

Operational Decision Record

Publication Date 25/10/23	Decision Reference Number 5046
Decision Title	
High Needs capital funding for initial survey and early design works, to create a specialist provision for children and young people with Special Education Needs & Disabilities (SEND) at The Milford Academy.	
Decision Value	
£100,000 - The estimated cost includes a 10% contingency. Any variance will be funded by High Needs Capital.	
Revenue or Capital Spend?	
Capital	
Department	
Education	
Contact Officer (Name, job title, and contact details)	
Lucy Juby, School Organisation & Place Planning Manager, lucy.juby@nottinghamcity.gov.uk	
Decision Taken	
To allocate £100,000 of High Needs capital funding for initial survey and early design works, appointing a contractor from the SCAPE framework, to create specialist SEND provision at The Milford Academy.	
Reasons for Decision and Background Information	
<p>The DfE has allocated local authority High Needs capital funding to support the provision of new places for children and young people with special educational needs and disabilities (SEND) and those requiring alternative provision (AP).</p> <p>Nottingham City Council's received allocation of this funding for the financial years 2021-24 is £17.963m.</p> <p>The SEND Sufficiency Strategy 2023-28 was approved at the Council's Executive Board on 19th September 2023. The Strategy sets out the policy, principles and proposals for investing High Needs Capital received from the Department for Education (DfE), to increase and improve specialist SEND provision for children and young people with complex needs or who have an education, health and care plan (EHCP). The report specified that funding approval for initial surveys and early design works for the individual Phase 1 schemes, will be sought through the Council's delegated decision-making scheme.</p>	

Included in Phase 1 is this proposal to create specialist SEND provision at The Milford Academy. The specialist provision is to create approximately 8 extra primary places to meet the needs of children and young people with Autism and other complex learning needs. This proposal is deemed to align with our priorities and will deliver additional capacity which is accessible for pupils in areas of high need. Some of the additional places will be commissioned by the LA, to accommodate children and young people in the wider community, subject to the SEND requirements of the individuals.

This proposal was approved at the Council's Capital Board on 12th July 2023.

Other Options Considered and why these were rejected

None. It is apparent from the work carried out as part of the development of the SEND Sufficiency Strategy and the subsequent consultation, that there is an urgent, significant and increasing need for additional capacity for pupils with special educational needs and disabilities, both within mainstream and special schools. The consultation was supportive of this and the identified Phase 1 schemes address this requirement, before further schemes will be brought forward in Phase 2.

Efficient commitment of the funding will result in better value for money due to the impact of inflation. Any delay to this will result in delays to creating much needed specialist provision for pupils with significant need.

Reasons why this decision is classified as operational

Has a value below £300,000 and is taken within agreed policies and budgets.

Additional Information

Capital comments from Tom Straw, Senior Accountant (Capital Programmes), 21st September 2023:

Nottingham City Council has been allocated **£17.963m** of Higher Needs capital funding from the DfE for the period 2021/22 to 2023/24. The approvals to date and pending approvals (including this one) will reduce the uncommitted balance to **£14.893m**. As per the grant conditions this grant can only be used on capital expenditure and cannot be reallocated to fund abortive revenue costs.

Following the formal approval of this decision the Higher Needs funding classified in the planned element will be reduced by the value of this decision and an appropriate project will be set up within the approved Capital Programme as detailed in the body of this report.

Revenue comments from Collins Elechi, Senior Commercial Business Partner (Children's and Education), 21st September 2023:

The SEND capital strategy is supported by the medium financial plan of LA's Dedicated Schools Grant (DSG) High Needs revenue budget. With further review of the High Needs budget, there are sufficient earmarked reserves of £3.9m 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.

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.

Legal comments from Anthony Heath, Senior Solicitor, Contracts and Commercial, 27th September 2023:

In the proposed use of the DfE High Needs capital funding, the Council must ensure it complies with any conditions attached by the DfE to the use of such funding. With the support of Procurement colleagues, any procurement process must comply with the Council's constitution and relevant legal requirements; the use of the Scape framework should ensure compliance. The investment should allow the Council an opportunity to meet its statutory needs by enhancing available specialist provision if that is identified as being appropriate to meet a child's needs, as assessed via an EHC Plan or otherwise.

As noted, whilst Legal Services can support with some of the contractual arrangements that may be required, where the contracts relate to construction activity or guidance is required on the template SCAPE contracts, that advice will need to be sourced from external law firms who possess that expertise. Legal Services is happy to support colleagues using a process to identify and instruct an external law firm. One option would be to use the EMLawshare framework following a mini-competition or, with justification a direct award. Colleagues should factor both the costs and time required for a process into their planning.

Procurement Comments from Sue Oliver, Procurement Category Manager for Places, 5th October 2023:

It is proposed to awarded contract/s using the appropriate SCAPE (Direct Call-off) single supplier Frameworks. Best Value has already been achieved through the respective procurement processes when setting up the individual Framework Agreements. The main contractors are supported by an extensive local supply chain, many of which are locally based or employ their workforce from within the local region.

The proposals raise no significant procurement issues, but care must be taken to ensure compliance with the SCAPE Framework terms. The contracts to be entered into between the contractors and the Council will be based on the SCAPE framework template call off contracts which are from the NEC suite of construction and professional services contracts and are fully compliant with the Public Contract Regulations 2015.

As these schemes are externally grant funded there will not be any cashable savings for the Council.

Decision Maker (Name and Job Title)
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Catherine Underwood, Corporate Director for People
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Scheme of Delegation Reference Number
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Date Decision Taken

17/10/2023
