for the proposal is attached as an appendix to this report.

4.3 **Council policies and the Best Council Plan**

4.3.1 This proposal offers good value for money through its capacity to support achievement of the Best Council Plan outcome that states 'we want everyone in Leeds to do well at all levels of learning and have the skills they need for life'.

4.3.2 This proposal is being brought forward to meet the local authority's statutory duty to ensure that there are sufficient learning places for all the children in Leeds. Providing specialist places closer to where children and young people with SEND live promotes inclusion within their local community.

4.3.3 This proposal contributes to the aspiration for Leeds City Council to be the best council and for Leeds to be the best city in which to grow up in, and a child friendly city. The delivery of pupil places through the Learning Places Programme is one of the baseline entitlements of a child friendly city. By creating good quality local learning places and environments we can support the priority aims of ensuring children and young people do well in learning and closing achievement gaps for those vulnerable to poor learning outcomes. We want all children and young people in the city to have access to a wide range of opportunities, develop key life skills, and be supported on ambitious pathways to enable them to thrive supporting the council's ambition to produce a strong economy and a compassionate city. A good quality learning place also contributes towards delivery of targets within the Children and Young People's Plan such as the 3A's strategy to improve achievement, attainment and attendance at school.

Climate Emergency

4.3.4 There is an identified need for additional specialist provision across the east of Leeds for children and young people with SEND. The Elmete Wood site which is located within the inner north east area is well placed and local enough to serve the demographic need. This would reduce journey times to and from specialist schools which in some cases can be a long distance from where the learner resides.

4.3.5 The SILC would support students to undertake 'independent travel training' where appropriate to encourage independence for the young person to safely travel to school on public transport.

4.3.6 Existing planning policies seek to address the issue of climate change by ensuring that development proposals incorporate measures to reduce the impact on non-renewable resources. The council's Executive Board has also mandated that the authority should be carbon neutral by 2030. This will result in sustainable/ green infrastructure being required of all future projects in order for planning permission to be granted. To this end if the proposal progresses, any build scheme would explore the potential use of renewable energy and energy saving technologies, with the aim of increasing sustainability and minimising energy consumption.

4.3.7 The council's Core Strategy Policy G9 is concerned with the impact of development on biodiversity. The policy states that new development should demonstrate how the design, including landscape, will make a positive contribution to habitat protection, creation and enhancement. Although all the site survey work that would need to be undertaken at the proposed school site is still to be determined, as a

minimum an arboricultural impact assessment (impact on existing trees and plants), an arboricultural survey, bat surveys, and ecology appraisals would all be carried out. A ratio of 3:1 for replacement of trees removed would be adhered to and the overall landscaping proposal would need to be cognisant of Leeds mandate to increase overall tree canopy coverage from 19% to 33%. To ensure any landscaping proposals are fully compliant with biodiversity improvement and landscape Core Strategy Policies they would be developed in conjunction with Planning colleagues and via consultation with the Leeds Climate Change Commission.

- 4.3.8 Any contractors will need to demonstrate a robust Waste Management Plan, be registered with The Considerate Constructors Scheme, of which, the main consideration of the scheme falls into three categories: The general public, the workforce and the environment. Contractors will also need to be sympathetic to the Leeds Talent and Skills Plan by striving to employ local trades thus reducing the impact of extended travel.

4.4 Resources, procurement and value for money

- 4.4.1 The proposed scheme would be delivered and funded by the Department for Education who have allocated a Project Director to work closely with the LA regarding the development of the site. At this early stage in the process the LA have not been provided with the total funding package for the capital proposals. As the project progresses into feasibility stage there will be more certainty around the costs and the delivery programme. City Development are working closely with the planning department and following detailed design, a budget for the associated planning costs, which must be met by the LA, would be determined and detailed in the relevant Design & Cost Report (DCR).

- 4.4.2 Under the specific conditions of the funding bid, the LA would transfer the Elmete Wood site under a 125 year peppercorn lease without premium to the successful sponsor identified through the free school presumption process. Although the Council has a duty under s.123 of the Local Government Act 1972 (or the Housing Act 1995) to secure the best consideration that it reasonably can from the disposal of its property assets, this obligation is overridden by requirements of the Academies Act 2010 to enter into lease arrangements at nil consideration.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The proposal would establish a new school under the free school presumption process, in accordance with the requirements of section 6a of the Education and Inspections Act 2006 and the guidance set out in 'The free school presumption departmental advice for local authorities and new school proposers' (May 2018). The legislation that relates to this guidance includes The Education Act 2011, The Education and Inspections Act 2006 and The Academies Act 2010.

- 4.5.2 This report is subject to call in

4.6 Risk management

- 4.6.1 These proposals have been brought forward in time to allow additional specialist places to be delivered for the academic year 2023/24 to support the current demand for places. A decision not to proceed at this stage could result in fresh consultations on new proposals, and places to meet the immediate need would not be delivered in time. It may also result in further bulge cohorts being delivered in other SILCs which would be more costly in the longer term. The local authority's ability to meet its statutory duty for sufficiency of learning places in the short term may be at risk.
- 4.6.2 There is also a corporate risk associated with failing to provide sufficient learning places in good quality buildings that meet the needs of local communities. The Elmete site was formerly used for education provision and is currently vacant.
- 4.6.3 In circumstances where a former education site owned by the Local Authority is vacant there could be a risk that the Department for Education take possession of the asset from the Local Authority to facilitate the development of a new free school.

5. Conclusions

- 5.1 Our ambition is to be the best city in the country. As a vibrant and successful city we will attract new families to Leeds, and making sure that we have enough learning places, including places in specialist provision, is one of our top priorities. These proposals have been brought forward to support learners with SEND in Leeds to benefit from being able to access a local specialist place and so delivering our vision of Leeds as a child friendly city.
- 5.2 The majority of the respondents support the use of the Elmete Wood site to establish a new special free school. The concerns raised during consultation have been considered, and on balance, the proposal to site the new special free school on Elmete Wood remains strong and addresses the need for specialist places in the area.
- 5.3 The additional places are required to ensure the authority meets its legal requirement to ensure sufficiency of specialist places. It is therefore recommended that the Elmete Wood site be approved to locate the new special fee school and transfer the asset to

6. Recommendations

Executive Board is asked to:

- a) Note the outcome of consultation on the proposal to establish a new 200 place special free school on the Elmete Wood site.
- b) Note that the Department for Education are delivering and funding the capital costs of the scheme under Wave 2 – Special Educational Needs/Alternative Provision (SEN/AP) free schools funding.
- c) Under the specific conditions of the funding bid, approve the transfer of the Elmete Wood site under a 125 year peppercorn lease without premium to the successful sponsor identified through the free school presumption process.
- d) Note that within the funding conditions Leeds City Council must meet any associated highways costs required under planning. In addition the LA must meet any ground abnormal costs where remediation is required under planning. Once

these costs were determined, authority to spend would be sought through a design and cost report.

e) Note that the successful sponsor will be determined by the Secretary of State following an assessment and interview process. The announcement on the successful sponsor is expected to be made in February 2020.

f) Note the responsible officer for implementation is the Head of Learning Systems.

7. Background documents¹

None

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.