

**CABINET
3 DECEMBER 2019**

HAUGHTON CHILDREN'S CENTRE

**Responsible Cabinet Member -
Councillor Paul Cruddas, Children and Young People Portfolio**

**Responsible Director -
Suzanne Joyner, Director of Children and Adults Services**

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to seek approval for Education Village Academy Trust (EVAT) to take over the site of the Haughton Children's Centre subject to a lease under the Academies Act 2010 to provide Special Educational Needs and Disabilities (SEND) placements at Beaumont Hill Academy (BHA). The use of the site will support Darlington's strategic aim to education more pupils with SEND in the borough.

Summary

2. Darlington has faced increasing demand for specialist placements for pupils with SEND. Darlington's Local Area SEND strategy aims to retain more pupils in borough rather than at high cost out of area specialist placements. An opportunity has arisen to use the Haughton Children's Centre site to increase capacity at Beaumont Hill Academy, ensuring more pupils will be able to access specialist provision locally. By taking an invest to save approach the increased capacity will ensure more pupils are educated in Darlington at a lower placement cost.
3. Cabinet agreed in 2017 that the Haughton Children's Centre be closed as part of the new Children's Centre Delivery model and to seek alternative uses for the centre with interested parties, subject to not invoking the Department for Education (DfE) clawback of the grant funding for the centre at Haughton.
4. The lease of the building to EVAT may involve a £400,000 risk of a financial clawback from DfE. The Local Authority is in discussions with the DfE to try and mitigate this risk as far as possible..

Recommendation

5. It is recommended that:-
 - (a) Cabinet approve EVAT to take over the site of the Haughton Children's Centre, on standard lease terms under the Academies Act 2010 as set out in this report.;

- (b) £400,000 is earmarked from General Fund Reserves in case the DfE clawback is enacted.
- (c) The Assistant Director Law and Governance be authorised to complete legal documents accordingly.

Reasons

6. The recommendations are supported by the following reasons:-

- (a) It supports the aims of Darlington's Local Area SEND strategy to building capacity in mainstream and specialist settings to support children and young people to be educated in their local community and to reduce reliance on out of area placements 0-25 by providing additional capacity to BHA.
- (b) It reduces the need for high cost out of area placements for pupils with SEND.

**Suzanne Joyner,
Director of Children and Adults Services**

Background Papers

Tony Murphy X5637

S17 Crime and Disorder	This report has no implications for Crime and Disorder
Health and Well Being	The use of the building by Beaumont Hill Academy will contribute to improved outcomes for children and young people with special educational needs and/or a disability in the borough.
Carbon Impact and Climate Control	There are no issues which this report needs to address.
Diversity	The use of the building by Beaumont Hill Academy will contribute to improved outcomes for children and young people with special educational needs and/or a disability in the borough
Wards Affected	Children and young people with SEND may live in any ward. All wards are affected-particularly Haughton
Groups Affected	Children and young people with special educational needs and/or disabilities
Budget and Policy Framework	This report does not represent a change to the budget and policy framework.
Key Decision	This is a key decision
Urgent Decision	For the purpose of the 'call in' procedure this does not represent an urgent matter.
One Darlington: Perfectly Placed	The report contributes to the Sustainable Community Strategy Priority 'the best start in life'.
Efficiency	There are no direct efficiencies to the Council from the information contained within this report.

Impact on Looked After Children and Care Leavers	The use of the building by Beaumont Hill Academy will contribute to improved outcomes for children and young people with special educational needs and/or a disability in the borough a number of these children are Looked After Children or Care Leavers.
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MAIN REPORT

Background

7. Darlington faces increasing demand for specialist placements to address the needs of pupils with SEND. The most recent published national data (from January 2019, published in SEN in England in July 2019) shows that 3.9% of Darlington pupils have an Education, Health and Care Plan (EHCP). This is slightly higher than the North East average of 3.3% and above the England average of 3.1%. Darlington has seen a significant rise in the total number of EHCPs in the last 5 years. The number of plans has risen from 385 in January 2013 to 741 in January 2019 and is currently at 779 (October 2019). This equates to a rise of 102% throughout this period.
8. In England 39.2% pupils with EHCPs are placed in mainstream schools compared with 34.0% in Darlington, evidencing that a smaller proportion of young people are educated in mainstream schools. Darlington also places a higher proportion of young people with EHCPs in Special Schools (43.3% compared to 38.6% across England).
9. Pressures on local capacity are leading to a high level of placements in high cost specialist schools. Darlington places 5.5% of young people with ECHPs in Independent Special Schools, compared to 3.9% across England and only 2.7% across the North East. Darlington placed 5.1% of new EHCPs in Independent Special Schools in 2018 compared to 1.9% across the North East and 2.8% in England.
10. The increase in the number of children requiring SEN support has not been mirrored by increases within the funding available. The (adjusted) High Needs Block allocations for Darlington for the last five years along with the provisional allocation for 2020/21 are illustrated in the table below. The high needs block has only increased by small amounts over the last five years, until an expected larger increase in 2020/21.

Year	Allocation (£000's)	Increase (£000's)
2015/16	11,570	
2016/17	11,800	230
2017/18	11,980	180
2018/19	12,020	40
2019/20	12,841	821
2020/21	14,393	1,552

11. At the end of 2018/19, Darlington had a deficit on its high needs block of £3.2 million which was the combination of overspend in 2018/19 and 2019/20. The table below shows the difference between high needs spend and the high needs block.

Year	High Needs Block (£000's)	Expenditure (000's)	Block shortfall (000's)
2015/16	11,570	11,868	298
2016/17	11,800	12,464	664
2017/18	11,980	13,902	1,922
2018/19	12,020	14,151	2,131
2019/20	12,841	14,625*	1,784

*Estimated

12. As can be seen in the above table, each year the expenditure on high needs has been in excess of the high needs block allocation. This has resulted due to increased demand, complexity of need and a lack of local capacity to support children.
13. The Local Area SEND strategy has been written to respond to the key priorities set out in the SEND code of practice, and highlights local strategic aims associated with each priority area for implementation. These are set out below:
- Early identification of need ensuring that the right children and young people are in the right placement with the right support.
 - Early identification and intervention is essential to prevent underachievement and improve outcomes and improve children's life chances.
 - Building capacity in mainstream settings to enable children and young people to be educated in appropriate settings locally.
 - Children and young people with SEND need to have good quality support in their mainstream and local settings so that they can achieve their academic potential and maintain their self-esteem and confidence.
 - Ensuring that children and young people are educated in their local community and have an effective preparation for adulthood and access to work and leisure opportunities.
 - Being educated in their local area enables pupils with SEND greater independence and a sense of contributing and belonging to their local community. Children and young people with SEND tell us that they want to make friends locally and access local facilities with their families.
 - Increasing achievement and improving outcomes for children and young people with SEND.
 - Address the underperformance in educational achievement across the Key Stages but particularly at Key Stage 4 through targeted interventions, appropriate curriculum, high quality training and effective quality assurance, monitoring and moderation.
 - Focus on effective collaboration, co-production and communication.

- (j) Ensuring that all policies, practices are co-produced with all stakeholders and with the active involvement of parent/carers and children and young people.
 - (k) Achieving 'Best Value' (human, physical and financial resources) from all our services.
 - (l) Effective, efficient and co-ordinated services that meet the needs of children and young people with SEND and their families. With increasing demand, we must ensure that the right resources are going to the right children in the right place.
14. The SEND Strategy sets out our vision in Darlington for a well-planned continuum of provision from birth to age 25 that meets the needs of children and young people with SEND and their families, and that we expect every early years' setting, post 16 provider, mainstream school and academy to have the capacity and confidence to deliver effective provision. The strategy aims to identify children with SEND at the earliest possible opportunity and provide them with the support they need to make good educational progress and achieve good outcomes so that they and their families feel well supported. It recognises the importance of providing good training for all staff, whichever setting they are working in, using the best expertise and knowledge, sharing best practice and by promoting a model of collaborative working and shared responsibility. The strategy aims to ensure education, care and health services are delivered in an integrated way so that the experience of families accessing services is positive and children's and young people's learning and development, safety, well-being and health outcomes are well promoted alongside their educational progress and achievement.
15. The opportunity to utilise the site of the Haughton Children's Centre, which is closely located to Beaumont Hill Academy, will support Darlington to meet the key strategic aims of the Local Area SEND strategy to ensure that children and young people with SEND are educated in their local community and achieve best value from resources.
16. Beaumont Hill Academy is a specialised academy serving pupils from an age range of 2 to 19 which is rated "Good" by Ofsted. Beaumont Hill is part of the Education Village Academy Trust (EVAT.) The Local Authority and EVAT will be working together through discussions with the Regional Schools Commissioner (RSC) to introduce additional pupil numbers at Beaumont Hill Academy through the use of the Haughton Children's Centre.
17. In September 2017, DBC's Cabinet approved a new Children's Centre Delivery Model with one main hub and other delivery points. Part of the approval was to close Haughton Children's Centre and to seek alternative uses for the centre with interested parties, subject to not invoking DfE clawback of the grant funding for the centre at Haughton.

Financial Implications

18. A grant from the DfE of £556,000 was received for Haughton Children's Centre with a clawback period in place until 2035. Clawback is the recovery of grant funding awarded for the original establishment of the centre, if we cease to use the asset for the original purpose of the grant. The risk at time of writing the report is anticipated to be in the region of £400,000

19. The DfE have been approached with details of the proposed use of the site for SEND placements. The initial advice received is that the condition for the Sure Start Early Years & Childcare Grant (SSEYCG) requires any capital assets funded by the grant to be used for predominately early years' purposes (0-5 year olds). Consequently there is a risk that a clawback of funding will be invoked
20. Discussions are ongoing with the DfE to try and mitigate any clawback if possible with regard to the future use of the site, however we are not anticipating receiving a decision in the near future. It is therefore prudent to earmark £400,000 from the Council's General Fund Reserves in case of clawback.

Legal Implications

21. The grant of a lease will be a disposal of an interest in land which may give rise to a claim for clawback by the DfE as funder unless it is satisfied that the use of the funded assets will be suitably similar to that for which the funding was provided. In this case the DfE may require commitment from the Council and EVAT as to the continuing use of the funded asset for the duration of the lease and the remainder of the clawback period.
22. Under Schedule 1 of the Academies Act 2010, if land owned by the Local Authority becomes in educational use by an Academy, the Local Authority may not change the use without the consent of the Secretary of State. The building would therefore cease to be a council asset.
23. Section 123 of the Local Government Act 1972 deals with the statutory requirements for a Local Authority in disposing of land. In general, the Council is required to achieve the 'best consideration reasonably obtainable' when it is disposing of an interest in land. In this case the premium or rent is likely to be less than the open market value for the land to the extent that any use must comply strictly with DfE requirements on use.
24. If the Council seeks to dispose of land at less than the market value, then it has to obtain the consent of the Secretary of State for Communities and Local Government. However, the Secretary of State has issued a number of 'general consents' i.e. a set of conditions which, if they apply to a particular transfer, means that the Council does not need to obtain specific permission to transfer at an 'undervalue'. The most important of these consents is the General Disposal Consent 2003 ('the General Consent') which permits the Council to dispose of land at less than its market value, without the need to seek specific permission from the Secretary of State, provided that two tests are met:
25. Firstly, the purpose for which the land is to be transferred is likely to contribute to the 'promotion or improvement' of the economic, social, or environmental well-being of the area; and promote economic/community benefit as below and to the extent that the arrangements will fulfil the Councils responsibilities as follows:
 - (a) By creating additional placements at BHA which meet needs of pupils with SEND which Darlington Borough Council has a duty to provide and for which there is a shortfall.
 - (b) By reducing the need for high cost out of area placements for pupils with SEND.

- (c) EVAT is keen to develop a lease arrangement which would enable community groups, parental groups and other schools to use the building at any time it is not in use for educational purposes. Availability is envisaged on evenings, weekends and school holidays. Local ward councillors have also identified to EVAT a demand for meeting space and function rooms which could be accommodated within this proposal.

- 26. Secondly, the difference between the market value of the land and the actual price paid for the disposal (if any), is not more than £2,000,000.
- 27. Members are invited to agree that the matters referred to in para 23 (a) – (c) will contribute to the ‘promotion or improvement’ of the economic, social, or environmental well-being of the area which satisfies the first test outlined in para 21.

Valuation

- 28. It is anticipated that the open market value of the Children’s Centre will be in the range £150,000 to £200,000. Whilst a lease to EVAT under the Academies Act would have to be at a peppercorn rent, and therefore the asset value is reduced to very little, the loss in value is less than the £400,000 potential clawback if we were to try to sell for a commercial use and obviously much less than the £2M undervalue permitted by the General Disposal Consent.

Proposed Lease Terms

- 29. Under the Academies Act 2010, the basic lease terms for a grant of lease to EVAT will be a 125 year term at a peppercorn rent with EVAT being responsible for all repairs and maintenance, running costs, insurance, grounds maintenance and any other outgoings. The Council may have a liability to pay EVAT’s legal costs incurred in drafting and executing the lease but the Council will then have no ongoing financial responsibilities for the building going forward until the lease expires