



Officer Decision Record – Key Decision

Key decisions taken by an officer are subject to the 5 day call in period from circulation to Members, and therefore the decision will be released for implementation following the call-in period and no call in being received

1. Cabinet date and copy resolution this key decision relates to

On 21st September 2022 cabinet approved a decision for North East Lincolnshire council to acquire land to enable the Department for Education (DfE) to build the local authority a new free school for children with social, emotional, and mental health (SEMH) needs.

CABINET DECISION 21st SEPTEMBER 2022

DN.49 RESOLVED

1. That the grant to proceed with the application process for the SEMH Free School and the bid submission in October 2022 be approved.
2. That delegated authority be given to the Director of Children's Services, in consultation with the Portfolio Holder for Children and Education, subject to the application being successful:
 - a) To accept the DfE funding on behalf of the Council
 - b) To acquire the land at an assumed minimal cost to the LA
 - c) To deal with all matters arising from, and ancillary to, the above, as set out in the report submitted.
3. That the Assistant Director Law, Governance and Assets (Monitoring Officer) be authorised to execute all documents in connection with the above recommendations.

Following cabinet approval NELC was successful in its bid for a new specialist free school .

Subsequently the Director of Economy, Environment and Infrastructure on behalf of the Director of Children's Services has progressed the negotiations with Lincolnshire Housing Partnership (LHP) to secure the land deal at minimal cost to the Council.

2. Subject and details of the matter (to include reasons for the decision)

North East Lincolnshire does not currently have a designated Social Emotional Mental Health (SEMH) special school for children and young people in receipt of Education Health & Care Plan (EHCP). The new school to be built by the DfE is a key strand in achieving the 2024 SENDAP Sufficiency Strategy. Children and young people with SEMH identified as a primary need on their EHCP currently attend one of our two local independent providers of specialist SEMH provision, or out of county places in the independent sector. The Council has a large number of young people educated outside of its mainstream schools. Places at these establishments comes at a significant cost to the Local Authority and create a pressure within our Dedicated Schools Grant (DSG).

DfE advertised Wave 3 of special free schools, provided an opportunity to local authorities to bid for new special free schools. The Council's bid was successful, and we have been working with the DfE to progress the SEMH free school since this time. Heads of terms have now been agreed with the DfE setting out the terms of this project. The Council are to enter an agreement for lease with the DfE conditional upon;

1. The DfE obtaining planning permission to build the school;
2. The LHP land being transferred to the Council; and
3. The Council agreeing a capital contribution with the DfE, to cover any abnormal costs of the development of the site. This will be subject to its own governance process including approval through the Business Development Group once these abnormal costs are known.

Wellspring Multi-Academy Trust were selected and announced as the sponsor of the new free special school in March 2024 and the lease of the school site will ultimately

be granted to the Academy Trust. The lease will be for a 125 year term and will be based on the DfE Model Lease.

As part of the application process an options appraisal was undertaken to identify a suitable piece of land on which to build a new specialist free school.

Land in the ownership of LHP was identified as the most suitable option. The land is situated on Freeman Street and previously contained 3 of the former 6 high rise dwellings which were all demolished in 2018. A small piece of land in the Council's ownership registered at HM Land Registry with title number HS358990 will also make up the new school site. Discussions have been held with LHP and we have now reached agreement regarding the terms of the land transfer. The land transfer will have provision for the land to be transferred back to LHP should the site remain undeveloped for a specified period of time. LHP will also have a right of first refusal over the land in the event the educational use of the site ceases. Any transfer to LHP or a third party will be subject to overage provisions triggered on the disposal of the land for commercial, non-educational and non-housing related uses. The overage period will be for a 50 year term.

3. Decision being taken

That the Director of Children's Services, in consultation with the Portfolio Holder for Children and Education:

- a) enter into and complete the agreement for lease (subject to understanding the Council's capital contribution to the project and this going through its own governance process) with the DfE and also the lease to the Academy trust; and
- b) complete the land transfer subject to an overage agreement with LHP.;

4. Is it an Urgent Decision? If yes, specify the reasons for urgency. Urgent decisions will require sign off by the relevant scrutiny chair(s) as not subject to call in.

No

5. Anticipated outcome(s)/benefits

Acquisition of the land from LHP will enable the project to proceed, namely for DfE to build a new free special school to support children with special educational needs,

specifically Social, Emotional and Mental Health needs. This new school is critical to supporting the delivery of the Councils approved SENDAP Strategy and SENDAP Sufficiency Strategy, and will better support our children to receive specialist support in a local education setting, rather than travelling out of town and being disconnected from their family and friends. Local provision will also better support children and young people in their independence and transition to adulthood.

The new setting will be part of our wider local provision in terms of ease and speed of transitions for those children and young people who may require this type of support.

The local school will secure greater value for money from the High Needs Block (HNB) of the Dedicated Schools Grant (DSG) whilst also seeking to reduce transport costs. Per pupil place, the new school will be a lower cost than out of area placements and will therefore also contribute to future revenue cost avoidance, reducing and managing the DSG deficit.

The development of this site is part of the wider regeneration of the Freeman Street area and will also support the green agenda to bring opportunities to the wider community in that area.

6. Details of any alternative options considered and rejected by the officer when making the decision (this should be similar to original cabinet decision)

Do nothing – not to enter into land transfer agreements, or agreements with DfE or lease the land as part of the academies transfer. This is not a recommended option as this will not achieve the desperately need educational places for our NEL children and young people, support our sufficiency strategy and will have significant future revenue spend implications. The options analysis undertaken identified this as the most suitable site.

Proceed but with different land deal terms or DfE terms – this option is not recommended as the land deal terms are mutually beneficial to NELC and LHP. NELC have worked with the DfE to identify beneficial terms

7. Background documents considered (web links to be included and copies of documents provided for publishing)

None

8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons

No

9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)

None

10. Monitoring Officer Comments (Monitoring Officer or nominee)

The above decision is consistent with the will and expectation of Cabinet.

11. Section 151 Officer Comments (Deputy S151 Officer or nominee)

There are no direct financial risks of the proposal given the land is being acquired at nil cost.

The establishment of a new SEMH Free School on the land will increase local special school provision reducing the need for more costly out of borough placements.

12. Human Resource Comments (Head of People and Culture or nominee)

There are no direct HR implications arising from the contents of this report.

13. Risk Assessment (in accordance with the Report Writing Guide)

The land is being acquired at nil cost resulting in no initial financial risk. The Council's capital contribution will be known and agreed (subject to undergoing the relevant governance processes) prior to entering into an agreement for lease with the DfE. The DfE will produce a specification for the build, secure a contractor and project manage the build. The school will then be transferred to the appointed trust (Wellsprings Academy Trust) to manage under the same arrangements that all our academy schools operate.

Should the new school not go ahead, the agreement to acquire the land from LHP contains a requirement that should the school not go ahead, the land will revert back

to LHP, therefore minimising any future maintenance costs for the council in owning a piece of unused land.

There are significant multi million pound revenue financial risks should delays occur or should the new school not go ahead, as children and young people will have to be educated in more expensive placements.

There are significant reputational risks with DfE, the appointed Academy Trust and the community if NELC are unable to secure the land as part of the project, and delay or stop the opening of the new school.

14. Has the Cabinet Tracker been updated with details of this decision?

Yes

15. Decision Maker(s):

Name: Rob Walsh

Title: Chief Executive

Signed: REDACTED

Dated: 26.07.24

16. Consultation carried out with Portfolio Holder(s):

Name: Cllr Philip Jackson

Title: Leader

Signed: REDACTED

Dated: 26th July 2024

17. If the decision is urgent then consultation should be carried out with the relevant Scrutiny Chair/Mayor/Deputy Mayor

Name:

Title:

Signed:

Dated:

Key Decisions are defined in the Constitution as:

A decision (whether taken collectively or individually by members) which is likely:

- (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards.

A decision will be considered financially significant if:

- (i) in the case of revenue expenditure, it results in the incurring of expenditure or making savings of £350,000 or greater;
- (ii) in the case of capital expenditure, the capital expenditure/savings are in excess of £350,000 or 20% of the total project cost, whichever is the greater

In determining whether a decision is significant in terms of its effect on an area comprising two or more wards, consideration shall be given to:

- (i) the number of residents/service users that will be affected in the wards concerned;
- (ii) the likely views of those affected (i.e. is the decision likely to result in substantial public interest)
- (iii) whether the decision may incur a significant social, economic, or environmental risk.