

# **Cabinet Member Decision Note**

## **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

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Author: Corporate Director - Children's Services  
Wards: All  
Parishes Affected: All

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### **1. Purpose and Reasons**

- 1.1 This Decision Note sets out the updated strategy for the allocation of capital funding specifically for provision that serves children with Special Educational Needs and Disability (SEND) in Swindon. Cabinet agreed the initial strategy as the basis for consultation on 6<sup>th</sup> December 2017 (Cabinet Minute 64, 2017/18 refers).
- 1.2 This Decision Note is necessary to approve the investment strategy following consultation in order to comply with the Department for Education (DfE) requirements to access the third tranche of funding on the 1<sup>st</sup> April 2020.
- 1.3 This Decision Note supports Priority Two of the Vision to "Offer education opportunities that lead to the right skills and right jobs in the right places".

### **2. Recommended Action to be authorised by a Cabinet Member under Delegated Powers**

#### Recommended that:

- 2.1 That the Corporate Director - Children's Services notes the responses to the consultation.
- 2.2 The draft Special Educational Needs and Disability Capital Investment Strategy attached at Appendix 1 be approved following the consultation with stakeholders.
- 2.3 The Corporate Director of Children's Services in consultation with the Corporate Director of Finance and Assets (Section 151 Officer) is authorised to retain £50,000 of SEND Capital Investment grant as an access fund for the Local Authority to commission low-level adjustments or equipment to schools as set out in paragraph 3.10 below.
- 2.4 The Corporate Director of Children's Services is authorised to spend £570K of SEND Capital Investment grant to fund 13 secondary pods/appropriate provision (or similar project) to support pupils with SEND including a £50K allocation for variations to the 2 PFI schools.

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Further information on the subject of this report can be obtained from Sophie Fletcher, 07823 525462, [sfletcher2@swindon.gov.uk](mailto:sfletcher2@swindon.gov.uk).

# **Cabinet Member Decision Note**

## **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

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### **3. Detail**

#### Background

- 3.1 The Children and Families Act 2014 places important statutory responsibilities on Local Authorities to support children and young people with SEND.
- 3.2 Swindon currently has 2171 children and young people receiving support in education provision through an Education, Health and Care plan (EHCP).
- 3.3 To support this responsibility on the 4th March 2017 the DfE announced capital allocations specifically for capital investment in provision for pupils with SEND. Swindon was allocated £977,620 over three years from April 2018 (£325,873 per year). In May 2018, the DfE announced a further share of £50m for SEND capital investment of which Swindon received £227,353 and then in December 2018, the DfE announced a further share of £100m for SEND capital investment of which Swindon received £454,707, giving a total of £1,659,680. £784,915 of this funding has previously been allocated leaving an un-allocated balance of £874,765.
- 3.4 Through the draft SEND Capital Investment Grant Fund the Local Authority wants to invest in as many schemes as possible that meet the priorities to enable a greater proportion of children with SEND to benefit from this fund.
- 3.5 In 2017 the Local Authority opened a bidding round for match funded projects in order to increase the overall level of investment in SEND provision, but also meet as wide a range of needs as possible. Over the last two phases the Local Authority has approved 41 match-funding bids. Within these bids there were a number of nurture/sensory rooms and well-being spaces, a greenhouse and purchase of laptops.
- 3.6 Following a consultation exercise (detailed at paragraphs 3.17 to 3.33 below) the consultation responses, the draft Capital investment strategy will be amended.
- 3.7 It is proposed to:
  - 3.7.1 Retain £50,000 of SEND Capital Investment grant from phase three as an access fund for the Local Authority to commission low-level adjustments or equipment to schools in order to support a placement proposed in the EHCP.

## **Cabinet Member Decision Note**

### **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

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- 3.7.2 Utilise £570K of SEND Capital Investment grant to fund 13 secondary pods/appropriate provision (or similar project) to support pupils with SEND including a £50K allocation for variations to the 2 PFI schools.
- 3.7.3 The remaining £254,765 will be available for bids, as with the previous phases match-funding scheme – focusing on Autistic Spectrum Condition (ASC) friendly sensory & therapeutic spaces in primary provision as well as all other criteria as in previous years.
- 3.8 Identification of Autistic Spectrum Disorder for pupils on SEN Support and with an EHCP in Swindon is statistically higher than seen in England (Primary: 15.8% South West, 14.2% Eng ; Secondary: 14.7% South West, 12.5% Eng) whereas we were below in 2016. This is a significant change over a short period of time. Demand for statutory needs assessments leading to an Education, Health and Care Plan continues to rise in Swindon compared to England. A high number of parents request specialist provision particularly related to children and young people with autistic spectrum disorder. The capital funding will allow investment and innovation within the mainstream sector and links to the SEND and inclusion Strategy where we have committed to the majority of children and young people with SEND attending mainstream settings.
- 3.9 The 'pod' buildings/ appropriate provision are not to increase the schools PAN (published admission number), but they are aimed at supporting the outreach offer. These will assist the schools in helping them to support children with EHCP's, which will in turn will help ease the pressures on special school placements.
- 3.10 It is proposed to set a maximum of £100,000 for bids, and the projects will require to be 25% match funded by the provider. The minimum match funding requirement is £1,000. Bids will be invited from providers between 1<sup>st</sup> September 2020 and 2<sup>nd</sup> October 2020. However, remaining funding can be allocated outside of this initial bidding window on a rolling basis and additional windows will be communicated to education providers when available.
- 3.11 A budget has been allocated for all the secondary schools to have an appropriate provision (a 'pod' building). If a secondary school wishes not to have a 'pod' but would like to adapt part of the school whilst still delivering the aims and objectives then the funds will still be approved. If a secondary school chooses not to participate in the scheme the funds will be added to the amount available for bids.
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## **Cabinet Member Decision Note**

### **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

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#### Requirements to access funding

- 3.12 The DfE will require the Local Authority to complete and publish a plan that sets out how they intend to invest their allocation, which is visible to parents, carers and other local groups. The plan for Local Authorities' SEND capital provision allocations should sit coherently with their wider plan.
- 3.13 As a result Swindon will need to complete the following actions before receiving the funding:
  - 3.13.1 A consultation has taken place with parents and carers of children with SEN and disabilities and young people with SEN and disabilities on the draft investment strategy attached at Appendix 1.
  - 3.13.2 As part of the consultation the Local Authority must work with education providers to agree how the capital can best be targeted.
  - 3.13.3 The Local Authority must confirm that the requirement to consult with parents, carers and young people has been met, included information about the other groups that have consulted.
  - 3.13.4 Publish an approved plan on the Swindon local offer page showing how they plan to invest their funding.
- 3.14 A draft strategy is attached at Appendix 1 and has been produced based on priorities for SEND identified in the emerging High Needs Funding Review, the SEND action plan and the Joint Commissioning Plan.
- 3.15 SBC consulted on the draft strategy during 13<sup>th</sup> January 2020 and 21<sup>st</sup> February 2020. The consultation involved public meetings on the proposals as well as accessing children and young people and parents through established networks.
- 3.16 Swindon Borough Council can confirm that they have met the requirements to receive the funding by conducting consultation on the drafted strategy and the special provision plan is published on Swindon's Local offer page and is updated on rolling bases.

#### Consultation Outcome

- 3.17 SBC received a positive response to the consultation receiving a total of 68 responses from parents and a range of professionals and a further 5 responses from young people.

## **Cabinet Member Decision Note**

### **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

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- 3.18 Analysing the Smart Survey results 85.29% of the people that completed the survey agreed that the Local Authority should retain a portion of funds to commission low level adjustments or equipment to schools.
  - 3.19 57.35% of people agreed that £570k of the Capital investment funds should be used to fund 13 secondary pods to support pupils with SEND.
  - 3.20 85.29% of people agreed that the remaining Capital Investment Funds should be used as a match funding scheme to target a number of smaller projects to enable more schools to benefit from the funding as like previous phases.
  - 3.21 64.71% of people agreed that the minimum level of the bid of £4,000 and the maximum £100,000 is a realistic range.
  - 3.22 63.24% of people agreed that projects should be match funded by the provider at a realistic 25% of the project cost.
  - 3.23 76.47% of people agreed that the timeframe of the 6<sup>th</sup> April 2020 to the 1<sup>st</sup> May 2020 is realistic and achievable for bids to be submitted.
  - 3.24 Analysing the STEP (a representative group of young people) survey results, 100% of the young people that completed the survey agreed that the Local Authority should retain a portion of funds to commission low level adjustment or equipment to schools.
  - 3.25 100% of the young people agreed that £570k of the Capital investment funds should be used to fund 13 secondary pods to support pupils with SEND.
  - 3.26 100% of the young people agreed that the remaining Capital Investment Funds should be used as a match funding scheme to target a number of smaller projects to enable more schools to benefit from the funding as in previous phases.
  - 3.27 The young people had concerns that the larger amount of £100,000 was too big and was most of the pot of funds they thought the maximum amount should be smaller £25,000. Their feedback also noted that if a significant amount of the money was going to be given to one project then the school must be able to show statistical evidence to prove need. Young people also felt that schools should be able to show evidence that they have consulted with young people, as there is no point in spending money on something that young people do not want and will not use. They also felt that if a bid came in that was under the £4,000

## **Cabinet Member Decision Note**

### **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

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minimum BUT could show impact then this should be considered; they were not sure why there was a minimum amount.

- 3.28 The young people felt that the 25% provider contribution towards the match-funding scheme was too high and suggested that the percentage expected to be paid by the schools should be means tested. Young people also suggested a 0% interest option be made available for schools so that they could fundraise or budget to pay the money back (in next financial year). The Council noted this suggestion.
- 3.29 Young people felt that the opening and closing dates for the applications were a short time frame especially if the school is required to get quotes from outside businesses to work out how much the project is going to cost.
- 3.30 Concerns were raised with regards to the 13 'pod' buildings/ appropriate provision. It was mentioned that not all secondary schools may want a 'pod'. The school can use the funds to make other alterations to their school which will result in supporting pupils with EHCP's.
- 3.31 Staffing of the 'pods' was raised as there was concerns that this would incur addition staffing costs for the schools through outreach workers. However schools can choose to staff the 'pods' within internal employees which will not incur any addition staffing costs.
- 3.32 A detailed report of the Smart Survey consultation can be found in Appendix 2.
- 3.33 A detailed report of the STEP consultation can be found in Appendix 3.

#### **4. Alternative Options**

- 4.1 No alternative options have been proposed based on the consultation responses. There will be a more thorough review of the alternatives when the strategy is refreshed.

#### **5. Consultation**

- 5.1 The following Opposition Spokespersons have been consulted on the recommendations of the report and their responses are also summarised below:

Councillor Carol Shelley (Opposition Group Spokesperson) responded:  
I have a number of concerns

## Cabinet Member Decision Note

### Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

---

1. 'Local Authority opened a bidding round for match funded projects in order to increase the overall level of investment in SEND provision, but also meet as wide a range of needs as possible.'

Projects that do not have the resources to match fund are potentially missed opportunities. Each project could benefit from being looked at for its overall benefit, regardless of resource. Too much reliance on the schools/ providers to put forward project, no overall strategy across the town. Equity between schools/providers an issue.

*Thorough Phase 1 and Phase 2 of the SEND Capital Investment Funding project, we have not received any feedback from any schools or settings that they have not able to match the 25% match funding. A report has been sent out to all schools giving them an insight of the projects that have been approved from low budget sensory rooms to bigger projects such as well-being centres. This will be fully investigated in the review of the project which is due to commence in September 2020.*

2. The consultation did not reach enough users, especially parents, the quality of the consultation was poor overall and therefore could not inform decision making.

*Local Authority officers tried to ensure that the Consultation reached as many different people as possible. The consultation was advertised on Schools on line, on the Local Offer page, emailed out to all schools and settings and advertised in the Governors Bulletin.*

*Local Authority officers also worked closely with the Swindon Family Voice to ensure as many parents were reached out to as possible. Officers attended various parent meetings, coffee mornings, training events offering parents support to complete the consultation either on line or paper form. Many parents responded by explaining that their children's schools was aware of the consultation and that they were going to submit a response to the consultation. A huge amount of work was done with STEP to ensure that young people also participated in the consultation.*

*Additional measures will take place with future consultations to try to ensure a better response rate particularly from parents/carers.*

## **Cabinet Member Decision Note**

### **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

---

3. 'The capital funding will allow investment and innovation within the mainstream sector and links to the SEND and inclusion Strategy where we have committed to the majority of children and young people with SEND attending mainstream settings.'

The allocation of money per school needs to be monitored, this process has not been identified.

*All successful bids are monitored and a measurement of impact assessment will be completed. We will monitor and feedback on where the funds have been allocated whether it to a mainstream or other settings as part of the overall review which will commence in September 2020.*

Having discussed these points with the Lead Member and the Local Authority officers I am happy to support this Decision Note.

Councillor Stan Pajak (Minority Group Leader) responded - I am happy to support the decision note.

Councillor Oliver Donachie (Minority Group Leader) – no comments received.

#### **6. Implications, Diversity Impact Assessment and Risk Management**

##### Financial and Procurement Implications

- 6.1 The Council has been allocated total SEND capital funding of £1.659m to date of which £0.785m has been allocated to projects leaving an un-allocated balance of £0.874m.
- 6.2 This report requests that £50k of the remaining funding is used to as an access fund for the Local Authority to commission low-level adjustments or equipment to schools in order to support a placement proposed in the EHCP. In addition the report requests approval of £570k to fund sensory PODS or similar adaptations at secondary schools
- 6.3 The balance of funding, £254k, will be used to provide further funding which is subject to a bid process as outlined in paras 3.7 to 3.11

##### Legal and Human Rights Implications

- 6.4 The Council has a responsibility to ensure that there are sufficient school places available. The Education Act 1996, section 3A requires Local Authorities to

## **Cabinet Member Decision Note**

### **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

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promote choice and diversity when carrying out their strategic duties in relation to the provision of new school places.

- 6.5 Human rights considerations have been taken into account fully in compiling this report. It is considered that the recommendations of this report are compatible with Convention rights.

#### Climate Change Impact

- 6.6 The proposals would not bring a change in service delivery and Officers believe that there is no expected effect on the Council's carbon footprint.

#### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 6.7 Implications relating to sustainability and health are included within the criteria included in the draft strategy.

#### Diversity Impact Assessment

- 6.8 A DIA for the School Place Planning Strategy was attached to the September 2016 Cabinet report, and this is applicable to the proposals in this report. A copy of the report is available on request from the report author. No implications have been identified.
- 6.9 In 2019 Cabinet agreed that there should be a tenth protected category – children in care and care leavers. The recommendations will support any of the former who may also have special education needs and therefore contribute towards ensuring wider access to education.

## **7. Consultees**

- 7.1 The Corporate Director of Finance and Assets (Section 151 Officer) and the Chief Legal Officer (Monitoring Officer) are consulted in respect of all reports.

## **8. Background Papers**

- 8.1 None

## **9. Appendices**

- 9.1 Appendix 1 - Draft SEND Capital Investment Strategy

# **Cabinet Member Decision Note**

## **Special Educational Needs and Disability (SEND) Capital Investment Strategy 2020/21**

**To: Cabinet Member for Children's Services**

**Date: 3<sup>rd</sup> September 2020**

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- 9.2 Appendix 2 - Special Education Needs and Disability Capital Investment Fund Report - 2020/2021
  - 9.3 Appendix 3 - STEP Consultation Survey Report – Special Educational Needs and Disability Capital Investment Fund: 2020/2021

### **10. Declarations of Interest**

- 10.1 Cabinet Members are reminded to consider whether they have any known interests in any of the matters referred to in this Decision Note. If such an interest exists this should be declared to the Monitoring Officer (or Committee and Member Services Manager), and they should take no part in the consideration of the Decision Note and should refer the Decision Note to the Leader of the Council instead for consideration.

### **11. Sign-off**

- 11.1 The Cabinet Member is requested to respond with 5 days of the date of this report (8<sup>th</sup> September 2020).
- 11.2 Decisions of Cabinet Members will be published in the Members' Bulletin. The Decision must not be implemented until such time that a five-day "Call-in" period has expired. This date will be specified in the Members Bulletin. If a Decision is "called-in" it will be referred to the Scrutiny Committee for consideration. It must only be implemented if the Scrutiny Committee has raised no objection. If an objection is forthcoming the matter will be referred back to the Decision-Maker.
- 11.3 The Cabinet Member is requested to indicate one of the following responses to the Recommendations set out in Section 2 of this report:

[The Decision Note will be signed digitally but redacted for publication]