

Executive Board – 20th June 2023

Subject:	SEND capital programme schemes.
Corporate Director(s)/Director(s):	Catherine Underwood – Corporate Director of People Nick Lee – Director of Education Services.
Portfolio Holder(s):	Councillor Cheryl Barnard – Portfolio Holder for Children, Young People and Schools.
Report author and contact details:	Janine Walker – Head of SEND and Vulnerable Pupils, Education Division. Janine.walker@nottinghamcity.gov.uk Robert Caswell – Programme Manager, Major Projects. robert.caswell@nottinghamcity.gov.uk
Other colleagues who have provided input:	Tony Heath – Senior Solicitor – Contracts and Commercial. Anthony.Heath@nottinghamcity.gov.uk Tom Straw – Senior Accountant (Capital Programme) Thomas.Straw@nottinghamcity.gov.uk Chris Ayriss – Senior Commercial Business Partner (Children and Education) Chris.Ayriss@nottinghamcity.gov.uk Sue Oliver – Procurement Category Manager for Places. Sue.Oliver@nottinghamcity.gov.uk
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a)	<input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision
and/or	
(b)	Significant impact on communities living or working in two or more wards in the City <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Type of expenditure:	<input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital
	If Capital, provide the date considered by Capital Board Date: 10/5/23
Total value of the decision:	£1,925,000
Wards affected:	All
Date of consultation with Portfolio Holder(s):	10th May 2023
Relevant Council Plan Key Outcome:	
Green, Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input checked="" type="checkbox"/>
Child-Friendly Nottingham	<input checked="" type="checkbox"/>
Living Well in our Communities	<input checked="" type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Serving People Well	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>This report requests approval to accept the High Needs Provision Capital Grant for 2022-23 and 2023-24 and approve its use for three high priority schemes that will support a number of pupils with Special Educational Needs and Disabilities (SEND) to be educated in a setting that has a full range of facilities to support their educational needs.</p>	

The three schemes that have been identified support the aims and objectives of the draft SEND Strategy that has just been consulted on and is in the process of being approved.

It will allow pupils to be supported in local two primary schools and 6 pupils with high needs to be educated in an appropriate environment at Nethergate Academy Special School.

Does this report contain any information that is exempt from publication?

No

Recommendation(s):

- 1** To accept the High Needs Provision Capital Grant for 2022-23 and 2023-24 of £7,297,332 and £8,115,624 respectively which will be combined with the 2021-22 High Needs Provision Capital Grant to fund the SEND Strategy when it is finalised.
- 2** To approve the funding of the three schemes shown in appendix A which have been identified as high priorities to complete this year, in the draft SEND Strategy that has been consulted on. These schemes will provide necessary additional SEND places for pupils.
- 3** To approve the use of a maximum of 75% or the sum £500,000, whichever is greater, from the Capital Receipt from the Thorneywood site to partly fund the development at Whitemoor Primary Academy in line with the terms agreed by the Secretary of State in their approval to sell the site, but to initially fund this scheme from the High Needs Provision while Thorneywood is sold.
- 4** To approve a Contingency of £375,000 and delegate authority to the Corporate Director for People to approve and authorize how the contingency is allocated across these schemes and additional low value high priority new schemes within the criteria set out in the draft SEND strategy.
- 5** To authorise the procurement of any necessary contracts to carry out the programme of schemes using the High Needs Provision Capital Grant funding and delegate authority to the Corporate Director for People to award any procured contracts complying with the Council Constitution and Public Contract Regulations 2015.

1. Reasons for recommendations

- 1.1** Of the three schemes identified, two are primary Focus Provisions, which are bases within mainstream schools that provide support to pupils with SEND. The two Focus Provisions are at Djanogly Strelley Academy and Whitemoor Primary Academy. The third scheme is a refurbishment of an existing underused building at Nethergate Academy. These developments will provide additional space to support small groups of high needs pupils within the respective schools enabling children to be educated in their local community. Educating children in their local community means no costs related to SEND transport which is a significant additional cost to the Council. High Needs provision delivered in local mainstream or special settings are at least 75% less expensive than commissioning independent or non-maintained places.
- 1.2** It is apparent from the work carried out as part of the development of the SEND Strategy that there is an increasing need for additional capacity for pupils with

additional needs both within mainstream and special schools. These three schemes address this particular requirement initially and further schemes will be brought forward in line with the SEND Strategy when it has been approved.

- 1.3 The programme of works is prioritised in line with the draft SEND Strategy for Schools. This is being finalised following the consultation period and reflects the priorities that have been identified. The consultation was supportive of the proposal that were put forward and that this report fits with.
- 1.4 The unallocated grant for 2021-22 through to 2023-24 is £17,963,201. This report seeks approval for £1,925,000 of the grant and includes three high priority schemes.
- 1.5 The Secretary of State has recently approved the sale of the Thorneywood site with the proviso that the capital receipt is spent on works to improve the Multi Use Games Area (MUGA) at Mellers Primary and deliver the SEND unit at Whitemoor Primary Academy. It is proposed that 75% of the receipt is used as a contribution towards the scheme at Whitemoor Academy and the remainder is used to upgrade the MUGA at Mellers. Given the likely timeframe for the sale of Thorneywood (at least three years) it is proposed that the initial funding comes from the High Needs Provision grant.
- 1.6 Delegating authority to the Corporate Director for People to approve and authorise how the contingency is allocated will ensure a timely response to any urgent issues that arise on any one of the three schemes or additional urgent low value interventions that support the wider SEND Strategy.

2. **Background (including outcomes of consultation)**

- 2.1 The Council has received an annual grant over the last three years from the DfE to address the needs of pupils with additional needs, there is now £17,963,201 unallocated grant that is linked to the development of the SEND strategy that is in the process of being approved. The strategy provides evidence that the demand is increasing and that it is impacting on schools.
- 2.2 The works at Nethergate Academy will refurbish and reconfigure an existing building to allow a cohort of 6 of the most complex young people aged 7-10 that have autism in the City to have a purpose designed base for their education. All these young people will have an Education Health and Care plan (EHC) that names Nethergate Special Academy as their school. These young people have needs which can only be met within the small, highly staffed classes in special schools. Overall the budget for these works will be £400,000. Without this provision, 6 students will need to be placed in independent specialist provision. There is very limited provision within or close to the City and there is a risk that some students will be without a school place. For those that secure a place, the annual cost range is £90,000-£115,000 per annum compared to the cost of a place at Nethergate Academy of £27,694 per annum. The difference between the cost of the independent provision and the cost of the provision at Nethergate Academy is £74,806 based on using a mean cost for the independent provision, overall the capital investment will reduce the spend on Dedicated Schools Grant (DSG) revenue by £448,836 per year for the six pupils. This is based on the anticipated cost of independent or out of city provision and the agreed top up cost at Nethergate which is reviewed on a three year basis and reflects the cost of the academy delivering the service. The children attending the new provision are in year groups 2-5. These children will be in statutory education until year 14 (a minimum of 9 further years). They will remain on role at Nethergate unless their

requirements change and their EHC plan has a material change or they are permanently excluded or through parental choice. Therefore, it is expected that they will remain at the school until they have completed their education. On this basis, the cumulative saving to the high needs block over the period of their education will be a minimum of £4,039,524.

- 2.3 The works at Djanogly Strelley Primary Academy are around providing a Focus Provision for 16 pupils, of which 8 will be nominated by the Council. This scheme is partly funded by Section 106 funding and the £400,000 from the High Needs budget will top up the funding and make this a deliverable project. Djanogly Strelley is in the ward with the highest level of SEND and this proposal will allow local children to have their needs met in specialist provision in their own community reducing the need for high cost transport.
- 2.4 The works at Whitemoor Primary Academy will provide the school with additional capacity to continue to meet the needs of their catchment pupils with SEND and allow the academy to expand the current support it provides to High Needs pupils. The funding required to support this scheme is £750,000 initially which will come from the High Needs budget, however, when the Thorneywood site is sold a proportion of the capital receipt will be used to fund these works. This is in line with the Secretary of State approval to sell the Thorneywood site. Whitemoor is an inclusive school and in an area of high levels of SEND. There are 11 pupils on roll with an EHC plan and a further 14 in receipt of high level needs funding. All of the young people are well supported and included in their local mainstream school reducing the demand for specialist provision and transport services. This development will support the school in continuing to make this provision in a cost effective and sustainable way.
- 2.5 The contingency being delegated to the Corporate Director for pupils will mitigate the risk of inflation for these schemes, whilst providing the opportunity if necessary to provide smaller quick win projects within the framework of SEND Strategy once it is approved.

3. Other options considered in making recommendations

- 3.1 To wait until the SEND Strategy has been finalised and approved. This would delay the completion of these three high priority schemes that are in a position to complete this year and provide additional support for pupils with high needs. This option would incur significant long term, unnecessary costs to the high needs revenue budget.

4. Consideration of Risk

- 4.1 Currently construction inflation is high and there is a continued pressure on both supply and labour market. In order to mitigate this a contingency of £375,000 has been identified and delegated to the Corporate Director for People. If these schemes are not undertaken there will be a reduced availability of options to support pupils with additional needs in schools, it will also provide capacity to bring in low value options that will support the wider SEND strategy when it is approved.

5. Best Value Considerations, including consideration of Make or Buy where appropriate

- 5.1 At Nethergate Special Academy the preference is to sign a funding agreement with the academy chain for them to commission the works and to commit to providing the places. This avoids the need for an agreement to allow the Council to access the site, and also means that the programme risk is taken by the academy as they are delivering the works.
- 5.2 The new build at Djanogly Strelley Academy was originally funded by Section 106, and the original agreement was for the academy chain to develop the scheme and they have tendered the project. We are planning to update the original funding agreement. This will again put the responsibility for the programme with the academy.
- 5.3 At Whitemoor Academy it is anticipated that the works will be delivered through the Scape Framework and managed directly by the Council. This decision was made in conjunction with the academy. The Scape framework contractor has provided a feasibility with indicative designs to give an initial high level cost.

6. **Finance colleague comments (including implications and value for money/VAT)**

Capital Comments:

- 6.1 The Council's High Needs Provision Capital grant position at 31st March 2023 is detailed in the below table:

	£m
Grant Received by the Council	
2021/22 – Allocation	(2.550)
2022/23 – Allocation	(7.297)
2023/24 – Allocation Partial Bring Forward (Received on 31 st March 2023)	(4.676)
Total Grant to be received by the Council	(14.523)
Grant to be received in 2023/24	(3.440)
High Needs Provision Grant Awarded	(17.963)

- 6.2 The approved Capital Programme has not formally committed any of the grant disclosed in **Table 1**. Therefore following this decision and receipt of the remaining grant (**£3.4m**) the Council will have **£16.038m** of grant to allocate as defined by the SEND strategy.
- 6.3 Following the approval of this decision the Capital Programme will be amended and the contingency initially apportioned across the schemes as identified in Appendix A. As detailed in recommendation 4 the Corporate Director for People has been delegated authority.
- 6.4 As detailed in the body of the report the capital receipt secured from Thorneywood will be applied in accordance with the conditions as set out by the Secretary of State.

Tom Straw – Senior Accountant Capital Programmes 26th April 2023.

Revenue Comments:

- 6.5 The SEND capital strategy is supported by the medium financial plan of the LA's Dedicated Schools Grant (DSG) High Needs revenue budget. With further review of the High Needs budget, there are sufficient earmarked reserves of £2.5m from the LA's 2023-24 high needs block in order to support these costs as and when required. With new provisions being planned and gradually filled to capacity, this will be used for other short term purposes in the DSG budget.
- 6.6 In continuing to get value for money from the High Needs budget the SEND capital strategy is a key pivotal point to achieve this. It is essential that there are sufficient local places for the growing number of high needs pupils to avoid costly out of area provision in independent/non-maintained provision.

Chris Ayriiss – Senior Commercial Business Partner (Children's and Education) - 26th April 2023

7. Legal colleague comments

- 7.1 This report seeks authority to accept the High Needs Provision Capital Grant for 22-23 and 23-24 and to approve the use of £1.925 million of those sums as described in the report.
- 7.2 In using the High Needs Provision Capital Grant, the Council must ensure compliance with any conditions imposed on the use of such Grants funds. Further, the Council must ensure compliance with its own constitution in the use of such funds, in particular in the procurement and execution of any necessary contracts.
- 7.3 The three schemes appear to have been identified as they support the draft SEND Strategy. The report accepts the risk of basing a decision on a draft SEND Strategy which, however unlikely, may be subject to change before it is finalised. The Author of the report has also confirmed his view that there isn't any risk that the choice of these schemes will be challenged.
- 7.4 Legal Services is happy to continue to support the projects, if approved.

Anthony Heath, Senior Solicitor, 28th April 2023.

8. Procurement

- 8.1 If approved Procurement will work with the client to ensure that best value is met, and that all procurement activity associated with the 3 schemes is compliant with the terms of the grant and with NCC's Contract Procedure Rules.

Sue Oliver – Procurement Category Manager for Places, 10/05/2023

9. Crime and Disorder Implications (If Applicable)

- 9.1 This decision will have no Crime and Disorder implications.

10. Social value considerations (If Applicable)

10.1 The proposed SCAPE framework procurement route for one of the schemes contains a number of social value key performance indicators, such as diverting waste from landfill, local spend and local employment targets by which the schemes will be measured.

10.2 The two remaining schemes will be delivered through the academies and as part of the funding agreement there will be social value indicators included.

11. Regard to the NHS Constitution (If Applicable)

11.1 This decision will have no impact on the NHS constitution.

12. Equality Impact Assessment (EIA)

12.1 Has the equality impact of the proposals in this report been assessed?

No

Yes

Attached as Appendix B, and due regard will be given to any implications identified in it.

13. Data Protection Impact Assessment (DPIA)

13.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because this programme of works will have limited data collected.

Yes

14. Carbon Impact Assessment (CIA)

14.1 Has the carbon impact of the proposals in this report been assessed?

No

Yes

Attached as Appendix C, and due regard will be given to any implications identified in it.

15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

15.1 None

16. Published documents referred to in this report

16.1 None