

Committee: Cabinet

Date of meeting: 15 October 2020

Title of Report: Proposed increase in places at Sandgate School, Kendal

Report by: John Readman - Executive Director (People)

Cabinet Member: Councillor Sue Sanderson – Cabinet Member for School and Learning

What is the Report About? (Executive Summary)

1. This report seeks a decision on a proposal published by the governors of Sandgate School in Kendal to increase the number of places available for children and young people with Special Educational Needs and Disabilities (SEND) from the current 80 to 120. The proposed implementation date is 1 November 2020.
2. The proposal will ensure that a greater number of local students have access to the education and additional support they need within the county. Currently, because there are insufficient places to meet demand locally, a number of students every year have to be educated outside Cumbria. This can place additional burdens on students, giving rise to substantially increased travel time or, in some cases, the need for them to board away from their families during the week. It is also much more costly to the already stretched High Needs Block. Whilst, therefore, there will be additional funding available to the school as it admits more students, it is expected that there will be a small net saving overall.
3. Capital funding has already been committed within the County Council's Capital Programme for the expansion of Sandgate's Key Stage 3 accommodation, co-located with Queen Katherine School. No additional capital funding over and above that already approved will be required to facilitate the provision of the new places proposed here.

Recommendation of the Executive Director

4. It is recommended that the Cabinet approves the proposal to increase the number of places available at Sandgate School from 80 to 120 with effect from 1 November 2020.

Background to the Proposals

5. Both nationally and locally, demand for places at Special schools has grown over the last decade. A developing understanding of conditions such as Autistic Spectrum Disorder (ASD) and a tendency towards greater complexity in the range of individual students' needs, have driven a demand for places which the county council is no longer able to meet.

6. The result is that a number of students have to be educated outside the county in independent provision. This is clearly far from ideal for those students affected, some of whom have long journeys to and from school every day, and some of whom have to spend the school week away from their families at a boarding facility.
7. As well as the impact on students and families, educating young people in the independent sector comes at a cost to the High Needs Block of DSG funding for schools. Members will be aware of the ongoing challenges with regard to overspending in this area. As a result of ongoing discussions between the county council and special needs providers, Sandgate School was identified as having the capacity to increase the number of places available within the county.
8. Sandgate already shares some accommodation with co-located Key Stage 3 facilities at Queen Katherine School. With the agreement of members, £5m has been committed as part of the county council's capital plan to deliver elements of the Inclusion Strategy of 2016, in which co-located provision was identified as a priority. Between this and the existing accommodation at Sandgate, the increase in pupils being proposed will be accommodated.
9. The addition of 40 new places would allow the school to operate 3 classes per Key Stage, facilitating more age-appropriate grouping, and improving the quality of teaching and learning on offer. Specifically, it would allow a number of students with diagnoses of ASD (high functioning) to be accommodated within the county; currently, there would be little choice other than to educate these pupils elsewhere.
10. The school's governors consulted on the proposal to expand the number of places available between Monday 15 June 2020 and Friday 10 July 2020. 21 responses were received (see Appendix 1) and, having considered these, governors decided to publish the formal notices required to bring about the increase in numbers.
11. Notices were published on Thursday 13 August 2020 (see Appendix 2 – copy of notice from local press), triggering a 4-week representation period which offered a further opportunity for interested parties to express their view on the expansion proposals. No representations were received.
12. Increases in numbers at Special Schools on this scale are governed by The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013; this is not an admissions issue, per se, and therefore needs to be treated separately to the issues covered in the school admissions report considered annually by the Cabinet. In line with the regulations, it falls to the county council to make a final decision on the proposals within 2 months of the end of the representation period.

Options Considered and Risks Identified

Option (a)

- Increase the number of places available at Sandgate School from 80 to 120.

Option (b)

- Seek opportunities elsewhere for increasing the number of special school places available.

Option (c)

- Do nothing.

Risks –

- Failure to adequately provide places for students with SEND could give rise to a legal challenge against the county council from parents.
- Retaining the current number of places risks students having to be educated outside the county and/or in the independent sector, placing further pressure on the High Needs Block.
- Providing additional places elsewhere is likely to incur substantial capital costs; the Sandgate proposal requires no additional funding over and above that already committed.

Reasons for the recommendation/Key benefits

- The proposal increases the number of places available within the county, providing greater opportunities for children and young people with SEND.
- It will facilitate improved teaching and learning at Sandgate School through more age-appropriate cohort groupings.
- Special provision, when co-located with mainstream, provides opportunities for young people with additional needs to be educated alongside their peers and neighbours. This fosters a more inclusive experience of education, of society and, ultimately, a greater likelihood of independent adulthood for some of our more vulnerable young people.
- It will reduce the burden on students and their families who would otherwise be faced with substantial daily journeys to and from school, or boarding away from home during the week.
- At the very least, the proposal adds no further burden to the High Needs Block; indeed, it is possible that the proposal will ultimately reduce costs as it is generally less expensive to educate students in maintained special schools rather than independent settings outside the county.

Financial – What Resources will be needed and how will it be Funded?

13. Funding for pupils with SEND is from the High Needs Block of the Dedicated Schools Grant, with contributions from children's social care budgets and the health service where these reflect the type of need.
14. The School and Early Years Finance Regulations define funding rates for high need places in special schools which is set at £10,000 per place plus pupil specific top ups depending on the requirements set out in an Education and Health Care Plan. The revenue place funding and top ups for these places would be funded from the High Needs Block.
15. For each pupil occupying a special school place the Council receives £4,000 from central government on a lagged basis with the remainder of the place funding and the associated pupil specific top up being funded from within the existing High Needs Block budget. The education cost for places commissioned by the Council within the private sector independent providers are also funded from the High Needs Block. The expansion of Sandgate Special School is essential for delivering better outcomes for SEND pupils and meeting demand from parents for specialised places. The average cost of an autism place at Sandgate Special School is significantly cheaper than the average cost of a private sector independent provider.
16. The high needs block overspent by £5.488m in 2019-20 resulting in a cumulative deficit against the High Needs Block of £11.022m. Any overspends on the High Needs Block are transferred into the Dedicated Schools Grant reserve at the end of each financial year and the cumulative deficit on the Dedicated Schools Grant reserve at the end of 2019-20 was £6.991m. The Council is required to provide an explanation and details of a repayment plan to DfE in consultation with the Schools Forum.
17. The current High Needs recovery plan includes assumptions about increasing the number of places at Sandgate with the expectation that this would deliver savings of up to £0.538m in 2021/22 rising to £0.825m pa in future years and is based on savings generated by not placing pupils in independent provision, offset by additional place funding to Sandgate. Approval of the recommendation to increase the PAN at Sandgate would confirm delivery of this saving within the High Needs recovery plan.
18. Furthermore it is anticipated that there will be savings against the SEND transport budget as there will be no need to transport pupils longer distances to independent settings, rather transport will be limited to the Kendal area as pupils are able to attend Sandgate. Based on the transport costs of pupils living in the Kendal area who are currently transported to independent settings compared to the cost of transporting pupils to Sandgate, indicative savings of £0.070m pa could be achieved. However, it is important to stress that the exact quantum of any saving is dependent on the home location and needs of individual pupils.
19. The capital funding required for the co-location is estimated at £5m which is to be funded from the Inclusion Strategy programme already included in the Council approved capital programme.

Legal Aspects – What needs to be considered?

20. Cabinet is able to choose any of the three options set out in this report. Cabinet is not duty bound to follow the views expressed in consultation, only to take those views into account.
21. The LA is under a general duty to ensure that there is a sufficiency of school places in their area (section 14 Education Act 1996). All children are entitled to an efficient, full time education which is suitable to their age, ability, aptitude and any special educational needs they may have. As this report highlights, there are currently concerns about the availability of appropriate and cost-effective provision within the County.
22. Section 9 of the Education Act 1996 states that children should be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure. It may be that, despite the LA providing further placements at Sandgate, parents exercise their right to state a preference for another school. Students accessing Sandgate will have Education, Health and Care Plans (EHCPs) and it is therefore important to note that as per sections 33 and 39 of the Children and Families Act 2014 parents have the right to request a placement of their choice and the local authority can only refuse to name the requested placement in an EHCP in certain circumstances. The school that a child/young person with an EHCP attends is named in their EHCP and if the parent/young person is not in agreement with the school named they are able to appeal to the Special Educational Needs Tribunal to challenge the decision. The LA does not therefore have the final say as to which school this cohort are placed at.
23. The provision of more places at Sandgate does make it more likely that Tribunal appeals in which parents are seeking out of county placements are able to be successfully defended. This is because the LA will have an increased ability to demonstrate that needs can be met at a maintained special school, i.e. Sandgate, and therefore an out of county specialist placement is arguably an inefficient use of resources.

Health and Safety Aspects – What needs to be considered?

24. The County Council has a duty under the Health and Safety at Work Act 1974 and associated legislation and regulations to ensure that, as far as reasonably practicable, adequate health and safety management arrangements are in place to protect employees, members, customers, pupils and visitors to County Council related services (including schools within County Council governance arrangements).
25. Any health and safety implications resultant from an increase in pupil numbers should be assessed with controls implemented if and when required. Increasing the number of SEND places at Sandgate School would have a positive impact for the County as fewer children would be required to travel longer distances to access school provision and therefore limits risks associated with longer distance travel.

26. Any concerns raised as part of the consultation process relating to the possibility that increased pupil numbers at the school could potentially impact negatively on existing provision will require consideration. If additional health, safety or wellbeing risks are identified (or existing risk scores increase), then appropriate controls should be implemented to minimise risks wherever reasonably practicable.
27. Following consideration of the Equality Impact Assessment document, there have not been any significant negative health and safety related risks identified from an equalities perspective.

As a result, all options outlined in the report can be considered from a health and safety perspective.

Council Plan Priority – How do the Proposals Contribute to the Delivery of the Council’s Stated Outcomes? (Outcomes - People in Cumbria are Healthy and Safe, Places in Cumbria are well connected and thriving, the Economy in Cumbria is growing and benefits everyone)

28. The proposal will support the county council’s aim for places in Cumbria to be well-connected and thriving by allowing more children and young people to be educated within their own community alongside their peers.

What is the Impact of the Decision on Health Inequalities and Equality and Diversity Issues?

29. Approving the proposal would offer increased opportunities and improved teaching and learning for Cumbrian children with SEND. More students will be able to attend a setting that can appropriately support their needs within the county rather than be subject to long journeys to alternative provision.

Appendices

- Appendix 1 – Outcome of consultation
- Appendix 2 – Copy of statutory notice from local press
- Appendix 3 – Equality Impact Assessment (EIA)

Key Facts

Electoral Division(s): Kendal Nether

Executive Decision	Key Decision Included in Forward Plan	Exempt from call-in	Exemption agreed by scrutiny chair	Considered by scrutiny, if so detail below	Environmental or sustainability assessment undertaken?	Equality impact assessment undertaken?
Yes	Yes	No	N/A	No	No	Yes

Approved by the relevant Cabinet Member/s on 28/09/2020

Previous relevant Council or Executive decisions

None

Consideration by Overview & Scrutiny

Not considered

Background Papers

None

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