

CABINET MEMBER DECISION

28 May 2021

APPROVAL FOR PUBLIC NOTICE OF THE PROPOSAL TO INCREASE PLACES AT WYRE FOREST SCHOOL

Relevant Cabinet Member
Councillor M J Hart

Relevant Officer
Interim Director of Children's Services

Local Member
Councillor T Onslow

Recommendation

- 1. The Cabinet Member with Responsibility for Education is recommended:**
 - (a) to approve the publication of Public Notice of the proposal to increase the number of special school places at Wyre Forest School in accordance with delegated authority to prescribed alterations to maintained schools;**
 - (b) to note that in accordance with the delegation of authority given by the Leader on 25 April 2018 the Director of Children Services in consultation with the Cabinet Member with Responsibility for Education will determine the proposals following no objection to the Public Notice being received; and**
 - (c) to review all representations received during the Public Notice stage should objections be received in order to determine the proposal.**

Background

2. The 2017 High Needs Commissioning Review (HNCR) and SEND Sufficiency report, considered by Cabinet in February 2021, detailed a need for more special school places in Worcestershire.
3. Wyre Forest School is an Ofsted rated 'Good' special school in Kidderminster supporting children with a variety of special education needs and disabilities aged 4 to 19 years old.
4. Due to the rise in demand over the last 5 years, there has been a growing number of children taught at the school, formally increasing from 230 to 260 in 2018, the school currently has 273 pupils on roll, alongside 15 supported by the nursery in either full or part time places.

The table below shows the numbers of pupils on roll (including part time nursery pupils) each January at Wyre Forest School over the last 4 years:

School	2016	2017	2018	2019	2020	2021
Wyre Forest School	219	231	257	258	269	285

The following table details the full-time equivalent commissioned places each academic year:

School	Sept 15- July 16	Sept 16 - July 17	Sept 17 - July 18	Sept 18 - July 19	Sept 19- July 20	Sept 20 - July 21	Sept 21- July 22
Wyre Forest School	226	230	230	260	265	271	300*

**proposed*

5. As per the prescribed alterations regulations outlined in 'Making significant changes ('prescribed alterations') to maintained schools: Statutory guidance for proposers and decision makers October 2018' the school is able to increase the number of pupils supported at the school by up to 10% each year without undertaking a statutory change, which has allowed them to meet the growth in pupils since 2018.

6. However, there is a requirement for the school to support additional pupils permanently. For September 2021, the school have agreed an additional 15 places for Worcestershire children and 3 places for Dudley pupils. There are an additional 5 pupils requiring a place at the school (2 of these places have been determined at SEND Tribunal) who cannot be supported at the school without a school organisation change.

7. The school has sufficient accommodation, facilities, and capability to support up to 300 pupils, however, without undertaking the school organisation process, the school are restricted to 291.

8. Forecasts suggests that the provision of 300 places will be sufficient to support the local community for the next several years, however consideration will need to be given to grow specialist provision in this area alongside proposed housing growth.

9. The proposal to increase the number of places at a special school by 10% or greater or 20 places or greater (whichever is smaller) must follow the statutory process, which includes a 4-week representation period before a decision is taken. In this instance, only the Local Authority can be the formal proposer and decision maker of such alterations.

10. In April 2018 the Leader of the Council delegated authority for the publication of statutory proposals for prescribed alterations to maintained schools to the Director of Children Services and Cabinet Member with Responsibility for Education (Previously Cabinet Member for Education and Skills) as set out in Appendix 1. This delegated authority was endorsed by Cabinet in January 2020.

11. The statutory process for making prescribed alterations to schools has four stages:

Stage	Description	Timescale
Stage 1	Publication of Statutory proposal and public notice	At start of representation stage
Stage 2	Representation (Formal Consultation)	Must be at least 4 weeks
Stage 3	Decision	LA should decide a proposal within 2 months
Stage 4	Implementation	No prescribed timescale

12. The indicative timeline for the statutory process is planned as follows:

- 28 May 2021 - CMR decision report to approve the publication of full proposal and public notice
- 5 day call in period on CMR decision
- 7th June – 5th July 2021 - Publish Full proposals & Public Notices – Representation Stage (must be 4 weeks)
- End of July - Final decision assuming no objections

13. Details of the published full proposals will be sent out to stakeholders including parents and carers of pupils at the school, other education providers, parent groups, local residents, trade unions, and local members. Public notices will be published in local papers and at the school. All stakeholders will have an opportunity as part of the representation stage to comment on the proposals. Officers will take any comments and objections into account when forming the recommendations for the final decision maker who will be able to see the comments and responses as part of the final decision report.

14. The above timeline will allow schools to confirm places allocated to pupils for September 2021.

Legal, Financial and HR Implications

15. Worcestershire County Council has a duty (under the Education Act 1996) to ensure there are sufficient school places to accommodate the children and young people who reside in the county and to ensure these places are of good quality with sufficient capacity to promote parental choice and diversity. Section 14 of the Education Act 1996 places a duty on LAs to secure educational provision is made for pupils age 16 – 18 and over 19 years, and those with special educational needs. Section 315 requires LAs to keep their arrangements for Special Educational Needs and Disabilities (SEND) provision under review.

16. All of the above prescribed alterations are subject to the statutory process detailed in the 'making changes to maintained schools' DfE guidance. Governing

Bodies of all categories of special school and LAs for community special schools may seek to increase the number of places by following the statutory process if the increase is by 10% or 20 pupils (whichever is the lesser). As a community maintained school, the proposal at Wyre Forest Special School requires the Local Authority to complete a statutory process.

17. Since 2016, the statutory guidance no longer has a requirement for a pre-consultation period but there is a strong expectation that schools and LAs will consult interested parties, in developing their proposal(s) prior to publication, as part of their duty under public law to act rationally and take into account all relevant considerations. Schools also need to ensure that they have the consent of the site trustees and other relevant religious authorities (where necessary).

18. Officers recommend to the Director of Children's Services and Cabinet Member responsible for Education that we do not include a pre-consultation stage for the above school proposal for the following reasons:

- a) There is not a statutory requirement to do so; and the statutory process includes a representation stage, a period of 4 weeks where any person or organisation can submit comments on the proposals to the LA to be taken into account by the decision maker; and
- b) The timeline including the pre-consultation stage would likely complete in October / November 2021, too late for the September 2021 start date of the additional pupils.

19. The proposal does not require capital funding, the revenue funding will be found as part of the High Needs Dedicated Schools Grant.

Privacy and Public Health Impact and Equality and Diversity Implications

20. A full Equality & Public Health and Sustainability Impact Assessment has been carried out in respect of the recommendations. This identified no potential negative impact.

Supporting Information

- Appendix 1 – Delegation of authority given by the Leader on 25 April 2018, endorsed by the Cabinet on 30 January 2020
- Appendix 2 – Equality & Public Health Impact Assessment
- Appendix 3 – Sustainability Impact Assessment

Contact Points

County Council Contact Points
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Specific Contact Points for this report
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Background Papers

In the opinion of the proper officer (in this case the Director of Children's Services) the following are the background papers relating to the subject matter of this report:

'Prescribed Alterations' regulations: *Making significant changes ('prescribed alterations') to maintained schools: Statutory guidance for proposers and decision makers October 2018*
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756572/Maintained_schools_prescribed_alterations_guidance.pdf