

Children and Young Persons Select Committee

4 December 2019

Evidence on behalf of Woodland Mead.

Statutory References

Education and Inspections Act 2006 (“EIA”)

The School Premises (England) Regulations 2012 (“SPRs”)

Equality Act 2010 (“EA”)

DfE Area guidelines for SEND and alternative provision (“BB104”)

1. Background and Context

1.1 I would like to take a few minutes from my 10 minute allocation to just reality check with the committee

1.2 As the Report refers to “contradictory rhetoric surrounding the potential solutions”, without identifying what these might be, let me start by giving you some factual information.

1.3 The school is a foundation school. The land and buildings are owned by the Governing Body. They have responsibility for education of the students and for the suitability and maintenance of the buildings. The status of a Foundation School is an Exempt Charity and the governors as trustees of an unincorporated association can have unlimited personal liability for their actions or inactions.

1.4 Appendix A sets out a brief timeline showing the accurate history of this matter and the relevant dates.

2. Key Issues

2.1 This is not about numbers

The Report contains paragraph after paragraph about the broad review of provision for SEN in the county, provision of post 16 places and needs of mainstream schools. Absolutely none of this is relevant to the matter being scrutinised today.

This is about whether WSCC are complying with

- their statutory obligations
- their undertaking given to the DfE
- their own original proposal in 2010

- the resolution in February 2019

in respect of the pupils at Woodlands Meed School.

2.2 WSCC must stop prevaricating and complete Woodlands Meed School

2.1.1 WSCC accepted that the prefabricated building was beyond economic repair back in 2009 and “did not reflect the needs of a modern special school.” (Proposal para 6(1)). This situation has not materially changed.

2.2.1 The refusal by WSCC to consider and make provision for the completion of Woodlands Meed when it leased off the allocated College site to Burgess Hill Academy has proved to be disastrous.

2.2.2 WSCC gave an undertaking to the DfE in 2017 to comply with their statutory duties.

2.2.3 Sufficient funding for a new building was allocated in February 2019 and an option which comes within that budget has been identified (DOE Report para 2.4 Option 1)

2.2.4 A design scheme for Option 1 was produced in June 2019 and is ready to go.

2.2.5 There is nothing in the officers’ report which justifies the delay in this project It has just delayed this for another year adversely affecting students & Staff and increased costs for the council.

2.3 WSCC must comply with their statutory obligations.

2.3.1 SPRs

WSCC are required to provide suitable school accommodation which where necessary meets special requirements and these are prescribed by the SPRs

2.3.1 So Councillors are clear what these are Under the SPRs Any requirement that anything provided under these regulations must be “suitable” means that it must be suitable for the pupils in respect of whom it is provided, having regard to their ages, numbers and sex gender and any special requirements they may have.

A pupil has “special requirements” if the pupil has any needs arising from physical, medical, sensory, learning, emotional or behavioural difficulties which require provision which is additional to or different from that generally required by children of the same age in schools other than special schools.”

The requirements include standards for :

- Toilet and washing facilities with specific detailed special requirements
- Changing accommodation and showers for pupils
- Toilet and washing facilities for staff

- Medical accommodation with specific detailed special requirements
- Health Safety and Welfare including Fire Safety
- Acoustics with specific detailed special requirements
- Lighting with specific detailed special requirements
- Water supplies
- Indoor and Outdoor Recreation Space

2.3.2 Equality Act 2010

Under the EA all schools must implement an accessibility strategy for pupils with special educational needs in respect of the physical environment of the school. This should include consideration of their particular health and safety needs on the school premises and how these can be met.

2.3.3 BB104

These comprehensive DoE guidelines set out in detail the area guidelines for facilities and accommodation at SEN Schools, and is expressly for use when designing new buildings, refurbishment or conversion projects.

It is widely accepted that the prefabricated building and huts at the college site do not meet these requirements

Option One considered by the Project Board and believed to be the Option One referred to in the Report meets these requirements.

2.4 The prefabricated building and huts at the College Site do not meet these requirements and cannot be adapted to meet these detailed requirements.

3. Information already within the WSCC domain

3.1 The Governors find it extraordinary that the Report proposes further reports by yet more consultants at further cost, when this information is already within their domain.

3.2 Review of Suitability

The statutory requirements with which a SEN school must comply have already been identified. It is surprising that no reference is made to the actual deficiencies in the Report, when these are well known and established so when it is suggested that there be a further specialist report to ascertain if the college site can be improved to a level which meets SEN requirements, the question has to be asked, why WSCC are ignoring the information they have which was set out in detail in their own Business Case finalised just prior to the resolution to provide £20M funding in February 2019 and which had been reviewed by Education, Finance and Legal officers.

These are set out at pages ix-xi of the report.

This formed the basis of the original briefing documents for both prospective architects and contractors.

With this extensive list of requirements not met - it defies credibility to consider it might be possible to improve the existing prefabricated building to a level which deals with all these issues.

Further WSCC already have access to this independent specialist information. WSCC appointed Haverstocks as architects for this project. They were the authors of the original SEN standards document and were consultees on BB104. They work as a technical advisor for the DfE so have regular discussions with their internal SEN team. It would be difficult to find a more knowledgeable and experienced specialist.

3.3 Condition Survey

The original specification for the works in 2012 was to provide a 10 year life. WSCC already have a Condition Survey carried out in 2017. With the caveats that this survey related solely to condition, not suitability; was not an intrusive survey so cannot be regarded addressing one of the fundamental problems of the building is that the structure is questionable and was produced by the same company who carried out the alterations in 2012, so can reasonably be expected to be optimistic; the report concludes that from a base line of 2013 the Engineering Services had a life of 15 years (8 years unexpired) and the Structure 20 years (13 years unexpired)

It is self-evident that spending any further significant sums on a building which even the most optimistic survey states only has a 13 yr life does not produce value for money for not just the council, but for anyone.

The Business Case dealt with the condition issues at length pages .viii and xi

4. Comment on Report

These are the comments we would make on the main points of the Report

Summary

- The situation does not start in 2016. It starts with decision in 2009 to close the old Newick House School when it was said” it does not reflect the needs of a modern special school....it avoids the expense of maintaining unsuitable accommodation”¹
- The governors are not aware of any “agreement” and are not aware of a proposal to extend the school at a cost of £8.5M. Any extension of the school site has been clearly ruled out as totally unrealistic and to keep raising this is seriously prejudicial.

¹ WSCC Proposal

- There has been no raising of expectations. It was WSCC's own Proposal, which they are expected to comply with.
- Money does not exceed the monies originally identified. The budget was £20m and Option One in the Report at £18 .63M is within that budget.
- The only expectation is that WSCC will comply with their statutory duty.
- The report ignores the fact that WSCC have already given an undertaking to DfE

Background and Context

- Para 1.2 – 1.6 The extensive review of SEN provision across the county is irrelevant to the specific issue about Woodlands Mead and the needs of existing pupils at this school.
- Para 1.7 is factually incorrect. Manor Green School and Manor Green College are two separate schools with two separate URLs. Oakgrove is a generic school for 11-19yrs – not a complex needs 11-18yrs.
- Para 1.8 is factually incorrect. WM current actual number is 103 not 100 as stated. It is of concern that WSCC do not appear to have a grasp of detail about SEN schools
- Para 1.9 is factually incorrect. In 2017 2 pupils could not transfer to College. In 2018 4 wheelchair pupils were only able to transfer solely because the school at its own expense hired a hygiene room, craned into the playground. Without this direct action a further four pupils would not have been able to transition to the college.
- Para 2.2 the decant £25M Option was unanimously ruled out in June 2019 by the project team and it is misleading to keep quoting this as if it were a viable option
- Para 2.4 concern regarding Birchwood Grove School has been seriously overstated. WM continued in operation during their own new school building work and again in 2013 during their extensive extension works. There is no suggestion that access could not be properly achieved and in any case other options were identified for access.
- Para 2.4 Option 1 there is no reason given why this could not be delivered. It is within budget and can be located on the site.
- Para 2.5 £20M funds were allocated for the project – where have they gone ?
- Para 2.6 for the reasons outlined above there is no necessity for yet another costly delaying review.
- Para 2.7 the action required is what meets statutory requirements for this school.
- Para 3 in general – there is no information here which was not known in February when the allocation was made.
- Para 6 is fundamentally flawed . The decision for a new building is dictated by whether it meets statutory requirements and the council already have this information.

4. Concerns about WSCC approach

4.1 I am sure that Councillors were totally dismayed that the leaked report on Children and Young Persons Services reported an endemic culture of bullying and intimidation. I am sorry that the tone and tenor of remarks in the Report about Governors does little to dispel this impression.

In no less than three sections disparaging remarks are made about Governors, with the implication that we are asking for something which is unreasonable. As I explained in my opening remarks Foundation Governors had a fundamental personal duty to ensure that the students in their school are receiving the appropriate education in appropriate facilities. Unlike officers and councillors who can walk away from the consequences of their decisions, governors retain this personal liability.

It is therefore inappropriate to suggest in any way that Governors are acting unreasonably when what they are trying to do is to hold WSCC to account.

4.2 Local Authorities decisions must be taken lawfully and must be reasonable. If a council has taken into account matters that it ought not to, or had disregarded matters that it ought to have taken into account, a court will normally find that the power had been exercised illegally.

Questions which the Committee may wish to raise

Finally I would like to conclude by suggesting with respect questions which the committee may wish to raise.

1. The council has twice resolved to build the college in 2009 and 2019. Why are we still debating this?
2. Who actually decided to bring the project to a halt?
3. Is the site at Birchwood Grove Road capable of housing a new college building?
4. Can it be built for the £20M budget agreed in February 2019?
5. Has a condition survey of the existing building already been done, and if so what was the conclusion?
6. Why is it proposed to incur further costs when the Council are already in receipt of all the information needed?
7. Why if WSCC have already retained external specialists on the design of special need school have they not raised the question of suitability with them.
8. Why does the Report submitted ignore all the detailed information and risk analysis provided in the Business Case?