

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

4049

Author:

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Department:

Children and Adults

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Subject:

To allocate a S106 contribution for the creation of a new specialist provision at Djanogly Strelley Academy

Total Value:

£779,313 (Type: Capital and Revenue)

Decision Being Taken:

1. To apply £779,313 of S106 education contribution from the residential development at Woodhouse Park (planning ref 13/01703/POUT) to create a new specialist provision at Djanogly Strelley Academy (DSA) to support the growing number of pupils with high level, complex needs, specifically for autism and social, emotional and mental health needs (SEMH). This allocation will be subject to:
  - (i) DSA undertaking a four week consultation with all those who could be affected by the proposed change and consideration of all responses received.
  - (ii) Approval of the change by the Regional Schools Commissioner, as the proposal constitutes a change to an Academy provision reserved for pupils with special educational needs.
2. To authorise the Director of Education to instruct Legal Services in relation to entering into any agreement which may be necessary to affect the allocation at Decision 1 above.
3. To allocated £5,000 of this funding towards fees for Nottingham City Major Projects Team to support the school with managing the delivery of the project, ensuring high quality build and value for money, and ensure it meets the objectives of the project, as agreed in collaboration between DSA and the local authority.

**Reasons for the Decision(s)**

- 1. An education contribution of £779,313 was paid to the Council in two separate installments on 15/12/16 and 3/12/18, in accordance with a Section 106 agreement linked to the residential development at Woodhouse Park (Planning ref: 13/01703/POUT). The relevant S106 agreement obliges the Council to invest the funds on the expansion or improvement of education facilities at Seagrave Primary School (now re-named as Djanogly Strelley Academy).**
- 2. A Council Plan priority is to support all schools and settings to be inclusive and to ensure that children with additional needs can progress well. This is underpinned by the Nottingham City Special Educational Needs and Disabilities (SEND) Strategy 2019-2023, which prioritises developing additional specialist or enhanced provision within mainstream schools, to support the growing number of young people with Autism and SEMH.**
- 3. The development of an enhanced resource provision at DSA would be one of a range of measures developed by the Council in partnership with settings to ensure that the SEND Strategy commitments are delivered for young people in Nottingham. There is a particular shortage of appropriate provision in the Bilborough / Broxtowe area, for young people with Autism Spectrum Disorder (ASD) and moderate learning difficulties (MLD) and demand is growing. Strelley also ranks in the top 10% of the most deprived communities in England and many families and young people face significant challenges.**
- 4. DSA is known locally as a school who provide high quality provision for their existing SEND and vulnerable pupils, specifically catering for children with communication difficulties relating to ASD and / or early trauma. Their existing provision is currently limited to those on roll at the academy. This proposal would expand the provision and number of places available, while developing and extending the specialist provision and expertise to the wider community to benefit more children and their families. In 2019, the proportion of SEND children at DSA achieving age related expectations in reading, writing and maths were in line with the national equivalent at the end of KS2.**
- 5. The new expanded provision will accommodate approximately sixteen pupils across two classrooms. Four of these places will be allocated to the school by the local authority's SEND team, and will be for pupils with high level, complex needs, primarily for young people with SEMH relating to early trauma and autism. Another four of these places will be fixed term placements commissioned and allocated by DSA, to support pupils to remain or to successfully transition or re-integrate back into their mainstream setting. Whilst also providing training, sharing expertise and support to the base school to support successful re-integration.**
- 6. The new building requirements will include two classrooms, to accommodate approximately eight pupils in each, with direct access to outdoor areas and the main school buildings. There will be break out and sensory rooms and a kitchen and eating area. Toilets and a storage area will also be required. The exact requirements will be explored and determined once feasibility investigations are complete.**
- 7. DSA and the Council, working in partnership, will seek to ensure that the specific personal, social and academic needs of pupils are properly identified and met to help them to overcome barriers to attainment. The provision will be one of early intervention, also linked to the City's Routes to Inclusion Programme. Reintegration into full time mainstream education will be supported and delivered whenever possible.**
- 8. As implementation of the decision involves a transfer of monies by the Council to Djanogly Strelley Academy, a separate agreement will be required in relation to DSA's use of the funds, to ensure that it meets the obligations of the S106 agreement. Only after completion of that agreement would funds be released to the Academy. The terms of the Council's agreement with DSA will require evidence of works to be carried out via site visits, the issue of plans and receipt of invoices for works completed.**

**9. The allocation of £5,000 of this funding towards fees for Nottingham City Major Projects team to support the school, is to ensure the delivery meets the objectives of the project, as agreed in collaboration between DSA and the local authority. This includes support for the academy in their discussions with external providers, review of the business case, design drawings and tender returns and to ensure that objectives and costs are realistic. All to contribute to ensuring a high quality build and value for money. This fee is based on the daily charge rate of a Programme Manager and 9 days work.**

**Other Options Considered:** The legal obligation of the S106 agreement determines that this funding must be invested at Djanogly Strelley Academy. If this legal obligation is not adhered to, the Council risks clawback of the funds from the landowner who made the payment. Varying models of a similar specialist provision were considered, but this is the favoured proposal, developed in collaboration with the Local Authority Education Department, in supporting the Council Plan and SEND Strategy.

**Background Papers:** None

**Published Works:** Planning Consent ref: 13/01703/POUT 8 October 2013

**Affected Wards:** Aspley, Bilborough

**Colleague / Councillor Interests:** None

**Consultations:** Date: 13/10/2020  
Area Committees: Aspley, Bilborough, Leen Valley  
Emailed Area Committee representatives on 13/10/20 to inform them of the proposal, which will be subject to a four week consultation process. All designated representatives for this purpose confirmed their support for the proposal by email.  
  
Those not consulted are not directly affected by the decision.

**Crime and Disorder Implications:** Not applicable

**Equality:** Please login to the system to view the EIA document: EIA\_Djanogly Strelley specialist unit.docx

**Decision Type:** Portfolio Holder

**Subject to Call In:** Yes

**Call In Expiry date:** 26/11/2020

**Advice Sought:** Legal, Finance, Procurement, Equality and Diversity

1.The section 106 agreement dated 8 October 2013 linked to the Woodhouse Park development (planning ref 13/01703/POUT) between the City Council and Wilson Bowden Developments Limited has provided funding which this Decision seeks to apply. As noted in the Finance Advice, the relevant contributions for education purposes are an Initial Primary School Contribution (quantified by the s106 agreement) and an Assessed Primary School Contribution (formula-based under the s106 agreement). The actual figures for monies paid, including index linking, for each Contribution are set out in the Finance Advice.

2.The Council is obliged by the terms of the s106 agreement to use both the Initial Primary School Contribution and the Assessed Primary School Contribution "towards the expansion and improvement of education facilities at Seagrave Primary School". The proposal under Decision 1 to apply monies to Djanogly Strelley Academy (previously known as Seagrave Primary School) to create specialist provision for pupils with high level complex needs is compliant with that obligation. Paragraphs 4-7 of the Reasons for the Decision set out the nature of the expansion and improvement to the Academy which is envisaged.

3.As noted in the Finance Advice, the Initial Primary School Contribution and the Assessed Primary School Contribution were received on 15 December 2016 and 3 December 2018 respectively. The s106 agreement contains certain covenants to the landowner with which the Council has to comply regarding confirmation of expenditure and making repayment. The Council is liable to repay any Contribution or part Contribution which remains unspent or uncommitted for expenditure 5 years after receipt, should the landowner request such written confirmation of expenditure or commitment. In the case of both the Initial Primary School Contribution and the Assessed Primary School Contribution, that 5th anniversary after which repayment can be sought has not yet occurred so the Contributions remain available for allocation with no potential liability to repay having arisen.

4.If the implementation of Decision 1 involves a transfer of funds to the Academy, a separate agreement between the City Council and the Academy will be required in the future, as per the authorisation sought under Decision 2. This separate agreement will need to ensure that the purposes for which the funds are used by the Academy are consistent with this Decision and with the Council's obligations to the landowner within the s106 agreement.

5.Under the Council's Constitution, the relevant Area Committee is a consultee for spending proposals of section 106 contributions in its area. The "Consultations" section of the Decision gives details of the form and date of that consultation and the responses received, so it would appear that this requirement has been complied with.

6.It is understood that pursuant to a recent re-organisation of portfolio holder responsibilities which will be formalised by Council in due course, that the Decision comes within the remit of the Portfolio Holder for Regeneration, Schools and Communications.

Advice provided by Judith Irwin (Senior Solicitor) on 10/11/2020.

**Finance Advice:**

This decision relates to the S106 agreement 13/01703/POUT - Woodhouse Park dated 8th October 2013. The education contributions consisted of the Initial Primary School Contribution of £70,292.89 received on 16/12/2016 and the Assessed Primary School Contribution of £709,952.10, received on 03/12/2018 - a total of £780,244.99. In accordance with the agreement, the sum of £931.97 was deducted towards the administration and monitoring of compliance with the agreement. The sum of money available to apply to the Council's obligations is therefore £779,313.02.

The Council's covenant with the owner is:

"To use the Initial Primary School Contribution and the Assessed Primary School Contribution paid in accordance with this Agreement towards the expansion and improvement of educational facilities at Seagrave Primary School unless otherwise agreed between the Owner and the Council."

As pointed out in the report, Seagrave Primary School has since been renamed Djanogly Strelley Academy (DSA). The proposed scheme at DSA to expand provision and facilities for pupils with SEMH needs meets with the covenant above.

When this decision has been taken, a capital project will be set up for the value of £0.779m, wholly funded by S106 contribution from 13/01703/POUT. The sum of £0.005m is to be used to pay for Major Projects to project manage the works. The school will be contracting for the works themselves. Therefore upon completion of the agreement between Nottingham City Council and DSA, and confirmation that any conditions have been met, the remaining sum of £0.774m will be paid over to the school.

Advice provided by Sarah Baker (Commercial Business Partner - Projects) on 03/11/2020.

**Equality and Diversity Advice:**

There are no impacts on any of the protected characteristics and therefore happy to sign off. Advice provided by Rosie Donovan (Equality and Employability Consultant) on 20/10/2020.

**Procurement Advice:**

There are no direct procurement implications to this approval. Of the decisions being sought, (1) relates solely to funding matters, and (2) seeks permission to engage Major Projects, an in-house service which does not require competition under Contract Procedure Rules. Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 14/10/2020.

**Signatures**

David Mellen (Leader/ PH Regeneration, Schools, Communications)

SIGNED and Dated: 18/11/2020

Catherine Underwood (Corporate Director for People)

SIGNED and Dated: 18/11/2020