

	<b>Cabinet</b> 17 January 2022
	<b>Report from the Strategic Director          of Regeneration and Environment          and          Strategic Director of Children and          Young People</b>
<b>Capital Investment Programme for School Place Sufficiency          for Children and Young People with SEND</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	Three Appendix A: SEND Capital Programme Work-streams Appendix B: High Level Programme GANTT Appendix C: Programme risk log
<b>Background Papers:</b>	None
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## 1.0 Purpose of the Report

- 1.1 Further to the School Place Planning Strategy 2019 – 2023 Refresh presented to Cabinet in November 2021, this report presents a business case for capital investment in order to provide additional school places for the growing number of children in the borough with SEND. The Council has statutory responsibilities in relation to children and young people with special educational needs and disabilities (SEND), that require the Council to ensure that there is suitable provision to meet their needs.

- 1.2 A SEND Capital Programme is proposed to meet this demand via a number of work-streams, including construction of a new build SEND School, Additionally Resourced Provision (ARP), expansion of existing SEND schools and capital improvement projects.
- 1.3 The programme is expected to deliver 427 SEND places and reduce the need to send children to schools out of borough, which will reduce the financial pressure on the High Needs Block of the Dedicated Schools Grant by £5.9m each year. The programme budget is £44.19m and will be funded via basic need funding. The projects within the programme are expected to be completed by 2024

## **2.0 Recommendation(s)**

- 2.1 Cabinet approves the SEN Capital Programme as described in this report.
- 2.2 Cabinet allocates £44.19m of capital funding to deliver the programme.
- 2.3 Cabinet approves the delegation of the authority to approve the project business cases to the Strategic Director of Regeneration and Environment in consultation with the Strategic Director of Children and Young People and the Director of Finance.
- 2.4 Cabinet approves the delegation of authority to agree pre-tender considerations, procure and award the necessary technical, consultancy and services contracts valued in excess of £2m and works contracts valued in excess of £5m to the Strategic Director, Regeneration and Environment, in consultation with the Cabinet Member for Schools, Employment and Skills and the Strategic Director for Children and Young People.
- 2.5 Cabinet notes that further reports will be brought forward providing updates on progress of the delivery of this programme.

## **3.0 Detail**

- 3.1 The School Place Planning Strategy Refresh, approved by Cabinet in November 2021, evidences the growing demand for places that meet the needs of children and young people with SEND. In order to meet this growing need and to tackle increasing pressures on the High Needs Block of the DSG, creating additional local school places for children with SEND is identified as a key part of the School Place Planning Strategy and is also contained within the new SEND Strategy (2021-25). The Strategic Director of Children and Young People (CYP) in collaboration with the Director of Finance has been chairing a task and finish group to ensure activity is co-ordinated to deliver on the strategy to provide additional SEND places. A range of options regarding school places was proposed to the Children's Trust and reviewed by the task and finish group, including the potential to build a new SEND school in the borough, providing Additionally Resource Provision (ARP) spaces at existing mainstream schools and expanding existing SEND schools.
- 3.2 Demand for special provision in Brent has been growing (Table 1). The number of maintained EHC Plans in Brent has risen by 14.8% from 2020. The number of EHC Plans nationally has risen by 10.4%.

- 3.3 The numbers of children with SEND is expected to continue to increase as overall pupil numbers rise. The number of children and young people with EHCPs (under 5s to those aged 25) is expected to increase to 4,932 by 2027 at 10% growth. This will impact on demand for specialist provision in the borough.

**Table 1: Forecast number of EHCPs at 10% (based on 2021 SEN2)**

The forecasts below are used with a 10% increase each year Source: SEN2						
Timeline	Total	Under 5s	5 to 10	11 to 15	16 to 19	20 to 25
2015	1,653	61	675	710	207	0
2016	1,804	105	754	703	238	4
2017	1,960	100	836	681	285	58
2018	2,076	114	907	696	306	53
2019	2,173	99	926	704	377	67
2020	2,426	137	1,001	745	376	167
2021	2,784	134	1,124	839	490	197
2022	3,062	147	1,236	923	539	217
2023	3,369	162	1,360	1,015	593	238
2024	3,706	178	1,496	1,117	652	262
2025	4,076	196	1,646	1,228	717	288
2026	4,484	216	1,810	1,351	789	317
2027	4,932	237	1,991	1,486	868	349

- 3.4 Whilst the focus is to slow the current growth in the cohort through early intervention strategies and through targeted catch up support, there has been significant growth in the primary cohort. In 2020/21 Brent issued the highest number of new EHC Plans to children age 5 to 10, an increase of 4.7% from 2019/20 compared to statistical neighbours (SEN2 2021). In 2020/21 307 plans were issued to under 11s, (compared to 266 in statistical neighbours). The difference was that Brent had 1/3 more children issued with an EHCP who were under 5. The Council needs to increase in-borough primary and secondary provision to meet the needs of these pupils as the move through the education system. The majority of pupils' additional needs can be met within one of the following contexts with only those not able to access their education in a mainstream school being met through a special school.

A FULL RANGE OF PROVISION			
Fully inclusive mainstream provision (no support)	Mainstream with support	Additionally resourced mainstream provision	Brent special school provision

- 3.5 There is a range of high quality specialist provision in Brent encompassing 3 specialist nurseries, 1 primary special school, 2 special school academy trusts and a number of Additionally Resourced Provisions (ARP) in both primary and

secondary mainstream schools. Many young people with additional learning needs can make better, more sustained progress when they attend mainstream schools. Much of the increased demand can be delivered through the expansion of existing specialist provision through capital investment or identification of Additionally Resourced Provision (ARP) within a mainstream setting. Taking into consideration the age profile and primary special needs of children and young people, the preferred designation of all new ARP provision is communication and interaction with a focus on Autistic Spectrum Disorder (ASD). This is to reflect the increase in ASD diagnosis and the number of children and young people identified as have a Speech, Language and Communication Need (SLCN). ASD is the most common type of need, accounting for 41% of Brent's EHC Plan population compared to 30.5% in England. In providing effective teaching and learning strategies and resource requirements children and young people identified with SLCN and/or comorbidities including MLD would also be effectively supported in the proposed Additionally Resourced Provision.

- 3.6 However some children have such specific needs that they cannot be met other than in very specialist provision. Special schools in the borough cater for a wide range of children and young people with complex SEND. Due to insufficiency in places as of January 2021 576 children and young people were educated out of borough with 180 in Independent Non-Maintained Special Schools (INMSS) at a cost of £7.2m per annum. Notwithstanding the financial case, there is a strong educational and social rationale for the council to place students within the borough.
- 3.7 During the academic year 2020/21 discussions were held with all primary, secondary and special schools to review and plan for how the needs of children and young people with SEND could be met. These discussions were held as part of the wider school place planning agenda and in the context of spare place in the primary sector, consideration was given to repurposing of accommodation where this was appropriate on a permanent basis (with adjustments made as necessary to school mainstream Published Admission Numbers)
- 3.8 In developing this proposal, consultation has been undertaken with the Brent Parent Carer Forum and wider stakeholder representatives of the Brent Children's Trust.

#### **4.0 Programme Proposal**

- 4.1 Feasibility work identified a number of potential capital project work-streams in order to meet the demand described above. These work-streams are:
- a) Additionally Resourced Provision (ARP) in mainstream Primary and Secondary Schools
  - b) Creation of a new SEN School.
  - c) Expansion of existing SEN Schools
  - d) Capital Improvements to existing schools
- 4.2 In March 2021, Capital Programme Board approved the use of basic need funding for officers to undertake feasibility work for ARPs, SEND school

expansions and the proposed new SEND school. Subsequently, the Council appointed technical consultants to undertake feasibility studies to:

- Obtain sufficient comparable data to enable a decision to be made about the projects to be developed
- Obtain sufficient financial information to enable investment decisions to be made
- Obtain sufficient feasibility information to determine the risks and opportunities attached to the development of each potential project in order to inform decision making

4.3 The technical consultants have undertaken detailed pieces of work across a number of schools, including:

- Analysis of the existing school site and accommodation provision for each school and use of buildings against Department for Education BB104 building guidelines (using the DfE Schedule of Accommodation tool).
- Feasibility work to determine how the accommodation could be provided across a number of site options and provision of indicative costings, risks and opportunities for the various options for each project.

4.4 Schools that expressed interest in developing SEND provision have been engaged in the feasibility work and have provided their views on the amount and type of accommodation required for the respective project at their school. The aim of the feasibility work has been to establish a transparent and comparable basis for decision making on proposals and any subsequent investment decision.

4.5 The outcome of the feasibility work across these schools has been reviewed by officers in the Children and Young People and Regeneration and Environment Departments and the programme has been put together to deliver a number of projects to meet the programme objectives. The full proposed programme can be found in Appendix A and a summary is included below:

- One new SEN School with the projected creation of an additional 150 places. Indicative budget projected at approximately £20m.
- Ten ARPs (eight Primary Schools, two Secondary Schools) with the projected creation of an additional 168 places. Indicative budget projected at approximately £8.5m
- The expansion of 4 existing Brent Special Schools with the projected creation of an additional 109 places (see table 2 below). Indicative budget projected at approximately £11m.
- Two capital improvement projects at a mainstream primary and a secondary school to improve accessibility for pupils. Indicative budget projected at approximately £0.5m

**Table 2: Planned Special School Expansions**

School	Places
Phoenix Arch School	13
Manor School KS3	36

The Village School KS3 and KS4	20
Woodfield School KS3 and KS4	40
<b>Total Places</b>	<b>109</b>

- 4.6 The Phoenix Arch Community School provides education for primary aged pupils who have ASD as their category of need but cannot function in mainstream school. Phoenix Arch is the only remaining community special school and the smallest of the special schools. There is the potential for creating a double storey extension and therefore doubling the numbers of additional places to 26. Whilst this would offer additional places the outside space available for pupils at Phoenix Arch is severely limited. The governing body and head teacher are not supportive of increasing beyond the proposed 13 places.
- 4.7 For the proposed secondary expansions identified above, the expansion request is based on the needs of the pupils. Most who are in primary special school will require a secondary special school with very few moving into mainstream. Phoenix Arch pupils tend to go towards Cambridge School Hammersmith and Fulham, an ASD special school. Manor School pupils would go to Woodfield for the majority with some going to The Village School. Pupils at the two ASD ARPs, Fryent and Oakington, would tend to be a mix of Woodfield or Preston Manor ARP, with a few progressing into secondary mainstream.
- 4.8 Manor School is a primary ASD school and is part of the Rise Partnership Academy Trust (previously BSAT). The proposal is for the Manor School to expand their designation to Key Stage 3 and 4, providing much needed additional secondary ASD provision. As the site will be located on Newman Catholic College, within an area previously used for temporary accommodation, utilities are already in place indicating that this provision could be available in 2022/23 academic year. The Rise Partnership will submit a proposal for the presumption process. If the expansion is not built within the time period the proposal is that the pupils remain at the Newman Catholic College site and progress into Key Stage 4. As Newman Catholic College will be providing a new ARP, The Rise Partnership will be supporting staff to build their capacity to retain pupils with special educational needs, some key stage 3 and 4 education will be delivered using the Newman Catholic College facilities. The expansion of designation will provide progression for pupils from both Phoenix Arch, Manor Primary provision and from the primary ASD ARPs/mainstream schools where pupils are not able to function well within a secondary environment and require specialist provision.
- 4.9 The expansion of The Village School (TVS) at Kingsbury High School by 20 places will provide secondary pupils with complex learning needs with the opportunity to remain in Brent and at TVS. The current temporary site at Kingsbury High School is not fit for purpose. It lacks sufficient outdoor space and the accommodation is in need of replacement. Therefore this new provision will provide an opportunity to expand. The proposed extension will support more young people in the secondary facility, opening up space in Woodfield School for pupils with complex learning needs.
- 4.10 The expansion at Woodfield is at Key Stage 3 and 4 for pupils with complex learning needs by 40 places. Pupils with combined ASD and complex needs

will still progress from Manor to Woodfield, the additional space will also provide secondary school places for those primary aged pupils with complex needs based in mainstream or ARPs and who have been identified as requiring a secondary special school place.

### Programme Objectives

- 4.11 This programme has a number of objectives as set out in Section 3 and specifically paragraph 3.6.
- 4.12 The programme is estimated to cost £44.19m and will deliver a total of 427 new SEN pupil places. This includes 115 primary places in ARPs and 32 secondary places in ARPs; an expansion of 13 primary places and 96 secondary places in Special Schools and 150 places in a new secondary special school. Two new lifts will be installed at mainstream secondary schools to increase accessibility. A full breakdown of the outputs for each work-stream and projects is included in Appendix A.
- 4.13 By undertaking this programme the Council will meet its statutory duty to ensure that more pupils with EHCPs are offered a suitable local school place. Table 3 sets out the benefits to increasing capacity within Brent schools for these pupils.

**Table 3: Programme Benefits**

<b>Description of Benefit</b>	<b>Financial/ non-financial benefit?</b>	<b>Estimated benefit amount?</b>	<b>When will the benefit be realised?</b>	<b>One-off or recurring?</b>
High Needs Block Savings	Financial	£5.9m	September 2023	Recurring
Additional local SEN Secondary School places available for Brent children and young people in Good and Outstanding schools	Non-financial	96 places per year for 5 years	September 2023 - 2027	Recurring
New local Special school places available for Brent children and young people	Non-financial	150 places	September 2024	Recurring

Description of Benefit	Financial/ non-financial benefit?	Estimated benefit amount?	When will the benefit be realised?	One-off or recurring?
Additional number of Brent children and young people with EHCP being able to be taught in a mainstream school	Non-financial	168 places	September 2024	Recurring
Increased Employment Opportunities in Teaching	Non-financial	100	September 2023	One-off

### Options Appraisal

1. *Do Nothing / continue to rely on children going to out of borough schools*
- 4.14 Based on the current numbers of Brent based pupils already attending out of borough schools, there is already a significant financial impact to the Council. As the number of pupils with an EHCP increases, this will have an increased impact on the High Needs Block of the DSG.
2. *Provide additional places in temporary bulge classes rather than through permanent expansion*
- 4.15 There is little difference in the capital cost of developing temporary accommodation compared to permanent accommodation. Temporary bulge classes are logistically difficult to achieve for SEND schools where a range of specialist accommodation is required to meet pupils' needs. Further, if SEND pupil numbers continue to remain high, the temporary provision will need to be converted to permanent and so the Council would have to complete another programme of expansions and new builds in a few years' time.
3. *Provide SEND places in mainstream primary schools where there is spare capacity*
- 4.16 Although there is spare capacity at some schools in the mainstream primary sector, it is not advised to accommodate secondary sector aged SEND pupils in Primary Schools due to the requirement for additional accommodation for their education. At some of the schools in the ARP work-stream, renovating spare buildings has been considered as part of the feasibility studies. However, due to the constraints of these buildings, they cannot provide an appropriate environment for SEND pupils and so permanent, fit for purpose buildings are proposed.

#### *4. Provide the Secondary SEND School Expansions as a new SEND Secondary School*

4.17 An alternative proposal for the expansions at TVS, Manor School and Woodfield School (paragraphs 4.8 – 4.10) would be to provide a purpose built additional secondary school for pupils with complex needs, i.e. go forward with a second free school presumption to meet the current need for 250 special school places. The costs to provide these 100 places would be higher compared to the expansions at each school and the timescales for completion would be longer, therefore not alleviating the pressure on the HNB. Land will also need to be identified and the Council does not have any available land (~10,000m<sup>2</sup>) for a new SEND school. Further, a desktop exercise demonstrates that no Secondary School in Brent has sufficient space to accommodate a SEND School without significantly impacting on existing outdoor space (based on BB103 Area Guidance for Mainstream Schools).

4.18 Further, the SEN School proposed for 150 places is not big enough to take a larger school and so options to increase the pupil numbers at this site are not viable.

#### *5. Provide permanent additional school places across the work-streams identified in paragraph 4.5 – This is the recommended option.*

4.19 In order to provide permanent Specialist school places the Council reviewed the outcome of the feasibility studies, alongside other factors such as future school provision. The projects proposed in Appendix A are the outcome of that options review.

4.20 The recommended option is to create 427 permanent SEN places across ARP, SEN school expansion and a new Secondary Special school as well as increasing accessibility at two schools through the provision of two new lifts. Therefore the proposals meet:

- The urgency of the need to act to create capacity to alleviate the pressure on the High Needs Block in the short term;
- The targeting of increased provision in key areas where the pressures exist, taking into consideration the age profile and primary special needs of children and young people; and
- The need to work closely with our schools to promote inclusion and ensure more children and young people can have their needs met in mainstream schools either through specialist units or provision.

#### Alignment with Strategic Objectives

4.21 The project aligns with the School Place Planning Strategy 2019-23. The Council has statutory responsibilities in relation to children and young people with SEND, where the Council has to ensure there is suitable provision to meet their needs. Furthermore, the strategy outlines a set of operating principles to be followed with regard to school place planning.

4.22 The project also aligns with the Brent Borough Plan 2019-23 outcomes:

1. Every Opportunity to Succeed:
    - Raise the attainment of pupils with special educational needs and disabilities
    - Provide additional specialist places
  2. Strong Foundations:
    - Making every pound count
    - Building services around our residents and their needs
- 4.23 Enabling more children and young people to stay in school in borough means they will also have greater opportunity to participate in and contribute to the Brent community.

**Table 4: High Level Programme Milestones**

<b>Milestone</b>	<b>Start</b>	<b>Finish</b>
Cabinet Approval of Programme Business Case	17 January 2022	17 January 2022
Project Business Cases Approvals	18 January 2022	11 April 2022
Technical Consultancy Procurement	30 November 2021	14 March 2022
Contractor Procurement	22 March 2022	12 September 2022
Statutory Consultation	01 March 2022	27 February 2023
Design Work	01 February 2022	07 August 2023
Planning Applications	12 April 2022	07 August 2023
Construction Works	25 July 2022	07 October 2024
Practical Completion (all works across all work-streams complete)	02 September 2022	07 October 2024
Programme Closure	31 December 2024	24 March 2025

- 4.24 Table 4 shows the indicative dates for the key deliverables across the programme. The start date for each of the milestones is the earliest date this activity starts across the programme and the finish date for each of the milestones is the latest date this activity finishes across the programme. The SEND Capital Programme GANTT chart showing the indicative milestones for the deliverables for each work-stream is provided in Appendix B. Table 5 below indicates when each work-stream will be delivered by. The individual project business cases will detail the project specific delivery dates and there will be projects that complete earlier than others within each work-stream. Some of these milestones have begun prior to business case approval in order to deliver the programme and projects within the required timescales.

**Table 5: Work-stream / Phased Delivery**

Work-stream / Phase	Start	Finish
Capital Projects (lift installations)	30 November 2021	2 September 2022
ARPs	30 November 2021	10 July 2023
Special School Expansions	30 November 2021	30 October 2023
New Special School	04 January 2022	07 October 2024
Programme Closure	31 December 2024	24 March 2025

4.25 The programme is based on following assumptions:

- a. Projects are delivered as work-streams – this timeline shows milestones for the work-streams
- b. The projects within each work-stream have different proposed construction timelines
- c. A two stage Design and Build contract is used through the DfE Contractor Framework for large projects (i.e. new Special school)
- d. Statutory processes for school expansions will be led by the academies in line with the programme provided by the Council.
- e. The Presumption Process to identify a provider for the new Special School will be led by the Council.

4.26 It is recommended that a memorandum of understanding (MoU) and development agreement is entered into with each Academy school identified within the programme prior to commencement of design development. This will set out the roles and responsibilities of each party and enable the council to better manage the project especially in respect of the interpretation of the project brief and potential scope creep.

### Procurement

4.27 The Council will be required to procure the following services, supplies and works contracts as part of the programme

- Technical Consultancy Services (design services, contract administration)
- Works contracts (traditional build contracts, design and build contracts)
- Furniture and ICT equipment supplies
- Specialist surveys (underground services, geotechnical, aboricultural)

4.28 The above will consist of very low value, low value, medium and high value contracts. It is proposed to batch as many commissions as possible to reduce procurement activity during the programme. For example, the technical consultancy services for the ARPs will be procured as one package/tender opportunity.

4.29 For the larger works contracts (i.e. new Special school), it is expected these will be through one of the DfE's construction frameworks. Proposals for tender opportunities will be issued via separate reports requiring approval or as part of the detailed project business cases.

### Risks

4.30 The programme risk register is included in Appendix C. However, the main risks to this programme and its projects are:

1. School withdrawal from the programme
2. Continued impact of Brexit and Covid-19 on the construction industry (resources, materials and deliveries)
3. Increased demand within the construction industry meaning less interest in opportunities (consultants and contractors)
4. Increased demand within the construction industry meaning price increases above inflation leading to unaffordable projects and calls on additional financial contributions
5. Planning approval not being granted for schemes
6. Delay in identifying a provider to run the new Special School

### Assumptions

- 4.31 The following assumptions for this programme have been made:
- The schools can and will recruit sufficient suitable teachers and support staff in time to open the additional places for pupils.
  - The Council (for community schools) or school/Academy Trust for non-Council schools will undertake any statutory consultation to increase size where required
  - The Free School presumption route will deliver a Multi-Academy Trust to run the new Special school
  - Capital funding approval will be forthcoming
  - Planning approval can be achieved for each of the schemes.

### Project Business Case Approach

- 4.32 Business cases will be brought forward for each project in the programme following the Council's Capital Programme Governance processes and approved by the Strategic Director of Regeneration and Environment in consultation with the Strategic Director of Children and Young People and the Director of Finance.
- 4.33 In order to achieve consistency across the programme a standard brief has been utilised for the ARPs, SEND expansions and the new SEND school projects. The standard brief for these projects within the programme (except for the lift installation projects) will include:
- Sufficient additional or modified accommodation to support the agreed number of places based on the current building guidelines BB104 for the following types of areas:
  - General and specialist teaching spaces, WCs, Sensory rooms, therapy rooms, large areas (halls), kitchen facilities, storage and staff accommodation (office and welfare)
  - Demolition and making good of existing buildings and/or external play areas in order to facilitate the above
  - Improvement to the supply and connection to utilities on the school site to enable the expansion/new build
  - Fixed and loose furniture, equipment and ICT for the additional number of pupils
  - Temporary accommodation to enable phasing where it is logistically or financially beneficial to do so in order to provide school places when needed

- Internal adaptation where it is required to create suitable spaces and facilitate expansions in the most practical and economical way e.g. making 3 classrooms at guideline size from 2 extra-large classrooms where one additional classroom was required.
- All new and adapted accommodation will be located with appropriate adjacencies for subject specialisms and year groups as advised by the school
- All new and adapted accommodation will be physically accessible and reasonable adaptations will be made in the existing building where it is logical to do so
- BREEAM Excellent rating for any new buildings (or as otherwise advised by the Local Planning Authority)
- Works to the buildings and site to support the school travel plan for the expanded schools and to facilitate increased use of public transport as appropriate
- Improvement to local public transport infrastructure if required through the planning process.

#### 4.34 The projects will not provide:

- Expansion of post-16 provision and/or mainstream provision
- Any improvement/addition/modification/re-location/demolition of existing buildings or external play areas that do not directly or indirectly facilitate the new build or expansion in line with BB104 requirements. This includes but is not limited to the following:
  - Accommodation for post-16 provision unless changes to post-16 provision facilitates accommodation for years 7-11 and is the most cost effective way to do so
  - Improvements to existing external sports facilities unless required for planning purposes
  - Existing dining and assembly areas
  - Internal sports facilities or other specialist teaching areas
  - Additional staff office or welfare space
  - Storage
  - Circulation space
- Improvement to the condition and/or suitability of the existing buildings, plant and external areas
- Improvement to the accessibility of the existing buildings and external areas except in new areas
- Improvement to adjacencies of subject/faculty areas not affected by the expansion
- Re-location of furniture, ICT and resources within the school

#### 4.35 In managing the programme of projects the Council will provide the following services. Some of the services above will be procured for the purposes of delivering the programme:

- Project management including:
  - Budget and cost management
  - Programme management
  - Stakeholder engagement including with Members
  - Public consultation for all statutory processes (including where the Academy Trust must lead)

- Risk and issue management
- Procurement activities
- Contract administration
- Governance over the projects and programme to enable oversight and direction
- Legal advice
- Procurement advice
- Technical expertise from a full design team

4.36 The Council will be responsible for obtaining all necessary approvals to undertake the capital projects including planning approval, Section 77 approval for development on playing fields (where appropriate) from DfE and building control approval.

4.37 The Governing Boards for each school have indicated their approval in principle to proceed with their school project, but schools will be required to provide further formal sign off at key stages. This includes agreement to a memorandum of understanding (MoU) and a Development Agreement where school are Academies.

## 5.0 Financial Implications

5.1 Table 6 summarises the cost of the SEND Capital Programme.

**Table 6: SEND Capital Programme Costs**

<b>Work-stream</b>	<b>Cost (£m)</b>
ARPs	8.52
Special School Expansions	11.18
New Special School	20.00
Capital Works	0.50
<i>Sub-total</i>	<i>40.19</i>
Programme Contingency	4.00
<b>Total</b>	<b>44.19</b>

5.2 The Council will look to utilise Basic Need Capital Grant and the High Needs Capital Grant over other internal resources (including Strategic CIL) to fund the SEND school places in the first instance. At the time of drafting this report, the available, non-committed funding from these two grants was £11.59m plus £35m from the Secondary Expansion Programme following Cabinet's approval to close the programme in November 2021 providing a total of £46.6m.

5.3 Costs per place are included in Appendix A. Across the programme, the mean cost per place is £82,530 (excluding contingency). The mean cost per place from the latest National School Delivery Cost Benchmarking Report is £83,413 which is in line with the programme's costs.

5.4 Programme contingency is set at a level of 10%. There is further allowance for project contingency within the proposed budget for each project. This is currently set at 10%. These percentages reflect the early stages of the projects as well as current cost uncertainty in the construction industry due to the current impact of resource and material availability.

### Revenue Implications

- 5.5 The costs for out of Borough SEND provision is £14.7m with a forecast of £16.5m which would lead to an additional pressure of £1.8m against the High Needs Block budget in the 2021/22 financial year.
- 5.6 The average cost for Out Of Borough Special Schools is £23k with the cost at the top end being as high as £55k. This is inclusive of additional support cost for a number of children with extra needs. The average cost for children in INMSS is £49k.
- 5.7 The cost avoidance of placing a child in a Brent Special school is £14k compared to Out Of Borough charges. Therefore, at the top end of the scale, if all placements were in Special Schools, this would realise a cost avoidance of approximately £5.9m with £0.9m saved in 2023/24 if places are filled from September 2023.

### **6.0 Legal Implications**

- 6.1 The legal implications associated with the Council's statutory duty to ensure that there are sufficient school places available to meet the needs of the local population are set out in the School Place Planning Strategy 2019-23.
- 6.2 Two Special Schools proposed for expansions, one primary and one secondary school proposed for ARPs and one of the schools proposed for lift installations are self-governing Academies. The Council would need to enter into agreements with each school in order to obtain a licence to build. This development agreement would also recognise the Council's project management role and the school's right to review key stages of the works. It is proposed that the Council also enters into a Memorandum of Understanding to cover the period of collaboration before the construction works begin setting out expectations from both parties in respect of the design and decision making processes.
- 6.3 Schools will be required to follow statutory processes in order to obtain approval to expand from the Regional Schools Commissioner acting on behalf of the Secretary of State for Education and alter admissions arrangements. The progression of the Council's programme will be dependent on this approval being obtained.
- 6.4 Under section 37 of the Education Act 2011 if the Council considers a new school needs to be established in its area, the council must seek proposals for the establishment of an academy. Given there is a presumption that any new school site provided by a local authority would be for a sponsored academy, the Council would in general be expected to grant a 125-year lease at a peppercorn rent to the academy. This approach is intended to be consistent with the existing guidance on community schools converting to academies where a local authority grants to the new academy a 125 lease of the community school site at a peppercorn rent. If in the alternative the council were asked by the DfE to provide a new site for a free school, it would also be expected to grant a peppercorn lease to the free school in accordance with DfE Guidance updated January 2014.

- 6.5 If as a result of refurbishing mainstream accommodation to accommodate any SEND provision, the Published Admission Number of a school will need to be reduced the admission authority for the school will need to undertake consultation. The Council as admission authority for community schools has a duty to undertake this consultation in order to determine admission arrangements, including admission numbers under Part III of the School Standards and Framework Act 1998 and the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012/8.
- 6.6 As detailed within this report, the Council will be responsible for obtaining all necessary approvals to undertake the capital projects including planning approval, approval to development on playing fields (where appropriate) from DfE pursuant to Section 77 of the Schools Standards and Framework Act 1998 and building control approval.
- 6.7 This programme will require the procurement of very low, low, medium and high services and works contracts. All procurement will be conducted in accordance with Contract Standing Orders and Public Contract Regulations (PCR). It is recommended that Cabinet approve the delegation of authorities to procure, approve pre-tender considerations and subsequently award services contracts valued in excess of £2m and works contracts valued in excess of £5m to the Strategic Director of Regeneration and Environment in consultation with the Strategic Director, Children and Young People and the Cabinet Member for Schools, Employment and Skills.

## **7.0 Equality Implications**

- 7.1 The Council must, in the exercise of its functions, have due regard to the need to:
- a. eliminate discrimination, harassment and victimisation
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it,
- pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.
- 7.2 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 7.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.4 There is no prescribed manner in which the Council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary. The proposals set out in this report aim to ensure that there are sufficient and suitable school places for all Brent children and that their diverse and special educational needs are met.

7.5 The equality implications associated with the School Place Planning Strategy 2019-23 were set out in the report to Cabinet to approve the same (November 2018). This report considers more specifically the demographics around the demand for SEND school places and the options for meeting that demand.

## **8.0 Consultation with Ward Members and Stakeholders**

8.1 Ward members will be updated on projects within their constituencies as they progress through the delivery stages.

8.2 Schools have been consulted on proposed expansions and new SEND provision to which they have been an integral part in the feasibility processes detailed in section 4.0 above.

## **9.0 Human Resources/Property Implications (if appropriate)**

9.1 The services in this report are proposed to be provided by external providers and there are no direct impacts on Council staff. Schools will need to recruit additional staff in due course as pupil numbers increase.

### Related Documents:

School Place Planning Strategy 2019 – 2023 Refresh, Cabinet 8 November 2021

#### **Report sign off:**

***Alan Lunt***

Strategic Director of Regeneration  
and Environment

***Gail Tolley***

Strategic Director of Children and  
Young People