

Report of the Interim Strategic Director of Children's Services to the meeting of Council Executive to be held on 9th July 2019

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Subject:

The creation of new and additional specialist places for Children and Young People with Special Educational Needs and Disabilities (SEND) across the District

Summary statement:

This report seeks approval from the Council Executive to increase the number of specialist places for Children and Young People in Local Authority maintained schools across the Bradford district.

The proposals outlined in this report will deliver:

- 34 new Resourced Provision places in two LA maintained primary schools
- 40 additional maintained special school places

Please note:

In addition to the proposals to increase specialist places at the above maintained schools, 215 additional specialist places are also proposed across the academy sector, requiring approval from the Regional Schools Commissioner.

These proposals including the academies proposals will deliver in total 289 additional specialist places out of the additional 354 commissioned SEND places outlined at School Forum in January 2019. Further developments with a number of LA maintained schools and academies are on-going and will be consulted on at a later date to deliver the remaining 65 places.

1. SUMMARY

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Portfolio:

Cllr Imran Khan

Overview & Scrutiny Area:

This report asks the Council Executive to approve the following proposals:

40 additional proposed maintained special school places at:

- Oastlers Special School - taking the current number of places from 94 to 134.

34 new Resourced Provision (RP) for primary aged children with Communication and Interaction needs including Autistic Spectrum Disorders (ASD) at:

- Princeville Primary School – 22 places proposed by September 2019
- Miriam Lord Primary School – 12 places proposed by September 2019

Please note: 215 additional specialist places are proposed across the academy sector, 60 of these places are subject to approval from the Regional Schools Commissioner and Headteacher Board.

For information purposes the academies proposals are detailed below:

- Hollingwood Primary – 16 Resourced Provision (RP) places for primary aged children with Social Emotional and Mental Health needs (SEMH).
- Horton Park Primary – 12 Designated Specialist Provision (DSP) places for Key Stage 1 children with complex SEND.
- Appleton Academy – 20 Resourced Provision (RP) places for secondary aged children and young people with Communication and Interaction needs including Autistic Spectrum Disorders (ASD).
- Crossley Hall Primary – 12 additional Designated Specialist Provision (DSP) places for primary aged children with Communication and Interaction needs including Autistic Spectrum Disorders (ASD).

In addition to the above proposals the DfE/RSC has already approved a number of academy schemes which has enabled the LA to commission:

- Up to an additional 23 places at The Coop Academy Delius from September 2019.
- 100 additional places at Coop Academy Southfield from September 2019
- 12 additional places at Ilkley Grammar School DSP from September 2019
- 12 additional places at Parkwood Primary School DSP from September 2019
- 8 additional places at Worth Valley DSP from September 2019

These proposals including the academies proposals will deliver in total 289 additional specialist places out of the agreed 354 commissioned SEND places outlined to School Forum in January 2019.

This leaves a remaining 65 places to be developed. Further developments with a number of LA maintained schools and academies are on-going and will be consulted on at a later date to deliver the remaining places.

2. BACKGROUND

2.1 The Bradford District has experienced a significant increase in demand for Special Educational Needs and Disabilities (SEND) provision in the last 10 years.

2.2. In 2018 the Council Executive approved a number of proposals to increase and create additional specialist provision across the district. The Regional Schools Commissioner also approved via the Headteacher Board a number of proposals relating to academy schools across Bradford. This led to a total increase of 360 additional specialist places, across the LA maintained and Academy sector.

2.3. It is projected that the demand for SEND provision will continue to grow across all sectors in the Bradford District. It was outlined to the Schools Forum in January 2019 the LA needs to commission an additional 354 places. This was presented as part of the draft outline plan.

- There is an urgent need for more specialist places in Bradford due to the increase in population
- All children are to be valued equally, regardless of their ability, behaviour, family circumstances, ethnic origin, gender and sexual orientation
- All children are to be provided with the best learning opportunities, environment and experience which maximises their learning
- All children are entitled to a broad, balanced and relevant curriculum which is differentiated to meet individual needs
- Children's diverse special educational needs and disabilities require a range of flexible and varied provision

The proposals detailed in this report will expand and develop further, the specialist provisions to enhance the network of Special Schools, EYESPs, DSPs and proposed RPs which forms part of:

- A coherent geographical spread of provision across the District, minimising travel times
- A dynamic network for sharing best practice and experience
- Flexible and responsive provision to best meet the needs of Children and Young People with SEND

Children and Young People with a range of Special Educational Needs and Disabilities will continue to be well served in Bradford. The council is looking at the best way to offer a full range of provision locally for all children. We believe that a flexible district wide model will be able to respond effectively to local changes in demand.

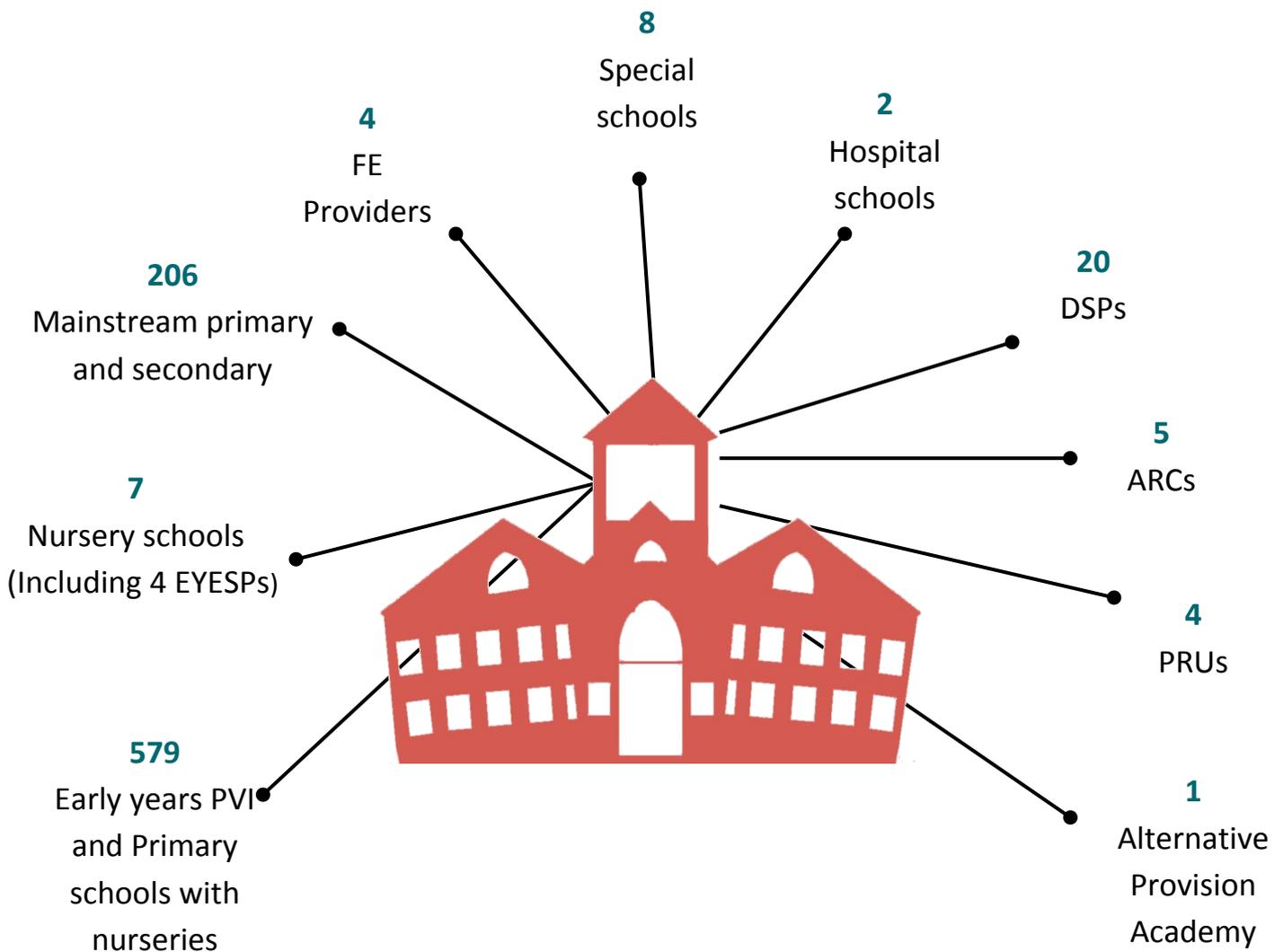
The proposed changes will ensure the continued delivery of high quality and cost effective provision for the children and Young People of Bradford. The Council intend to have a District wide structure of EYESPs, DSPs, RPs and Special Schools that will:

- Provide local specialist provision, reducing the need for pupils to travel long distances across the District
- Provide an equitable distribution of local specialist provision for children and young people with special educational needs and disabilities
- Provide increased access to the curriculum; due to the staffing experience and capacity of the new RPs and increased capacity of DSPs and Special schools. It will be possible to individually differentiate and support the work and potential of each individual pupil

- Provide an increased level of available support to all pupils and will give the greatest opportunity to increase inclusion for Special school, EYESP, DSP and RP pupils who are otherwise very vulnerable
- Provide an improved support network, especially related to training that will support and develop the proposals
- Provide a progression pathway from Primary phase to Secondary phase.

Central to these proposals is the continuity of provision between early years, primary and secondary phases of education.

Bradford Current Provision chart



3 OTHER CONSIDERATIONS

The proposed establishment of a provision that is recognised by the Local Authority as reserved for children with SEND at a maintained school requires the Local Authority to publish formal Statutory Notices.

Although there is no longer a statutory pre-publication consultation period there is a strong expectation that interested parties who are likely to be affected by the Council's proposals will be consulted in developing their proposals prior to publication of statutory notices in accordance with the DfE statutory guidance.

The responses to that consultation must be considered before deciding whether to publish statutory notices necessary to proceed to implement the proposals.

5 public consultation meetings were held at the following times and venues:

- Monday 25th March: 13:30 – 15:00 Margaret McMillan Tower
- Monday 9th April: 17:30 – 19:00 Margaret McMillan Tower
- Monday 9th April: 10:00 – 11:30 Keighley
- Tuesday 11th June 13.45 - 14.45 City Hall
- Thursday 14th June 10.00 – 11.00 Keighley

The pre-publication consultation period was used to gather and share information from interested parties on the sufficiency of SEND provision across the district.

Pre-publication

There was limited attendance at the meetings however this allowed for a more in-depth discussion to take place with parents and interested parties.

In total 125 responses were registered to the on-line pre- publication consultation, with an additional 4, at the public meetings.

During the Statutory Representation Period following the publication of Statutory Notices a further 88 responses were received. 11 people attended the public meetings. Many people who responded had dual roles within the community and school; however their main role was used for analysis purposes. The main group of respondents were parents.

A full analysis of the pre-publication consultation responses and consultees can be viewed in Appendix 1.

A full analysis of the Statutory Notice representation responses and consultees can be viewed in Appendix 2.

In addition, when proposing changes to existing SEND provision the Council and Academies have to meet the SEN Improvement Test and be able to demonstrate that the proposed arrangements are likely to lead to improvement in the standard, quality and/or range of educational provision for children with special educational needs and disabilities. **The SEN Improvement Test is set out in Appendix 3.**

In relation to the academy school proposal, the academy trusts are required to submit a full business case to the Department for Education (DfE) outlining the proposed changes. The academy trusts will be required to confirm as part of their business case that a fair and open local consultation has taken place. In these particular cases outlined in this report, the Local Authority is agreeable to the expansions and would argue that without the proposed changes there would be a detrimental impact on local SEND provision due to the insufficiency of specialist places to meet need.

The Local Authority will continue to work closely with the academy sector and is supporting the academy schools with their consultations alongside the consultation process for maintained schools and the development of their Significant Change Business Cases. The final decision on the academies' proposals rests with the DfE and the Regional Schools Commissioner.

This report was not included on the published forward plan as an issue for consideration however Statutory Notices were published 23rd May 2019 and in accordance with the Regulations the Local Authority as decision maker must make a decision on the proposals within two months of the end of the Representation Period i.e. before 20 August 2019 otherwise the proposals must be referred to the Schools Adjudicator for a decision. The decision cannot wait until September for the next Executive meeting and any delay which may result from referring the decision to the Schools Adjudicator is prejudicial to the interests of the Council's ability to undertake the necessary building work required to create the additional SEND places in time for the September 2019 pupil intake. As it is impractical to defer the decision until it has been included in the published Forward Plan the report is submitted in accordance with paragraph 10 of the Executive Procedure Rules set out in the Council's Constitution.

3. FINANCIAL & RESOURCE APPRAISAL

Out of Authority placements – The number of children and young people being placed outside of Bradford is increasing as we do not currently have sufficient provision to meet need. Investment in district placements will ultimately save funding expensive out of district placements.

Capital Costs

The local authority has identified £2.6 million pounds from the Basic Needs Allocation to pay for the additional accommodation/modifications that are required to deliver the outlined proposals within this report. The local authority will also use the latest SEND Capital allocation from central government of £306k.

Revenue Costs

All of the proposed additional special school places and designated specialist provision places will be funded in accordance with the local determined funding formula for special educational needs pupils. Core funding will be delegated to the schools for an agreed number of places. Additional funding will be paid in accordance with individual pupil needs. The revenue funding for all of the additional places is included in the High Needs Block (HNB) allocation determined by the Schools Forum.

The proposed new resourced provision places will be funded in accordance with the local determined funding formula for special educational needs pupils. Element 1 of the place funding will be delegated to the schools for an agreed number of places. Element 2 & element 3 (additional funding will be paid in accordance with individual pupil needs – 7 range funding model) will be retained by the central service to pay for the staffing/resources in the proposed provisions. The Local Authority will maintain a service level agreement with each of the schools who host the proposed new resourced provisions.

The revenue funding for all of the additional places is included in the High Needs Block (HNB) allocation determined by the Schools Forum.

Further work is being undertaken to identify the individual pupils who will attend the expanding provisions. The schools and council central service team are developing

an appropriate staffing structure to support the pupils who will attend the expanded/new provisions.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

Statutory Responsibilities – The local authority has a statutory responsibility to keep under review the specialist provision it makes for children and young people with special educational needs and disabilities (SEND). It has been identified that there is an urgent need for additional specialist places across all sectors within the District.

Individual risks associated with the development/expansion programmes are managed as part of the overall project to deliver the sufficiency of specialist places across the District.

School sites which are PFI requiring any proposed additional accommodation or proposed changes to the site /building will require a Change Notice form the PFI Company which may have an impact on the timeline.

The Local Authority has identified £2.6 million pounds from the Basic Needs Allocation to fund the proposed additional accommodation that is required for all of the above proposals and further proposals being explored. Further funds may need to be identified as the numbers of children and young people with SEND increase.

The academies proposals are subject to RSC/DfE approval.

There is also a reporting mechanism to the Council Change Programme Board, the SEND Strategic Partnership Board and the Schools Forum on the various strands of the project including time scales, Capital and Revenue funding constraints, Issues and Risks.

6. LEGAL APPRAISAL

Where a local authority proposes to increase places or make changes to maintained special schools, all interested parties who are likely to be affected by the proposals should be consulted in the development of the proposals.

There is no longer a requirement for a statutory pre-publication consultation period but there is a strong expectation that interested parties who are likely to be affected by the Council's proposals will be consulted prior to publication of statutory notices. This is set out in DfE statutory guidance - Making significant changes (prescribed alterations) to maintained schools.

It is important that the proposals are the subject of broad consultation with all interested parties to ensure that their views are considered and that they are fully informed and involved before a final recommendation is made in this case to publish statutory notices.

Where a local authority proposes to increase the number of pupils at a special school maintained by them by 10% or 20 pupils whichever is the lesser or to establish provision that is recognised by the local authority as reserved for children with SEN at a maintained school it must follow a statutory process which includes publishing formal statutory notices.

This statutory consultation period is called the Representation Period and lasts for 4 weeks from the date of publication of the statutory notice in a local newspaper. Notices were published in the Telegraph and Argus on 23 May the Representation period ended on 20 June 2019.

Any objections or comments received as a result of the consultation during the Representation Period must be considered by the Local Authority before deciding whether to implement the proposals.

The responses to the pre-publication consultation are also set out in this Report; the Local Authority considered the representation results fully and in conjunction with an Equality Impact Assessment and SEN Improvement Test before deciding to publish statutory notices in the local newspapers.

In the case of academies, the academy trusts will be required to submit a full business case to the Department for Education (DfE) outlining their proposed changes. The academy trusts will be required to confirm as part of their business case that a fair and open local consultation has taken place. The Local Authority should make representations to the academy trusts in relation to their proposals and where related to the Authority's proposal confirm its approval. The final decision on the academies' proposals rests with the DfE and the Regional Schools Commissioner.

The Local Authority must also have regard to its public sector equality duties under section 149 of the Equality Act 2010 when exercising its functions and making any decisions. The Local Authority must carry out an Equalities Impact Assessment to enable intelligent consideration of the proposals. The Local Authority must have due regard to the information in the Equalities Impact Assessment when considering any decision to approve these proposals.

The SEND Code of Practice January 2015 provides that when considering any reorganisation of special educational needs provision that the Local Authority must also make it clear how it is satisfied that the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for SEN. This is the SEN Improvement Test.

The School Organisation (Prescribed Alteration to Maintained Schools) (England) Regulations 2013 requires that the Local Authority is the decision maker for proposals related to maintained schools and must take the decision within two months of the end of the Representation Period i.e. before 20 August 2019 otherwise the proposals must be referred to the School Adjudicator.

7. OTHER IMPLICATIONS

Evidence of Need

All the available data shows that there will be an on-going need to provide specialist provision for early years, primary and secondary phase children and young people with a range of special educational needs and disabilities throughout the Bradford District.

In monitoring these trends, data and information it has confirmed that further specialist provision is required to meet the needs of its current and future population.

All Local Authorities have a statutory duty to keep under review the provision they make for pupils with special educational needs and disabilities (SEND). This must be based on the regular review of current and future trends (pupil profiles).

The Bradford Joint Strategic Needs Assessment (JSNA) is updated on an annual basis. This identifies considerable higher prevalence of some child disability and/or complex needs in Bradford compared to the national average.

The Bradford District has experienced a significant increase in demand for SEND provision in the last 10 years. It is projected that the demand for SEND provision will continue to grow and additional specialist places for primary and secondary aged children and young people in the Bradford District will be required.

The Bradford District Education Organisation Plan takes into account different factors when predicting school demand including fertility and birth rates, housing growth and inward/outward migration. Analysis of the Index of Deprivation and population estimates from the Office for National Statistics are also taken into account.

In January 2005 the population in the Districts Schools and Nurseries was 79,589. In January 2015 the population was 90,292 and the current population in January 2019 had risen to 100,778.

There have been a number of influencing factors in relation to the demand for special school places in the Bradford District:

- Improvements in medical interventions which has significantly increased life expectancy for those children with life limiting conditions.
- The overall increase in the pupil population since 2005, particularly within the south Asian community and economically deprived areas.
- A significant increase in the number of referrals received for statutory assessment.
- Requests for statutory assessment have increased from 265 in 2015/16 to 842 in 2018/19. Approximately 20% of these requests resulted in a change of provision.
- An increase in the number of in-year admissions to special schools and the number of children and young people requiring a change in provision to special school. For place projection purposes it is anticipated that this number will continue at similar levels for the next three years.
- The capacity of our schools to meet the needs of children and young people with special educational needs and disabilities.

Another influence could be parental preference for specialist provision but these changes could also be linked to the capacity of our schools to meet a range of learning needs balancing the needs of all children and the pressure to improve standards alongside the level of resources that are delegated directly to schools.

The identification of autism spectrum conditions continues to increase. More clinics have been established to enable the diagnosis of ASD earlier. Support documents

from the Joint Assessment Clinic show there is likely to be an increase in demand for autism provision. Health professionals inform the Local Authority of young children with additional needs. An analysis of these notifications shows that children and young people identified with speech language and communication needs are the largest cohort of notifications received. A significant number of these are likely to receive a diagnosis of autism.

The distribution of special educational needs and disabilities is widespread across the District.

The projected population increases are applied to the current known special educational needs and disabilities population. In addition, other local data such as the Joint Strategic Needs Assessment (JSNA) is considered such as the prevalence of complex health and disability in the local district. The early identification of young children and the outcome of statutory assessments have identified an increase in numbers for some areas of need.

This provides an indication of the future demand for place; it also shows that additional specialist places will be required to support children and young people with special educational needs and disabilities as we move forward.

7.1 EQUALITY & DIVERSITY

The Local Authority must not discriminate directly or indirectly against any group or individual. The schools and any proposed new provision will continue to cater for the needs of all children and serve its community. **An Equalities Impact Assessment has been carried out and can be seen in Appendix 4.**

7.2 SUSTAINABILITY IMPLICATIONS

There are no direct sustainability implications arising from this report. Any development or changes to buildings undertaken as a result of these proposals will be undertaken in a sustainable way which minimises the future impact of the Local Authority's carbon footprint.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

The proposals will not impact on gas emissions. If children are able to attend their local provision this could lead to a reduction in emissions.

7.4 COMMUNITY SAFETY IMPLICATIONS

These arrangements will allow the children and young people to build their skills in a specialist environment and access their own community in the safest and most independent fashion.

7.5 HUMAN RIGHTS ACT

The Human Rights Act incorporates the European Convention on Human Rights which provides that no person shall be denied the right to education.

7.6 TRADE UNION

As part of the consultation process the Trade Unions will be consulted formally about these proposals in accordance with the Council's IR Framework.

7.7 WARD IMPLICATIONS

Ward Councillors have been consulted with about the proposed changes to the schools/provision in their wards.

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (For reports to Area Committees only)

➤ N/A

7.9 IMPLICATIONS FOR CORPORATE PARENTING

No direct impact on corporate parenting, however the proposals to increase specialist provision across the District will provide a wider choice within their local communities, reducing need for out of District placements.

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

7.10.1 The City of Bradford Metropolitan District Council (the 'Council') is registered with the Information Commissioners Office (ICO). For more information about how the Council uses information, please refer to the general 'Privacy Notice' on the Council's website.

7.10.2 Children's Services will undertake a Privacy Impact Assessment to identify any data protection and information security matters arising from the proposals.

7.10.3 The legal basis for holding any data relating to buildings is contractual and may relate to tenancy or other property type agreements. General Data Protection Regulation (GDPR) principles relating to individual's rights will be fully respected.

7.10.4 Any need for partner agencies to share data would only be with the express permission of the service users in the full knowledge of why and what it would be used for. General Data Protection Regulation (GDPR) principles relating to any individuals data and rights under the Data Protection Act 2018 will be respected.

8. NOT FOR PUBLICATION DOCUMENTS

➤ None

9. OPTIONS

Considering the outcomes of both rounds of consultation (initial consultation 14th March - 11th April 2019) and the Statutory Notice period representations 23rd May - 20th June 2019 the Executive has the following options:

9.1.1 Oastlers School:

- a) Approve the proposal to increase the number of places for pupils at Oastlers School to be delivered on a split site, by increasing the pupil numbers from 94 to 134 with effect from September 2019 (subject to the proposed capital building programme)
- b) Reject the proposal to increase the number of places for pupils at Oastlers Special School
- c) Approve the published proposals with modifications

9.2.1 Princeville Primary School:

- a) Approve the proposal to establish a Resourced Provision at Princeville Primary School with up to 22 places for primary aged children with communication and interaction needs including autistic spectrum disorders (ASD) with effect from 1 September 2019 onwards
- b) Reject the proposal to increase the number of Resourced Provision places for pupils at Princeville Primary School
- c) Approve the published proposals with modifications

9.3.1 Miriam Lord Primary School:

- a) Approve the proposal to establish a Resourced Provision at Miriam Lord Primary School with up to 12 places for primary aged children with communication and interaction needs including autistic spectrum disorders (ASD) with effect from 1 September 2019 onwards
- b) Reject the proposal to increase the number of Resourced Provision places for pupils at Miriam Lord Primary School
- c) Approve the published proposals with modifications

10. RECOMMENDATIONS

It is recommended that the Executive:

- (a) approve the proposal for increasing pupil numbers at Oastlers Special School
 - i. increase the pupil numbers from 94 to 134
- (b) approves the separate proposals for the development of a coherent scheme of Resourced Provisions (RPs) in maintained primary mainstream schools:
 - i. establish a new 22 place RP at Princeville Primary School
 - ii. establish a new 12 place RP at Miriam Lord Primary School

Any identified Academies will undertake their own consultation, in line with the Local Authority's, with stakeholders including the local authority to inform the development and submission of a business case to the DfE for approval.

That in accordance with paragraph 8.7.4 of Part 3E of the constitution, resolutions 10.1, 10.2 and 10.3 above are not subject to call-in as the matter is urgent; as any delay which may result from calling-in the decision may be prejudicial to the interests of the Council's ability to undertake the necessary building work required to create

the additional SEND places in time for the September 2019 pupil intake.

11. APPENDICES

1. Analysis of Consultation Responses (pre-publication phase)
2. Analysis of Statutory Notice representations
3. SEN Improvement Test
4. Equality Impact Assessment

12. BACKGROUND DOCUMENTS

- Report to Council Executive, Prevention and Early Help Estates Strategy (Interim extraordinary report including SEND proposals)
- Decisions of the Executive on Tuesday, 11th June 2019
- Report to the Interim Strategic Director of Children's Services, seeking approval to publish statutory notices May 2019
- Briefing note to seek approval to commence Pre-publication consultation phase – March 2019
- SEND Sufficiency Executive Report 3rd April 2018
- School Forum Report January 2019