Appendix E

Children's, Young People and Education Scrutiny Committee Report

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Ash Field Academy Residential Provision – Strategic Review

Date: 25 October 2022

Lead member: Cllr Elly Cutkelvin

Lead Strategic Director: Martin Samuels

City Mayor

Useful information

- Ward(s) affected: All
- Report author: Clare Nagle and Sophie Bower-Scott
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- Report version number: v3

1. Purpose

1.1. The purpose of this report is to provide the Children's, Young Lead and Education Scrutiny Commission with an overview of a strategic review of the Residential Provision at Ash Field Academy and associated consultation proposal to cease the funding with effect from September 2024. A copy of the consultation documentation is detailed at Appendix 1.

1.2. The service is currently funded from the High Needs Block grant, which is awarded to schools for educational purposes, although there are exceptions which are detailed at paragraph 2.5.

1.3. There are currently significant pressures on the High Needs Block grant monies, due to the increase in the number of children and young people with special educational needs and disabilities being approved for Education, Health and Care Plans, which places a statutory duty on local authorities to provide support.

1.4. The review concluded that whilst the residential provision was highly regarded, there was no clear evidence to demonstrate the outcomes it achieves could not be delivered within the daily school curriculum.

1.5. Therefore, the Local Authority commenced a formally consultation exercise on Monday 26 September 2022, to discontinue funding for this provision with effect from 1 September 2024 as detailed at Option 3.

2. Summary

2.1. Ash Field Academy provides education and support to children and young people between the ages of 4 to 19 years of age with additional learning, communication and sensory needs, ranging from profound and multiple learning disabilities to moderate learning disabilities. All pupils at the school have an Education, Health and Care Plan (EHCP).

2.2. The school has capacity for 160 pupils and provides overnight residential provision for up to 18 pupils per night, for 4 nights a week throughout term-times, enabling 22% - 28% of the school population to access the provision annually. The annual cost of the provision for 2021/22 was approximately £407k. Ash Field Academy has reserves of over £2m.

2.3. The provision is only accessible to Ash Field Academy pupils and not the wider Special Education Needs and Disabilities (SEND) population of over 1,000 pupils across all special schools. The authority has a legal duty to provide short breaks / respite support for children and young people with SEND, which is provided through the council's Disabled Children's Service.

2.4. The terms of reference for the review of the provision at Ash Field Academy were agreed with the Head Teacher and Chair of Governors. The review took place between January and March 2022, involving the school staff, pupils, parents, SEND Services and Children Social Care. Reviewing Officers would like to note the Academy have been highly co-operative throughout the review process.

2.5. The review highlighted that the residential provision was highly regarded by parents / carers and whilst there is an acknowledgement in the Children and Families Act 2014 (annex 3 of the Code of Practice) that certain types of health or social care support may be considered as educational and training. This requirement would need to be recorded in Section F of a child's EHCP, meaning the local authority would be required to ensure this provision was available. None of the children or young people attending Ash Field Academy have this requirement documented in their EHCP.

2.6. A discussion has taken place with the Academy to explore options for expanding the provision to make it accessible as a short break/ respite provision beyond its pupils. The Principal and Governors felt this was moving away from its primary focus and therefore not an option they wanted to consider.

3. Recommendations

3.1. The Children's, Young People and education Scrutiny Commission is recommended to:

a) provide feedback / comment on the outcome of a strategic review of the Residential Provision at Ash Field Academy

b) to note that a formal 12-week consultation exercise commenced on 26 September 2022

c) to provide feedback / comment on the proposal to end the funding on 1 September 2024

4. Supporting information including options considered:

Background

4.1. The purpose of the residential review was to consider:

a) the provision/ service delivered to pupils
b) cost of operating the provision
c) the impact and outcomes the provision offers to the pupils
d) alignment to the strategic priorities of the local authority

4.2. Ash Field Academy has had a residential provision since 2002, which was rated as Outstanding by Ofsted earlier this year.

4.3. The school has almost 160 pupils with additional learning, communication and sensory needs, ranging from profound and multiple learning disabilities (PMLD) to moderate learning disabilities (MLD). All pupils at the school have an Education, Health and Care Plan (EHCPs).

4.4. The residential provision is available for up to 18 pupils per night in a range of single, twin and triple rooms, alongside a dedicated flat to develop independence skills. The provision is staffed by a range of support staff, including waking and sleeping night staff.

4.5. The review took place between January – March 2022 and the approach and details of the review is outlined in, and has involved:

- Qualitative evidence from school staff, school pupils, parents and wider stakeholders, including case studies.
- Quantitative data provided by the school and from school census data.

Review Findings

4.6. The provision enables pupils to interact with friends outside of the school environment, as the support of staff and the facilities are able to meet their disability needs. There is a varied afterschool programme for pupils, and structured activities to the evening, including sports and music clubs. The independence flat supports pupils to learn shopping, cooking and washing skills.

4.7. Each of the pupils have their own plan, where there are identified targets to support their independence goals. One case study provided by the Academy, identified a pupil who had attended the provision from the age of 8 years old. He had developed various independent skills more recently wanted to hoist himself and dress independently. With support of staff, he was able to achieve this goal.

4.8. The Academy also offers extended days to pupils which are designed to support pupils to access overnight stays. There is generally up to 2 extended day places available each evening.

4.9. Pupils, teachers and parents can request a stay at the facility and a ‘placement criteria’ is in operation to help manage demand and identify pupils from disadvantaged backgrounds, as priorities for attending the provision. There is some flexibility, and the Academy will support families in the case of emergencies. As of February 2022, there was a waiting list of 16 pupils wishing to attend the provision

4.10. The provision also offers an opportunity for pupils to take residential visits in the UK and has included trips to Norfolk and Scarborough in recent years. Whilst this provides an excellent opportunity for pupils, this is a short break opportunity rather than education provision. The residential provision does not close during school trips and additional staff are used to deliver both activities. The Academy confirmed parents are asked to contribute to these trips up to £200, should they be able do so.

Cost of operating the provision

4.11. The cost of operating the provision is based on a modelling exercise using information provided by the academy, because the existing funding is provided as part of the banded rates paid to the school for all pupils, rather than a lump sum.

	2019-20	2020-21	2021 – 2022 (estimate)
Staffing	£172,215.64**	£177,898.76	£184,303.12**
Leadership Staffing	£147,413.36**	£152,278.00	£157,760.01**
Residential Trip Expenses	£23,430.16*	£23,664.46	£24,256.07*
Equipment maintenance (inc. hoists, intercom, urinal, bath, beds)	£2,601.19*	£2,627.20	£2,692.88*
Running costs (inc. TV subscription, building maintenance, heat & light, laundry, Ofsted, PPE)	£36,484.16*	£36,849.00	£37,770.23*
Total	**£382,144.51**	**£393,317.42**	**£406,782.31**

Table1: Core budget for Ash Field Residential Provision

4.12. To note on Table 1 above

- ** an average public sector pay inflation of 3.3% in 2020 and 3.6% in 2021 have been used to calculate estimated staffing and leadership costs in 2019-20 and 2021-22 years.
- *the Consumer Prices Index including Owner Occupied Housing Costs (CPIH index) has been used to estimate all other costs (including those relating to residential trips) in 2019-20 and 2021-22, at rates of a 1% inflationary increase in 2020 and 2.5% in 2021.

4.13. There remains substantial increases year on year for the running costs of the provision, based on the information the Academy were able to provide as part of this review. Of note the residential trips are substantial due to the staffing costs for this activity, whilst also maintaining staff to running the residential provision at the same time.

4.14. During a typical evening there are approximately 7-10 staff available to support the pupils. The hours worked are both fulltime and part-time, and a small proportion of the staffing budget is also allocated to ‘on-call’ allowances for the Principal and Deputy Principal. It should be noted staff provide all of the medical support, such as feeds for the pupils throughout the stay.

School Feedback

4.15. The Academy have provided case studies evidencing the impact the provision has on its pupil's wellbeing, and extensive feedback from both residential staff and teaching staff across Ash Field Academy. Reviewing Officers also met with staff whilst visiting the provision.

4.16. Feedback was received from 11 residential staff members and 10 school staff members. The information provided identified their extensive commitment to the provision and recognition impacts for the pupils in terms of their independence, social skills by providing a safe space to develop these skills. Furthermore, it enabled children to spend time with friends which they wouldn't normally have the opportunity to do, out of the school environment. Whilst school staff also stated the provision offers the first taste of independence away from parents in a caring and supported environment, enabling pupils to take greater responsibility for their own needs under supervision.

4.17. When considering safeguarding of pupils staying within the provision, information was shared with the Reviewing Officers identifying the approaches taken by staff around several safeguarding incidents. In all cases the staff followed identified procedures and addressed concerns. The Academy also noted it accepted pupils at short notice following requests from a parent and Children's Social Care, as the provision was identified as the most suitable place for the child at that time.

4.18. Furthermore, staff commented, looking after pupils with physical disabilities and complex medical needs can be challenging for families, therefore by having access to such a provision supports families from going into crisis, by offering a safe environment for their child.

Pupils Feedback

4.19. A number of pupils were met by reviewing Officers during a visit to the provision. Pupils and staff engaged with one another respectfully but playfully, and there was no sense of anyone having "disabilities", just difference. The children said they enjoyed staying at the residential provision, spending time away from their parents, seeing their friends outside of school time and being able to do things more independently for themselves.

4.20. An older child described how they had learnt to cook their own meals with ingredients they had selected and purchased themselves. They were particularly proud of having learnt how to chop vegetable ingredients without needing assistance, despite having limited use of their limbs.

Parents Feedback

4.21. Twenty-four parents provided extensive responses to questions as part of this review to gather their views and feedback on the impact and outcomes the provision provides for their child, themselves and their families. Whilst all mentioned the invaluable respite that the provision offers to both parents, siblings, and the children themselves, they also highlighted the improvements in their children's social skills, emotional wellbeing, and confidence to become more independent.

4.22. Several parents mentioned being the sole carer for their child/children, and the importance to them both physically and mentally of having a period of respite. Another provided extensive feedback in that their daughter's communication had improved through the promotion of using an electronic device in the residential provision, allowing her to answer more questions and become more expressive in the classroom.

CLASS feedback

4.23. A presentation was given to CLASS, (the City of Leicester Association of Special Schools) in September 2021, which explained the Council's approach to examining the need for SEND residential provision. This is the same methodology used for a review of another SEND residential provision in the city.
4.24. One member of the group noted from past experiences within another local authority, that the closing of a service in a previous school they worked at had a detrimental impact on those who used the school and the schools' overall outcomes. However, it should be noted, there are pupils at two other special schools within the city with similar health and medical needs, who do not have access to residential facilities, who are therefore disadvantaged, and their outcomes impacted.

4.25. The group raised a query regarding equality of accessing, acknowledging only those pupils at the school were able to access the provision, and there was limited access to the council's respite provision at Barnes Heath House.

Alignment to the strategic priorities of the local authority

4.26. Children's Social Care, Special Education Needs and Disabilities (SEND) Services were contacted as part of this review to gather their feedback and views on the service and strategic alignment. Whilst the provision is seen as beneficial to children and young people attending Ash Field Academy, it is not equitable to other pupils with SEND needs.

Children's Social Care Service

4.27. Details of the pupils accessing the residential provision have been crossed referenced with Children Social Care information. Several the pupils do have identification references; however, none were open to Children's Social Care as a matter of concern.

4.28. Feedback from Children Social Care confirmed that whilst the provision is seen as beneficial to children and young people with SEND needs attending Ash Field Academy, it not something they would want to directly commission for Children Looked After with SEND or Children in Need.

Potential Impact of removing the funding

4.29. If the funding for the residential provision at Ash Field Academy was removed and the facility was to close, it is possible that the Disabled Children's Service, would see an increase in demand for short breaks / respite support. At present there are limited places at Barnes Heath House, however, the Council is in the process of reviewing its short breaks / respite provision, which includes a review of the current 'offer', and an opportunity to work with health to increase and fund the provision in the

city. This work is likely to be concluded in early 2023, and therefore would be aligned to the timeline if Option 3 was agreed, meaning that the funding for Ash Field Academy would end in September 2024 as new services come online. (Although it is not clear at this time if Ash Field Academy would cease their residential provision, so there may be no impact).

4.30. As previously explained, options regarding the use of the residential provision have been discussed with Ash Field Academy, potentially widening access to more pupils from across the City, and with different complex health needs. This was taken into consideration by the Principal and Governors, however they felt this moved away from their focus as an education provision, and would require extensive work to meet regulatory standards, therefore did not wish to explore this further.

Conclusion

4.31. The residential facility at Ash Field Academy is undoubtedly an excellent provision, as identified by Ofsted, and the children and young people benefit from accessing it. However, the educational benefits are not clear, and the learning or Preparing for Adulthood activities could be part of the curriculum, which could easily be transferred into the school day. Also none of the children or young people at Ashfield have a statutory need for this requirement detailed in their EHCP.

Options/recommendations

4.32. The residential provision is and always has been part of the offer for pupils attending Ash Field Academy. It is recognised as outstanding by Ofsted and offers a unique opportunity for children with complex physical disabilities and medical needs, helping to develop their independence skills as they prepare for adulthood however, it is useful to consider:

- Can we afford to give funding to a limited number of pupils or spread the funding across a wider number of children and young people in the city?
- What would be the implication and demand on other services such as Barnes Health House provision, if this facility was not available?

4.33. It is proposed there are 3 options to be considered for the future of this provision, following this strategic review.

Option 1: Continue to fund whilst an alternative funding (rather than High Needs Block funding) is sort, with support from the Local Authority	
Benefits of option	**Risks of option**
• Provision is retained to support pupils and their families. • Outcomes of residential provision will improve services to help children with preparation to transition into adult services or independent living. • Will help increase attainment levels for students who use the service. • Limited demand on wider respite/ short breaks services managed by the Local Authority.	• There is a risk, that alternative funding sources are unavailable resulting in closure of the service. • There is a risk of closure of the provision, potentially resulting in an increased demand for local authority services. • There is a risk of staff redundancies or organisational review may be triggered.

• School will have greater autonomy in managing and developing the provision. • Opportunity for parents to contribute for pupils to stay at the provision	• There is a risk more children and young people are not well prepared for adulthood and independence • The High Needs Block in year overspend continues to be very significant which is unsustainable and the LA is already in discussions with the DfE regarding a deficit reduction plan. Expenditure within the block has to be prioritised and expenditure not for direct educational purposes cannot be a priority.
Option 2: Continue to fund the provision via the General Fund budget	
Benefits of option	**Risks of option**
• Ash Field Academy pupils (and their families) continue to have access to residential provision, develop and build their independence skills in preparation for adulthood. • There is unlikely to be an increase demand in other local authority services such as Barnes Heath House or Short Breaks • Ofsted have continually given the school an outstanding rating, therefore retaining the provision may maintain that good inspection outcome.	• The General Fund budget is already overspent, and the Council could not justify funding a residential provision that is not a legal requirement at a time when the council's finances are under serve pressure • The service is not open to the wider SEND population, and therefore not equitable • There is a risk that there is no clear accounting for the funding of the provision, with operational costs linked fluctuating use
Option 3: Remove the funding with effect from 1 September 2024	
Benefits of option	**Risks of option**
• Provides the school time to develop their business model/service specification. • Provides the school time to seek alternative funding • Greater equality of provision is maintained across the wider SEND population.	• There is a risk of adverse publicity and reputation risk for the local authority • Possibility of staff being made redundant • There is a risk the local authority will see an increase in demands for other services, although this will be mitigated via the review of Councils Short Breaks / Respite service • Less positive outcomes, e.g. as they transition into adulthood and have less skills requiring greater social care support in the community.

4.34. It should be noted that Ash Field Academy were not part of the Re-alignment of Leicester City Special Schools in 2020-21, however it was agreed the Academy's funding would be reviewed at a later date. This report focusses specifically on the

Residential element of funding the Academy receives from the High Needs Block and is separate to an ongoing banding review.

5. Details of Scrutiny

5.1. The Principal and Chair of Governors have been engaged in the proposal to consult on ending the funding of the residential provision.

5.2. The Schools Forum and union representative at Ash Field Academy were appraised of the proposal on 21 September 2022

5.3. A report will be scheduled for discussion at the Children's, Young People and Education Scrutiny Commission meeting on 25 October 2022.

6. Financial, legal and other implications

6.1 Financial implications

6.1.1. If the proposal to be consulted upon of ending the funding for this residential/respite provision at Ash Field then, after the transitional period, expenditure from the High Needs Block would be lower by £0.4m from 2025/26 onwards than it would otherwise be.

6.1.2 If the decision is taken, following consultation to end the funding of the residential/respite provision this does not need approval from the DfE.

6.1.3. For context, the cumulative overspend from the Dedicated Schools Grant (DSG) as a result of previous year's overspends from the HNB was £3.6m at 31 March 2022. This followed an in year overspend of £6.1m from the HNB in 2021/22. It is forecast that the cumulative deficit will rise to £9.3m by March 2023 as a result of continuing rising demand for EHCPs and SEN placements which outstrips increases in HNB funding. This is unsustainable and the LA is already in discussions with the DfE regarding actions to reduce the deficit through a deficit management recovery plan. Expenditure from the HNB needs to be prioritised and this report indicates that the provision is not educational and therefore is not a priority. The LA's own financial position excluding the DSG is such that the LA could not afford to fund this provision.

Martin Judson, Head of Finance

6.2 Legal implications

Part 3 of the Children and Families Act 2014 sets out the duties placed on Local Authorities for children and young people in England with SEND. High Needs Block (HNB) funding provides the funding for support packages for an individual with special educational needs in a range of settings. The purpose of the HNB is to ensure equality and equity of opportunity for all children and young people irrespective of their need.

It should be noted that some of the decision-making around SEN provision, particularly the level of provision and type of placement to be provided under an EHCP, can be determined by the SEND Tribunal regardless of the authority's position. If educational provision is specified in an EHCP, the local authority is under a duty to secure that. It is therefore important to give consideration to whether the residential provision is specified in any individual EHCPs.

The report identifies options where potential savings can be made. There have been a number of recent legal challenges to local authorities seeking to make savings in this area. When taking decisions, the Council therefore needs to be mindful of the welfare of the children and young people who may be affected and not simply seeking to address financial concerns.

Julia Slipper, Principal Lawyer (Education & Employment), tel: ext 6855

Advice on consultation has been provided outside of this report, legal services can provide detailed advice on a consultation process as required. Generally those engaged in the consultation should be invited to comment on the proposals and put forward alternative suggestions. The consultation process must be meaningful, fair and proportionate to the potential impact of the proposal. Consultation must be made at a time when the proposals are at a formative stage –for the Authority to undertake meaningful it needs to consult at a stage where our mind is still open to change and the responses would therefore be able to influence the Authority's decision. The Authority is entitled to consult upon a preferred option, provided it has not genuinely made a decision as to the way forward and there is the genuine potential for that preference to change as a result of the consultation. The result of the consultation should be analysed, prior to any final decision being made, to ensure that any decision making is lawful, follows a fair process and is reasonable.

The Public Sector Equality Duty requires the Council to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. Any proposed consultation should be used to help identify where the proposal might be needed to take account of the impact of those affected and to ensure continued equality of opportunity for those affected.

Mannah Begum, Principal Lawyer (Commercial) Ext: 1423.

6.3 Climate Change and Carbon Reduction implications

No climate change implications"

6.4 Equalities Implications

Under the Equality Act 2010, public authorities have a Public-Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't. The Public Sector

Equality Duty cannot be delegated and therefore responsibility will remain with the Council.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

The Act also sets out the legal obligations that schools, early years providers, post-16 institutions, local authorities and others have towards disabled children and young people:

This report presents findings from a strategic commissioning review of Ash Field Academy's residential provision and presents three options for the future delivery of the provision for consideration. Those most likely to be affected by any change are likely to have the protected characteristics of age and disability. Impacts on staffing may well be for people from across several protected characteristics.

In order to ensure that any potential equalities implications are considered and whether any of the options would disproportionately impact any specific protected characteristic/s it will be conducive to carry out an equality impact. Findings from any formal consultation should inform the equality impact assessment which should be an iterative process and should inform decision making.

Equalities Officer, Surinder Singh, Ext 37 4148

6.5 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

None

7. Background information and other papers:

None

8. Summary of appendices:

A copy of the consultation documentation is detailed at Appendix 1.

9. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

No

10. Is this a "key decision"?

No