

CABINET MEMBER DECISION

30 JUNE 2023

DECISION FOR APPROVAL OF PUBLIC NOTICES ON THE PROPOSALS TO CHANGE THE NUMBER OF PUPILS AT LOCAL AUTHORITY MAINTAINED SPECIAL SCHOOLS AND COMMENCEMENT OF THE REPRESENTATION STAGE.

Relevant Cabinet Member

Cllr Tracey Onslow (Cabinet Member with Responsibility for Education)

Relevant Officer

Director of Children's Services

Local Member(s)

Cllr Kit Taylor - Bromsgrove (Rigby Hall Special School)

Cllr Tracey Onslow - Kidderminster (Wyre Forest Special School)

Cllr Lynn Denham - Worcester (Fort Royal School)

Recommendation

1. **The Director of Children's Services recommends that the Cabinet Member with Responsibility for Education:**
 - (a) **notes the guidance on prescribed alterations to maintained schools, the consultation feedback received from Worcestershire Special Schools and the planned consultation with other stakeholders including parents and carers, schools, colleges and providers that offer special education provision;**
 - (b) **approves the publication of the statutory full proposals and public notices to:**
 - (i) **increase the number of pupils from 204 to 220 for September 2023 at Rigby Hall Special School;**
 - (ii) **increase the number of pupils from 328 to 354 for September 2023 at Wyre Forest Special School; and**
 - (iii) **increase the number of pupils from 243 to 256 for September 2023 at Fort Royal Special School; and**
 - (c) **approves the commencement of the representations stage; and**
 - (d) **notes the final decision will be made by:**
 - (i) **the Director of Children's services in relation to proposals in respect of which no objection is received; and; or**

(ii) the Cabinet Member with Responsibility for Education in relation to proposals in respect of which objection to the Public Notice is received.

Background

2. Worcestershire County Council has a statutory duty under section 14 of the Education Act 1996, to ensure there is a sufficiency of school places available to meet the needs of all children and young people living within the local authority's area. This includes having regard to the need to secure provision for children with special educational needs and disabilities (SEND). In addition, section 315 of the Education Act 1996 requires that arrangements for children with SEND be kept under review.
3. 'Special educational needs' is a legal definition and refers to children with learning problems or disabilities that make it harder for them to learn than most children the same age. An education, health and care (EHC) plan is provided for children and young people aged up to 25 who need more support than is ordinarily available through special educational needs (SEN) support and sets out the additional support required to meet those needs.
4. Worcestershire's Children and Young People's plan¹ outlines a belief in equity and excellence for all, and an aim to achieve the best outcomes for children and young people. This can be met with a focus for special educational needs to be assessed and met in a timely and purposeful manner. Worcestershire's SEN strategy sets out the vision that 'in Worcestershire we want all children and young people with special educational needs and/or disabilities to be truly seen and respected as individuals and to be the best they can be'². Further information regarding Worcestershire's aims for special educational needs can also be found in the All Age Autism Strategy³ report.
5. In order to achieve these goals, future demand for places for children with SEND must be monitored to ensure the correct provision is in place at the correct time. In February 2023 the 2022 Sufficiency of Education Provision for children with Special Education Needs and Disabilities in Worcestershire report (Appendix 1) was presented to Cabinet. This report included analysis of the increasing numbers of children and young people in Worcestershire with an Education, Health and Care Plan, many of whom require specialist education provision to meet their learning and educational needs. Following the rise of EHC plans in the last several years, Worcestershire has seen growth in pupils placed in special schools. In 2021/22, nationally, 30.7% of children with EHC plans were placed in maintained special schools, whereas in Worcestershire 35% of children with EHC plans were placed in maintained special schools. Based on forecast numbers and trends this report detailed a need for more special school places in Worcestershire.
6. The Worcestershire All Age Disability Service are responsible for supporting families to identify the right education provision to meet the needs of children and young people with EHCPs. There are pupils waiting for a special school place, most of whom are currently in Worcestershire mainstream schools or Alternative Provision. The Sufficiency and Provision Planning Team work with the All Age Disability Service to monitor increased forecast need due to demographic growth and new housing growth and include increased demand from pupils needing to transition to specialist provision. An increased demand for special school places in September 2023 has been identified, including an increase in the number of Reception places and places in other year groups (Year 1 – Year 14).

¹ <http://www.worcestershire.gov.uk/cypp>

² [Our SEND strategy | Our SEND strategy | Worcestershire County Council](#)

³ [Appendix 1 All Age Autism Strategy.pdf](#)

Consultation

7. Since 2016, “The Making Significant Changes (Prescribed Alterations) to Maintained Schools” statutory guidance no longer has a requirement for a pre-consultation period but there is a strong expectation that schools and Local Authorities 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).
8. The Director of Children’s Services considers (having taken advice from Directorate officers and Legal and Governance Services) that we do not include a pre-consultation stage for the above school proposals for the following reasons:
 - I. There is not a statutory requirement to do so; and the statutory process does include the representation stage, a period of 4 weeks where any person or organisation can submit comments on the proposals to the Local Authority to be taken into account by the decision maker
 - II. Within the SEND Accelerated Progress Plan Workstream two, the SEND Specialist Provision Plan (Appendix 2) identified a need to review the capacity of Special Schools in Worcestershire and develop proposals to meet the needs of children and young people identified as needing a Special School Place. The Director for Education and Director for All Age Disability service have been working with senior officers and Special School Headteachers and Governing Bodies to share the findings of the 2022 Sufficiency report (Appendix 1) and identify options to create additional places for September 2023.
 - III. The timeline including the pre-consultation stage would likely complete in October / November 2023, too late for the September 2023 start date of the additional pupils. It would also delay the start of the works needed on site.
 - IV. Proposals need to be actioned as quickly as possible to support children and young people access the most appropriate education provision to stand the best chance of positive outcomes. The Local Authority needs to evidence the outcomes and outputs of the SEND Accelerated Progress Plan and a significant part of this includes taking action to address the increased demand for special school places. Any further delay could have a detrimental impact upon children and young peoples’ progress and the Local Authority’s relationship with our special schools and alternative provision providers.

Statutory process

9. The statutory process for making prescribed alterations to LA Maintained 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

10. The indicative timeline for the statutory process for these proposals is planned as follows:

- Forward Plan Entry and Report published 14 June
- Decision 30 June
- 5 day call in period to 7 July
- 10 July – 7 August - 4 week representation stage
- Mid August – Final Decision (if objections, will need a further CMR Report)

11. Details of the published full proposals will be sent out to a range of stakeholders including parents and carers of pupils at all Worcestershire Schools, other education providers, parent groups, local residents, trade unions, and local members. Public notices will be published in all local papers and at each proposed 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.

12. The final decision must be made within a period of two months of the end of the representation period.

Proposals

13. It is proposed to increase the number of pupils to 220 for September 2023 at Rigby Hall Special School, this increase does not require capital funding from the Local Authority. The school have recently completed a project to replace temporary accommodation on site with permanent accommodation.

14. It is proposed to increase the number of pupils to 354 for September 2023 at Wyre Forest Special School. High Needs Capital Funding received by the Local Authority from the Department for Education to deliver new places, will be allocated to adapt existing accommodation at the school. The proposal includes the transfer of Reception and Year 1 pupils and staff from St John's Primary School (Kidderminster), who currently share the Early Years Hub on the Wyre Forest School campus, into accommodation at St John's Primary School.

15. It is proposed to increase the number of pupils to 256 for September 2023 at Fort Royal Special School. High Needs Capital Funding will be allocated to adapt existing accommodation at the school.

Legal, Financial and HR Implications

16. The 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 Local Authorities to secure educational provision is made for pupils aged 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.

17. All of the above prescribed alterations are subject to the Making significant changes ('prescribed alterations') to maintained schools: Statutory guidance for proposers and decision makers January 2023.
18. 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). The proposals at Rigby Hall, Fort Royal and Wyre Forest require the LA (community special) to complete a statutory process.

Equality, Diversity and Public Health Implications

19. A joint impact assessment screening (Appendix 3) has been completed in respect of these recommendations. The screening did not identify any potential considerations requiring further consideration during implementation for equality, diversity and public health. However, it did identify the need to complete a full environmental assessment. (Appendix 4).

Supporting Information

Appendix 1 – [SEND Sufficiency Report 2022](#)
Appendix 2 - SEND Specialist Provision Plan
Appendix 3 – Joint Impact Assessment Screening Tool
Appendix 4 – Full Environmental Assessment

Contact Points

County Council Contact Points
County Council: 01905 763763

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 January 2023*

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756572/Maintained_schools_prescribed_alterations_guidance.pdf