

Cabinet 28 April 2021	 TOWER HAMLETS
Report of James Thomas, Corporate Director Children's and Culture	Classification: Unrestricted
Outcome of the first stage consultation on the prescribed alteration proposal to change Hermitage School to include a specialist resourced provision for primary age children with Autism Spectrum Conditions (SRP-ASC) and proposal to move to Statutory Notice.	

Lead Member	Councillor Asma Begum, Cabinet Member for Children, Youth Service and Education
Originating Officer(s)	John O'Shea, Head of Special Educational Needs
Wards affected	All wards, Hermitage School is in Wapping
Key Decision?	Yes
Forward Plan Notice Published	30 March 2021
Reason for Key Decision	Impact on Wards
Strategic Plan Priority / Outcome	A better deal for children and young people: aspiration, education and skills.

Executive Summary

Formal stage one consultation has been carried out on the proposal to expand Hermitage Primary School to include a specialist resourced provision for 12 children with autistic spectrum conditions, with effect from September 1st 2021.

The stage one consultation process was carried out during the period 22nd February to 19th March 2021 and a Consultation Report, which describes the findings, is attached as Appendix 1. The Consultation Report makes recommendation to move to the publication of a statutory notice in respect of the proposal to alter the provision at Hermitage School, to include 12 pupils with Education, Health and Care Plans and to increase the size of the school from 45 pupils per year group to 47. During the statutory notice period, legal objections can be set by any consultee, which would need to be considered before any final determination is taken.

Recommendations:

The cabinet is recommended to:

1. Move to the publication of a Statutory Notice for 28 days, in respect of the proposal to alter Hermitage Primary School with effect from 1st September 2021
2. Note the Equalities Impact Assessment set out in Section 4 and attached

as Appendix 2.

1 REASONS FOR THE DECISIONS

- 1.1 The recommendation is made in order to determine the Council's response to the proposal for prescribed alterations to Hermitage Primary School.
- 1.2 The alterations will allow Tower Hamlets, as part of its SEND Strategy, to develop a world class provision, for children whose needs may not otherwise be fully met within the Borough.
- 1.3 The proposal is for the changes to take effect from the 1st September 2021 and the process is therefore being undertaken in accordance with Department for Education (DfE) guidance and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013
- 1.4 So far, an initial public consultation has been undertaken, and a report on the outcome of the consultation will be published on the Council and School website, following Cabinet's decision on whether to progress to Statutory Notice.
- 1.5 The Consultation Report, at Appendix 1, includes feedback on the representations received following the stage one publication of the proposals on 22nd February 2021.

2 OPTIONS AVAILABLE

- 2.1 **Option 1:** to move to the publication of a statutory notice for 28 days, which is the next stage in the statutory consultation process. This will provide further opportunity for consultees to have their say and set legal objections against the proposal.
- 2.2 **Option 2:** not to move to the publication of a statutory notice, but to cease the proposal after stage one of the consultation period, this would mean not concluding the full statutory consultation process in order to take the decision to provide Autistic Spectrum Condition specialist support at Hermitage School.
- 2.3 Option 1 is preferred as it takes the proposal to the next stage in the full statutory consultation process. It allows consultees further opportunity to fully consider the proposal during an additional 28 day period and before the Mayor (in cabinet) is required to make a final determination.
- 2.4 Decisions on whether the school should increase further in size should be taken as part of the Statutory Annual Admissions Review in November 2022.

3 DETAILS OF THE REPORT

- 3.1 Following the Stage One consultation period from the 22nd Feb – 19th March 2021, it was appropriate to publish a Consultation Report on the findings and, after full consideration of feedback, to take a decision whether to move to Stage Two of the school organisation process, which is to publish a Statutory Notice (Appendix 3). A copy of the Consultation Report is attached at Appendix 1.
- 3.2 Due to coronavirus it was not possible to hold the preferred method of public and parents' meetings regarding the consultation. However, several alternative methods were offered (in line with the Tower Hamlets consultation processes during coronavirus guidance for schools' consultations) and these methods along with the type of responses are explained in the Consultation Report.
- 3.3 The Consultation Report provides an analysis of the responses and opinions expressed. It is evident that the respondents understood the proposal and its impact and the reason why the proposal is being considered. Parents have been responsive and understand the position. Stakeholders were extremely positive about the inclusive nature of Hermitage School, and its capacity to support the Tower Hamlets Community.
- 3.4 The views expressed by respondents to the consultation concerned questions on how the new provision might impact the quality of teaching, class size, playground space and the School's focus on existing pupils. The response to this feedback confirmed that the changes will be managed through the recruitment of additional high quality staff; improvements to the School's accommodation; and that the additional resources to be provided would increase opportunities for the existing children as well as those joining. The School's maximum class size will remain at 30 and improvements to the buildings will ensure that encroachment on the playground will be kept to a minimum.
- 3.5 Although there is no requirement, at this stage, to consult on the expansion of the school's mainstream provision, the Stage One consultation did include information on the potential future expansion of Hermitage to two forms of entry. Two stakeholders felt that the process to inform neighbouring schools of this was insufficiently transparent. Whilst parents and staff expressed some reservations they were, overall, quite positive. Everyone agreed that any building works should be of a high quality whilst retaining as much playground space as possible. The expansion of the School for an increased intake of up to 2FE will be considered in the annual review of Planned Admission Numbers (PANs), when setting the Local Authority's Community School Admission Arrangements for 2023/24.
- 3.6 Based on the positive feedback and whilst acknowledging a few concerns expressed during the stage one consultation, it is recommended for the Council to move to stage two of the process by issuing a statutory notice, with the support of the School's Governing Body. This will enable a further opportunity to obtain the views of the public and other interested parties before a decision can be reached.

4 EQUALITIES IMPLICATIONS

- 4.1 When making decisions the Council must act reasonably and rationally. It must consider only the relevant information and consult those affected, taking into account their views, before final decisions are made. It must also comply with its legal duties, including relating to equalities.
- 4.2 The Equality Act 2010 requires the LA, when exercising its functions, to have due regard to eliminate discrimination, harassment, victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not (“the Public Sector Equality Duty”).
- 4.3 An Equalities Assessment has been conducted by the LA and is attached at Appendix 2. It will continue to be updated in view of the responses to the statutory notice and its representations. This assessment must be considered in detail when the Cabinet considers the matters above, as part of its decision on whether Hermitage School should be altered to include an SRP-ASC.
- 4.4 Governors and LA officers have considered carefully whether changes may affect groups disproportionately. They will continue to work with Trade Unions to ensure that planning for any staff recruitment is fair and equitable and in line with agreed policies, including the Council’s School Organisational Change Procedure and Redeployment Policy.
- 4.5 Based on the findings of the Equalities Assessment there are no significant reasons to prevent moving to the stage two of the formal consultation, which is the issuing of the Statutory Notice. This will provide further opportunity for parents, pupils, staff and the wider community to give their views and raise any objections.
- 4.6 The SRP – ASC provision would reduce disadvantage for children with Autistic Spectrum Condition who are functioning at age-appropriate levels as there is currently no resourced provision to meet their needs within Tower Hamlets.
- 4.7 No staff are at risk of redundancy. If the proposal to add provision moves forward, there will be new job opportunities within the Borough.

5 OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,

- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

(i) Managing the Impact of Proposed Change on School Staff

5.2 The LA, School Governing Body and London Diocesan Board are working together to support the School staff through this change. If the final decision is for the School to change staff will be supported through further training, coaching and workshops to develop any new skills required.

(ii) Best Value Implications

5.3 The Local Authority has a duty to ensure that schools are fulfilling their duties and that value for public money is achieved, whilst standards are maintained. They must ensure that they do not fall into financial deficit so that they are unable to sustain an offer of quality education for children. This proposal, and the associated Service Level Agreement, will ensure that the SRP-ASC and Mainstream School are appropriately resourced. Hermitage School has shown proactive management of pupil numbers, demonstrating their capacity to respond flexibly and inclusively to Local Area Need. Building developments to allow the school to accommodate SEND provision and additional children will enable the area to have a school with the capacity to “flex” provision based on local demand.

5.4 By bringing SRP-ASC specialist provision into the Borough Best Value use of the High Needs Block will be supported, since Out of Borough provision is expensive, and transport costs should also be reduced.

5.5 The proposal presents significant mainstream revenue and capital implications for the Council. Capital alterations are required for this proposal, and the SRP-ASC places will require funding. The revenue funding (from the High Needs Block) will be offset by reductions in out of borough placements.

5.6 The capital funding for building improvements will come from some of the £6m SEND Grant, received from the Department for Education to support the creation of new school places and improve existing facilities for children and young people with special educational needs.

5.7 The comparison table below shows the per pupil costs for: the planned provision at Hermitage; the current Tower Hamlets ASD specialist provision; an Out of Borough (OOB) specialist school with at least five Tower Hamlets pupils attending; and an OOB Social Emotional and Mental Health provision, which takes pupils with ASD needs, and currently has at least five Tower Hamlets pupils in attendance. The table below also includes the transport costs per pupil when placed in out of borough provision. Transport costs are significantly less when the pupil attends local provision.

	Costs for children attending Provision at Hermitage	Specialist ASD - LBTH	Specialist ASD OOB	Special School OOB SEMH/ASD
Per pupil place (including place funding)	£14,335	£30,235	£63,808	£42,000
Transport costs for OOB schools – per pupil per year			£10,937	£15,607
			£74,745	£57,607

(iii) Environmental (including air quality)

5.8 There are no significant environmental issues arising from this proposal. As Hermitage has one of the lower air pollution levels children are likely to be better protected than in other schools. Although children needing to travel to school does affect air pollution journeys are likely to be shorter, as there will now be in-Borough provision.

(iv) Risk Management

5.9 School Change Proposal

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to move to statutory notice	H	L	This risk is low as it will be mitigated by ensuring that a full and public statutory consultation is being undertaken, including the earlier 14 week consultation before moving to publication of a statutory notice for 28 days	Director of Children and Culture (Service Head for Pupil Access and School Sufficiency)
Parents with children with ASC do not accept Hermitage placement	M	L	Hermitage is likely to be a very attractive offer to parents, given its experience and expertise. By developing a world class provision, the LA would be in a far stronger position to defend any SEND Tribunal Appeals.	Head of SEN

5.10 If this recommendation is agreed, continuation of the statutory consultation process will be carefully managed and evaluated in line with statutory guidance, taking account of the further views of stakeholders and thoroughly addressing the findings from the Equalities Impact Assessment.

5.11 It is proposed to make the alterations to the School for September 2021. This timescale will allow further opportunity to ensure that children, parents and staff are aware of the proposal and its implications and are supported through the change process over the course of the remainder of the current school year.

(v) Safeguarding

5.12 The report deals with the Council's approach to managing the supply of school places, and appropriate Special Educational Needs and Disabilities provision for the local population. The efficient supply of school places contributes to the safeguarding of children by ensuring their early access to 'good quality', 'appropriate' and sustainable education provision.

(vi) Data Protection / Privacy Impact Assessment

5.13 The proposals presented in this report have followed an initial (stage one) public consultation using a variety of mechanisms. All responses received through these mechanisms or made directly to the School have been included in the analysis of the feedback received. These responses have only been used to assess the community's view of the proposals and not for any other purpose.

5.14 The Council handles information in accordance with the Freedom of Information Act 2000 and the Data Protection Act 2018 and is the data controller for the purposes of the Data Protection Act 2018. For more information, the privacy notice for Pupil Services can be accessed [here](#).

6 COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 The revenue cost of this provision will be met from the Dedicated Schools Grant (DSG) high needs block. The demand for provision for pupils with ASD continues to grow both nationally and locally and therefore there is a high demand for the places available out of Borough. By building local provision we will be ensuring best value as this provision would be at a lower cost than alternatives as well as ensuring children remain local to Tower Hamlets.

7 COMMENTS OF LEGAL SERVICES

7.1 Section 14 of the Education Act 1996 requires local authorities to provide sufficient schools for primary and secondary education in their area. Local authorities also have best value duties in the performance of their functions under the Local Government Act 1999. In addition, local authorities have public sector equalities duties under Section 149 of the Equality Act 2010.

7.2 The procedure for expanding schools is set out in the Education and Inspections Act 2006, the School Organisation (Prescribed Alterations to Maintained Schools) Regulations 2013, and the statutory guidance 'Making Significant Changes ('Prescribed Alterations') to Maintained Schools'

(October 2018). The proposals set out in this report comply with the above legislation and guidance.

Linked Reports, Appendices and Background Documents

Linked Report

- Future Ambitions – Primary Review Report 2019
- Progressing Ambitions – Primary Review Report 2021
- Tower Hamlets SEND Strategy

Appendices

- Appendix 1 Stage One Consultation Report on the Proposal to make prescribed alterations to Hermitage school
- Appendix 2 Equalities Assessment
- Appendix 3 Draft Statutory Notices – Hermitage School
- Appendix 4 Governors' Consultation Document Hermitage School

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

Officer contact details for documents:

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