

Cabinet 28 July 2021	 TOWER HAMLETS
Report of: James Thomas, Corporate Director, Children and Culture	Classification: Unrestricted
Report on the outcome of the statutory consultation on the proposal to make prescribed alterations to Hermitage School to support the development of provision for primary age children with Autistic Spectrum Condition needs	

Lead Member	Cabinet Member for Children, Schools and Young People
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	14 May 2021
Reason for Key Decision	Outcome will be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority
Strategic Plan Priority / Outcome	Children and young people are protected so they get the best start in life and can realise their potential

Executive Summary

This report informs cabinet of the outcome of the four week period of public representation in response to the statutory notice on the prescribed alterations to Hermitage School to enable a co-educational, Integrated Specialist Provision for primary age children with Autism Spectrum Conditions (ISP – ASC) as part of Hermitage Primary School. It recommends that the Mayor in cabinet reaches a decision to agree the proposed specific prescribed alterations to the school. The proposal is to make a prescribed alteration to Hermitage School to establish an, up to 12 place, Special Educational Needs provision from September 2021

The report includes background information, the representation received, officer's recommendations and the decisions available to the Mayor in Cabinet.

RECOMMENDATION:

Having considered the responses to statutory (public) notice at Appendix 3, the Equalities Assessment at Appendix 4 and the earlier public consultation report, Appendix 1, it is recommended that cabinet

1. approve the proposal to agree the prescribed alterations to Hermitage School as set out in the Statutory Notice at Appendix 2.

1. REASONS FOR THE RECOMMENDATION

- 1.1 The recommendation is made in order to determine the Council's response to representations received following the issuing of a statutory notice proposing the

prescribed alterations in order to establish Primary ASC provision in Tower Hamlets that meets the requirements of the SEN Strategy to address the needs of local children.

- 1.2 The provision will supplement existing provision for children with autistic spectrum conditions, and will particularly address the shortage of local provision for children with ASC needs but who are “high functioning” or able to meet achieve academically at, or around, age-appropriate levels.

2. ALTERNATIVE DECISIONS

- 2.1 The Mayor could decide not to agree to the prescribed alterations in which case the new provision would not be available to local children and the Local Authority not be able to deliver its SEN Strategy. There is currently no similar provision in Tower Hamlets so that if the decision was not to progress children would continue to need to travel out of Borough for their needs to be addressed.
- 2.2 The Mayor could decide to delay the decision on the prescribed alterations until later. However, this uncertainty would adversely impact on the provision of education for the current primary pupils with ASC needs and would therefore not be in their best interests.

3. DETAILS OF THE REPORT

- 3.1 The report informs Cabinet of the representation made in response to the Statutory Notice.
- 3.2 The Mayor in Cabinet is asked to consider this response alongside the Equalities Impact Assessment, and responses to the Stage One consultation (Appendix 1) before taking a decision on whether the council should proceed with the prescribed alterations at Hermitage School to enable the Integrated Provision at the Hermitage School site.

4. INTRODUCTION

- 4.1 As part of the SEND Strategy invitations were sought in Autumn Term 2020 for schools interested in running a 12 place new integrated co-educational primary provision for children with Autistic Spectrum Condition needs.
- 4.2 The successful expression of interest was a proposal for an integrated provision run by Hermitage School at the Hermitage School site.
- 4.3 The school, with Local Authority support have completed a Stage One consultation (Appendix 1) and, following Cabinet agreement, Statutory Notices have also been published, the deadline for representations was 9th June 2021.

5. BACKGROUND

- 5.1 The Tower Hamlets review of special educational needs provision and resulting SEND Strategy, identified a gap in specialist provision for Tower Hamlets children with autism spectrum conditions who are academically able to access mainstream education provision, but struggle because of their ASC needs. Too many Tower Hamlets children are needing to travel outside of the Borough for these particular needs to be met.

5.3 Hermitage School and the Local Authority are currently planning for the provisions to be in place from as early as September 2021. It will be a specialist ASC Resource Base within Hermitage Primary School. This new facility will provide more inclusive provision and also extend the range of options to meet the diverse needs of vulnerable children who are able to access a mainstream curriculum, albeit with significant modification, support and intervention. This approach is in line with the key objectives of the LA's SEND strategy.

6. REASON FOR THE RECOMMENDATION TO MAKE PRESCRIBED ALTERATIONS TO HERMITAGE PRIMARY SCHOOL

6.1 There are a number of children In Tower Hamlets whose ASC needs are not currently being fully supported, and some who have been placed outside of the Borough because there are no suitable local placements.

6.2 Tower Hamlets has seen an increase in children with ASC needs, this is in keeping with increases nationally. Research from Newcastle University indicates this is linked with earlier identification and improved diagnosis.¹ Previously many children with ASC needs were often considered to have SEMH or SCLN needs

The proportion of children with ASC as their primary need continues to rise in Tower Hamlets, from 9% in 2017 to 12.8% in 2020. This was the first year that the Tower Hamlet's figure was higher than the national average (11.9%). The proportion with Speech, Language and communication needs (SLCN) has always been higher than elsewhere and is currently at 37%. Many children with SLCN needs often have undiagnosed ASC or are yet to receive a diagnosis of ASC.

% EHCPs with ASC as primary need	2017	2018	2019	2020
Tower Hamlets	9%	10%	11%	12.8%
England	9.5%	10.3%	11%	11.9%

6.3 Careful consideration has been given to the Hermitage School community. Responses to Stage One consultation (and add Stage 2) have been overwhelmingly positive. The school have a strong reputation for inclusive practice. The provision will introduce an excellent resource for the whole of Tower Hamlets.

6.4 An Equalities Assessment (EA) has been undertaken and is presented in the supporting documentation (Appendix 3).

¹ Roman-Urrestarazu, R et al. Association of Race/Ethnicity and Social Disadvantage With Autism Prevalence in 7 Million School Children in England. JAMA Pediatrics; 29 March 2021; DOI: 10.1001/jamapediatrics.2021.0054

7. CONSULTATION

- 7.1 The first stage of the public consultation process was Borough wide and informed the Revised SEN Strategy. This led to agreement on the need for a Tower Hamlets based mainstream provision with specialist support so that children with a high level of ASC needs could be better supported in integrated mainstream provision. Although a number of Tower Hamlets Primary Schools do include children with ASC needs, there is currently no specialist in-Borough provision of this kind.
- 7.2 Hermitage School was successful in its proposal for consideration to establish an ASC provision, and carried out a Stage One consultation involving parents, staff and other stakeholders. A summary report (Appendix 1) was published after the consultation. This was considered by the Council Cabinet who took the decision to publish statutory notices for prescribed alterations to Hermitage School. Statutory Notices were published on May 3rd.
- 7.3 Due to coronavirus it was not possible to hold the traditional method of public and parents' meetings for both the first stage consultation and the subsequent statutory notice period. However, several alternative methods were used, particularly for the first stage consultation in line with the Tower Hamlets guidance on public consultation processes during coronavirus. These methods along with the type of responses are explained in the first stage consultation report (see Appendix 6).
- 7.4 Copies of the Statutory Notices were posted at the school entrances, circulated to all schools and governing bodies, to the Trades Unions and to other stakeholders (faith groups etc.) as well as the DFE. Representations were invited before the deadline of 9th June 2021.
- 7.5 A Service Level Agreement has been drawn up and Hermitage staff and governors have made good progress in developing plans so that the provision can open, and children will be gradually introduced to the school so that numbers build successfully over 3 years.
- 7.6 Hermitage School Governors Steering Group for the ISP-ASC considered this report and the responses to consultation at their meeting on 17th June 2021 and were pleased that there were no negative representations and the proposal would be moving forward.

8. RESPONSES TO THE STATUTORY NOTICE (Second Stage Consultation)

- 8.1 The statutory notice period provided a further opportunity to engage with stakeholders and obtain their views.
- 8.2 One representation was received in response to the statutory notice, from the Governing Body (Appendix 4). This representation welcomed the Local Authority commitment to providing excellent SEND provision and welcomed the changes to Hermitage School.
- 8.3 The representation also flagged some of the challenges of classroom sizes to support inclusion in the school.
- 8.4 The representation also highlighted governors understanding that the admissions criteria for the provision will specify that it is a provision for pupils with "high functioning Autistic Spectrum Conditions".

- 8.5 The further period of public consultation did not result in any representation that would give cause for the Local Authority to reconsider its recommendation to make prescribed alterations to Hermitage School to include provision for an additional 12 pupils (in addition to the current PAN of 45) to be able to join the new Integrated Specialist Provision (Autistic Spectrum Provision)

9. TIMETABLE FOR IMPLEMENTATION OF PRESCRIBED ALTERATIONS

- 9.1 If the decision is made to approve the prescribed alterations, the timetable for implementation will be as follows:

July 2021	Formal sign off of Service Level Agreement (Appendix 5) for new provision
July – Dec 2021	Development of new provision, including base line research, recruitment and transition planning
January 2022	The 12 place Integrated Specialist Provision - Autistic Spectrum Conditions (ISP – ASC) will be established at the Hermitage School site.

10. EQUALITIES IMPLICATIONS

- 10.1 An Equalities Assessment has been conducted by the LA and is attached at Appendix 3. This must be considered in detail before the Mayor in Cabinet considers the matters above, as part of his decision on whether to make prescribed alterations to the school.
- 10.2 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”).
- 10.3 The Equalities impact assessment concludes that there are no negative implications for any group if the proposal is implemented, and that there will be positive advantages for children with disabilities. In particular, there will be increased opportunities for disabled children to access mainstream provision and there will be specialist support for “high functioning” children with Autism Spectrum Conditions. This does not currently exist within Tower Hamlets, which has led to children having to travel outside the Borough.

11. OTHER STATUTORY IMPLICATIONS

(i) Managing the Impact of the Prescribed Alterations on School Staff

- 11.1 There will be no change to the existing provision for the school so there will be no significant impact on their existing roles, other than additional responsibility for Senior Leaders.
- 11.2 As new roles are being created there will be a recruitment process.

(ii) Best Value Implications

11.3 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. The funding envelope for the new integrated provision is expected to improve value for money from the High Needs Budget.

(iii) Environmental (including air quality)

11.4 The school is situated away from major roads, and close to the River Thames, air pollution levels are lower than most other schools in Tower Hamlets.

(iv) Risk Management

11.5 If this recommendation is agreed, risks of not providing sufficient suitable provision to meet SEND needs in Tower Hamlets will be reduced. Careful planning, management and evaluation in line with statutory guidance, mindful of the needs of the children, families and staff, and thoroughly addressing the considerations of the Equalities Assessment will ensure appropriate, effective and safe provision is in place.

11.6 Building alterations will need to be in place to ensure Health and Safety both for the children attending the provision and for Hermitage children before the integrated provision can accommodate more than a small number of children.

(v) Safeguarding

11.7 The report deals with the Council's approach to managing the supply of school places for the local population. The efficient supply of school places contributes to the safeguarding of children by ensuring their access to good quality, sustainable education provision.

11.8 The SLA for the new provision includes safeguarding considerations, and the commissioning of social care support, of required, by the Local Authority.

(vi) Data Protection / Privacy Impact Assessment

11.9 The proposals presented in this report have followed an initial and formal public consultation using a variety of mechanisms. All responses received through these mechanisms or made directly to Council officers or members 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.

11.10 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.

12. COMMENTS OF THE CHIEF FINANCIAL OFFICER

12.1 The additional facilities for the resource provision are included in the current Capital programme and will be funded through the utilisation of specific SEND Capital grants from the Department of Education. The revenue costs will be met through the Dedicated Schools Grant (DSG), via the High Needs Funding Block, with an expected long term avoidance in cost to the SEN Transport (general fund) by ensuring those pupils admitted to the resource base would remain in local provision and not have the need for the additional costs of both provision and travel. There is no expected cost to the general fund.

12.2 Benchmarking below was completed for the current ASD specialist provision in Tower Hamlets, an Out of Borough (OOB) specialist school with at least 5 LBTH pupils attending currently and an OOB Social Emotional and Mental Health provision, which takes pupils with ASD needs, and currently has at least 5 pupils from LBTH attending. In addition, transport costs are significantly less if pupils remain in Tower Hamlets; the table below indicates the high transport costs per pupil of out of borough 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

13. **COMMENTS OF LEGAL SERVICES**

13.1 The statutory process for school expansion (a ‘prescribed alteration’) is set out in Sections 18 and 19 of the Education and Inspections Act 2006 and in the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. Statutory guidance is given in ‘Making Significant Changes (“prescribed alterations”) to Maintained Schools’ (October 2018).

13.2 Section 149 of the Equality Act 2010 requires a local authority to have due regard to the need to eliminate discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

13.3 The proposals set out in this report comply with the above legislation and guidance.

Linked Reports, Appendices and Background Documents

- Tower Hamlets SEND Strategy
- https://5f2fe3253cd1dfa0d089-bf8b2cdb6a1dc2999fecbc372702016c.ssl.cf3.rackcdn.com/uploads/ckeditor/attachments/6072/Draft_SEND_Strategy_2020-2024_Feb_2020_.pdf
- April 28th Cabinet Report 2021
<https://democracy.towerhamlets.gov.uk/documents/g11365/Public%20reports%20pack%2028th-Apr-2021%2017.30%20Cabinet.pdf?T=10> (p493 – 528)

- **Appendices**

Appendix 1	Stage One Consultation Report
Appendix 2	Statutory Notices
Appendix 3	Equalities Impact Assessment
Appendix 4	Representation Received

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

The following document(s) has been used in the preparation of this report:

- The School Organisation (Prescribed Alterations to Maintained Schools)
(England) Regulations 2013

Officer contact details for documents:

NA