

## **CABINET MEMBER DECISION**

### **06 JUNE 2023**

# **APPROVAL FOR PUBLIC NOTICE OF THE PROPOSAL TO CLOSE THE KIDDERMINSTER BASE OF THE BEACON PRIMARY PUPIL REFERRAL UNIT 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 Members**

**Cllr Bill Hopkins (The Beacon, Kidderminster)**

**Cllr Tony Muir (Unity Academy)**

#### **Recommendation**

- 1. The Cabinet Member with Responsibility for Education is recommended to:**
  - a. note the details of the informal pre-publication consultation held during the period 22 March to 3 May 2023;**
  - b. approve the publication of the Public Notice for the proposal to close the Kidderminster base of The Beacon Primary Pupil Referral Unit and approve the commencement of the representation stage in accordance with the delegated authority for making prescribed alterations to maintained schools; and**
  - c. note that a further report will be submitted for a final decision taking account of the representations**

#### **Background**

2. Alternative Provision (AP) is used by Local Authorities to fulfil their specific duty to make arrangements for children who by reason of permanent exclusion, illness or other circumstances would not receive a suitable education. Schools may also use Alternative Provision to make suitable arrangements for children who have received a fixed-term exclusion or to exercise their powers to direct to off-site provision for the purposes of improving behaviour.

3. All pupils must receive a suitable education regardless of their circumstances. The provisions set out in statute acknowledge that situations arise which require children to be

educated by other means in order to ensure that they remain accessing education and that this provision should be suitable to meet their assessed needs.

4. Alternative Provision is fundamental to achieving this, so long as both schools and the Local Authority identify at the earliest opportunity children who are not accessing their optimum education and carry out an appropriate needs assessment to identify if there is or likely to be need for alternative provision.

5. Furthermore, schools and the Local Authority must ensure that the purpose for sending children to Alternative Provision is clearly defined, regularly reviewed and appropriate timeframes for reintegration clearly set out from the start.

6. The Council's vision, set out in the Education Strategy 2019-24, strives to minimise Permanent Exclusion to ensure schools are inclusive and implement effectively the Graduated Response to assessing and meeting the needs of their children.

7. In July 2018 the Department for Education (DfE) launched the Special and Alternative Provision Free Schools wave inviting local authorities seeking to establish new special or alternative free schools in its area to make a Free School Bid. The Council identified it had six Alternative Provision schools, of which two catered for primary-aged children. This meant that whilst children in Worcester and Redditch have easy access to primary AP, those in the Wyre Forest area were served by an outreach of Beacon, with limited places.

8. The Wyre Forest area was identified as having a need for provision due to the lack of capacity in the existing system, the deprivation and the strong support for the provision from Headteachers in the area. This support was one of the criteria for the success of this bid.

9. In March 2019 Worcestershire County Council was informed by the DfE that it had been successful in its bid. In early 2020 The Rivers Church of England Academy Trust was selected by the Secretary of State as the provider for the new AP Free School which would become known as the Unity Academy.

10. On 30 January 2020 Cabinet endorsed the new AP Free School and its location on part of the former Sladen Middle school site. A further After-Action Review was conducted by the DfE to satisfy the Secretary of State that the criteria for the creation of the new AP Free School under the Alternative Provision Free Schools Wave were met.

11. The Local Authority are proposing to close the Kidderminster base of The Beacon Pupil Referral Unit. The reason for the proposal to close the Unit is because the Secretary of State was satisfied to proceed with the Opening of the New AP school (Unity Academy) from September 2023 and provide education for children who are permanently excluded and provide an outreach and preventative provision to minimise exclusion.

12. The Beacon School's main site at Redditch, rated Good by Ofsted in 2022, will remain open and continue to provide education for children who are permanently excluded from Bromsgrove and Redditch areas and work with mainstream schools in the Bromsgrove and Redditch District to provide support, capacity and skills development to prevent children from being excluded.

13. There are currently 10 children attending the Kidderminster base of The Beacon PRU and it is being planned that these children will either transition to the new Alternative Provision Free school (Unity Academy) with a transition plan involving the child, the family, the new school and Beacon school as normal phase transfer or according to the assessment of need, return to mainstream school before the end of this academic year, according to the child level plan for appropriate education (not dependent on any changes). The Rivers Church of England Academy Trust will be commissioned to provide 10 permanent exclusion (PX) places at Unity Academy across the Wyre Forest area effective from 1 September 2023. The Beacon PRU Kidderminster site which is currently commissioned to provide these places is proposed to close. The Lea Street building where the Beacon PRU Kidderminster is situated is no longer required for alternative provision as the new Free School will be able to accommodate primary provision and would require significant financial investment for any further educational use.

### Procedure for the Proposed Closure

14. Permitted prescribed alterations are detailed in the Statutory Guidance Making Significant Changes to Maintained Schools January 2023. These include closing an additional (satellite) site at a local authority maintained school. The Guidance is silent on the closure of a maintained additional PRU site such as the Kidderminster site of the Beacon PRU meaning that changes to these schools can be made outside the statutory process. Nevertheless, the Local Authority is minded to follow best practice for this proposal and it has therefore adopted the statutory process for Prescribed Alterations when closing a maintained additional site as per the Statutory Guidance so as to ensure a fair and transparent process is followed.

15. Statutory process: The statutory process for making prescribed alterations to schools (other than alterations arising from foundation proposals, which are covered in statutory process: foundation proposals section) has 5 stages:

Stage	Description	Timescale	Comments
Stage 1	Publication (statutory proposal/notice)	-	Where the proposed implementation timescale is longer than 3 years, the proposer should demonstrate good reason
Stage 2	Representation (formal consultation)	Must be 4 weeks	As set out in the 'Prescribed Alterations' regulations
Stage 3	Decision	Local authority must decide a proposal within 2 months	
Stage 4	Referral (if applicable)	If a decision has been made, any referral to the adjudicator must be	

		made within 4 weeks of the decision. If the local authority has not decided a proposal within 2 months, it must refer the proposal to the Schools Adjudicator	
Stage 5	Implementation	No prescribed timescale	It must be as specified in the published statutory notice, subject to any modifications decided by the decision maker

16. There is no longer a Statutory “pre-publication” consultation the Statutory Guidance makes clear that “there is a strong expectation that Governing bodies and Local Authorities will consult interested parties in developing their proposal prior to publication, to take into account all relevant considerations....”

### **Pre Publication Consultation**

17. Senior Worcestershire Children First officers have worked with the Beacon Head Teacher and Governing Body in the development of the proposal and consultation.

18. In 2018 Cabinet delegated authority for prescribed alterations to schools to the Director of Children’s Services and the Cabinet Member with Responsibility for Education and Skills. Under this Delegation the Director of Children’s Services authorised the informal pre-publication consultation on 16 March 2023. The informal consultation period lasted from 22 March 2023 to 3 May 2023.

19. There were eight responses to the consultation via the feedback online survey, including six staff members, one parent carer and one representative from another school. The Beacon Head Teacher met with all existing parent carers and received feedback from them that has also been collated as part of the consultation responses. None of the respondents support the proposals.

20. The themes noted from all respondents including the parent carers are below: -

1. Not understanding why the provision was to close when performing well and rated good by Ofsted
2. How the new school will meet the needs of their child
3. Why the staff and head teacher cannot continue to teach their child
4. Will their child stay in the new school or be moved?
5. Their child’s outcomes and progress
6. Transport options

21. Please refer to Appendix A – Consultation Response Report for the replies and the local authority responses to the points raised.

## **Publication of Notice of the proposal to Close**

22. The Public Notice period is proposed to begin on Thursday 8<sup>th</sup> June 2023 to noon on Thursday 6<sup>th</sup> July 2023 following which, a further report will be submitted to the CMR (Cabinet Member with Responsibility) with recommendations for a final decision taking into account any representations received during this period. A draft of the Public Notice is found at Appendix D. The Cabinet Member is invited to authorise publication of the Notice.

## **Legal, Financial and HR Implications**

23. The School Organisation (Prescribed Alterations to Maintained Schools (England) Regulations 2013 made under the Education and Inspections Act 2003 and Statutory Guidance entitled Making Significant changes to Maintained Schools January 2023 include provisions for closing of an additional (satellite) site at a Local Authority Maintained school. The prescribed alterations Statutory Guidance provides that the Secretary of State has power to direct a local authority to close a PRU which requires special measures or significant improvement. Neither of these apply to the Beacon PRU. The Guidance is silent on the closure of a maintained additional (satellite) PRU site such as the Kidderminster site of the Beacon PRU. Absent a statutory process for the closure of a maintained PRU changes to these schools may be made outside the prescribed alterations statutory process. Nevertheless, the Local Authority is minded to follow “best practice” for this proposal and it has therefore adopted the process for closing an additional (satellite) site as per the Statutory Guidance so as to ensure informal pre-publication consultation, Publication of the Notice, Representation stages are followed before any decision is taken to ensure transparency and accountability.

24. The Kidderminster base of the Beacon PRU, is situated in Lea Street. The Lea Street building will continue to be maintained and managed by Worcestershire County Council. Some of the Lea Street site accommodation will continue to be used for educational purposes until any further decisions are made about the long term use of the building. Therefore, there are no specific financial implications contained within this report or additional financial commitments relevant to the decisions within this report.

25. It is proposed that the staff that are currently employed at the Beacon PRU Kidderminster Site to support children that have been allocated places will be transferred to The Rivers Church of England Academy Trust effective 1 September 2023. A consultation process in accordance with TUPE legislation has been followed which has involved staff and trade unions. No staff members are being made redundant as a result of this proposal.

## **Equality and Diversity Implications**

26. The Screening has been completed in respect of these recommendations. The screening did not identify any potential Equality considerations requiring further consideration during implementation.

## **Conclusion**

27. On the basis of the information contained in this report and taking account of the feedback from the consultation, it is recommended that the Cabinet Member with

Responsibility for Education is to take all decisions on behalf of the Cabinet acting as the Executive in relation to the publication of Public Notice of the proposal to close the Kidderminster base of the Beacon PRU. A further report will be submitted to the Cabinet Member with Responsibility for Education with recommendations for a final decision taking into account any representations received during this period.

## Supporting Information

- Appendix A – Consultation Response Report
- Appendix B - Copy of Consultation Document
- Appendix C - Joint Impact Assessment Screening
- Appendix D – Draft Public Notice

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

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