

Central Bedfordshire Council

EXECUTIVE:

1 December 2015

Modification of the Implementation Date of the Determined Statutory Proposal to Close Brewers Hill Community Middle School from August 2017

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Key Decision

Purpose of this report

1. This report provides the Committee with an update on current and forecast pupil numbers at Brewers Hill Middle School following the Department for Education's approval in June 2015 of the application of Beecroft Academy to change its age range and become a Primary School from September 2015.
2. The report asks Executive to consider a recommendation to modify the determined implementation date of the closure of Brewers Hill Community Middle School from August 2017, as previously approved, to bring forward the closing date of the school to August 2016.
3. Brewers Hill Middle School serves the Ward of Dunstable Northfields.

RECOMMENDATIONS

The Executive is asked to:

1. **accept, as outlined in the Legal implications section of this report, that the procedures established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013, have been complied with in bringing forward this proposal to modify the implementation date of the closure of Brewers Hill Middle School, as outlined in this report; and**
2. **approve the proposed modification to the determined date of implementation of the closure of Brewer's Hill Community Middle School from August 2017, to take effect instead from August 2016.**

Children's Services Overview and Scrutiny

4. Children's Services Overview and Scrutiny Committee supported the proposal to close Brewers Hill Community Middle School at their meeting on 22 July 2014.

Statutory proposal to close Brewers Hill Community Middle School

5. On 19 August 2014 the Council's Executive considered the outcome of statutory proposals to close 3 middle schools in Dunstable, following an extensive process of consultation with stakeholders. The 3 schools had become unviable as a result of school reorganisation in the Dunstable and Houghton Regis area which had changed the pattern of education from a 3 tier structure of lower, middle and upper Schools to a 2 tier pattern of Primary and Secondary Schools.
6. As part of the consultation process the Executive had also sought business cases from the schools for alternatives to closure. These were considered by Children's Services Overview and Scrutiny Committee, prior to the Executive decisions on the 19 August 2014, but were found to represent unviable alternatives.
7. The Council's statutory notices and consultations had proposed the phased closure of the 3 schools from September 2015, with full closure from August 2016.
8. New information came to light at the conclusion of the consultation period regarding the proposed closure of Brewers Hill Middle School. The Council received advice from Beecroft Academy, an historical feeder Lower School to Brewers Hill Middle School, that there was a delay in the implementation of its proposal to convert to a primary school.
9. Beecroft Academy indicated that it had yet to receive approval of its proposed change in age range from the Department for Education (DfE) and also needed to resolve funding demands, accommodation and planning requirements in order to have confidence that it could retain Year 4 children into Year 5 on the school site in September 2015.
10. That delay meant that for parents of Year 4 children who would require a Year 5 place in September 2015, there was no certainty that Beecroft Academy would be able to accommodate children into Year 5 until after the close of the School Admissions middle transfer round on 15 January 2015.
11. If the Council had determined to close Brewers Hill Middle School from September 2015 with full closure from August 2016 as originally proposed, approximately 53 children in Year 4 at Beecroft Academy would have been adversely affected. Those parents would have needed to have made an in year transfer application to Year 5 in a primary school in the area for September 2015 or to have made a Year 5 transfer application to another school, such as Priory Academy, Barnfield Vale or Caddington Village School.

12. However, the availability of places in primary schools in the immediate area of Beecroft Academy would have meant that most of those children would not have been able to be accommodated in their catchment or next nearest primary school. Likewise, there was a significant risk that the alternative schools with a Year 5 admission point in the area would have been unable to accommodate those children.
13. As a result, on 19 August 2014 the Executive determined the approval of the statutory proposals for each school, but with a modified implementation date for the phased closure of Brewers Hill Middle School from September 2016 with final closure in August 2017, allowing time for Beecroft Academy to implement its proposal to convert to a primary school.
14. In approving the recommendation to modify the implementation date to August 2017, the Executive also determined that the Executive's approval would be sought to further modify the implementation date should Beecroft Academy be able to implement its primary conversion and accommodate Year 5 children in September 2015.

Forecast pupil numbers

15. The Executive report provided the following forecast showing all of the 53 Beecroft children accessing a place at Brewers Hill Middle School in September 2015.

Year Group	Current	Projected September 2014	Projected September 2015
5	59	39	53
6	56	59	39
7	27	23	31
8	27	27	23
Total	169	148	146
Capacity	480	480	480

16. Since the Council's decisions in August 2014 a project group has been formed of Council Officers, and the head teacher and Chair of Governors for each of the schools to ensure that there is appropriate ongoing liaison, support, planning and delivery of the various closure processes required. The central priority for each group is to ensure that the education of children in each school is sustained and supported. Each group has also retained an ongoing focus on reviewing projected pupil numbers in each school.
17. As a result of the delay in the change of age range at Beecroft Academy and of the lack of certainty that the Academy were able to provide parents of Year 4 children, a significant number of parents applied to the School Admissions middle transfer round for September 2015.

18. Of the Academy's Year 4 cohort of approximately 53 children, the Council's admission team received 40 transfer applications (on time and late) to Year 5 at Brewers Hill for September 2015 with offers of places subsequently made.
19. By May 2015 for Brewers Hill Middle School this and the impact of other pupil movements from the school, resulted in the following forecast of pupil numbers for September 2015.

Year Group	Projected September 2015
5	40
6	36
7	22
8	14
Total	112
Capacity	480

20. Beecroft Academy received final DfE approval to change its age range and become a primary school on 3 June 2015. As a result, the Academy was able to instruct its contractors to commence work on the new teaching spaces required to be able to retain Years 5 and 6. The Academy also commenced communication with parents and carers of those children in Year 4 to provide confidence that they had a realistic option to remain at Beecroft Academy should they wish.
21. Given that Year 5 middle school places had already been formally offered to those parents that had applied, and that some parents may have chosen to decline a place and remain at Beecroft, it was agreed with the head teachers of both schools that certainty of numbers would only be available at the start of the new term.
22. Beecroft Academy completed the capital works required to provide accommodation for its new Year 5 over the summer holiday period and as a result 35 of its Year 4 children have remained at the Academy across 2 classes. A small number of parents chose to take up the offer of a place at Brewers Hill Middle School and as a result current pupil numbers there are:

Year Group	Actual October 2015
5	9
6	34
7	10
8	7
Total	60
Capacity	480

23. With year 8 children leaving in July 2016 and the parents of Year 6 children applying for transfer to secondary schools for September 2016, the potential number of children that could be left at the school from September 2016 for the school's final academic year may be less than 20. This will have a very significant impact on the future provision of a broad and balanced curriculum to remaining children and is a significant reduction on the forecast pupil numbers that informed the Executive decision in August 2014.

Modifying the implementation date of closure of Brewers Hill Middle School

24. On 14 October 2015, with support from the school, parents and carers of children in Years 5, 6 and 7 were provided with advice by the Council of the intention to bring a further report to Executive on 1 December 2015 to modify the original implementation date as a result of the change in age range at Beecroft Academy and pupil numbers in the middle school.
25. Parents and carers in all year groups have been supported by the headteacher of Beecroft Academy, who now shares his post with Brewers Hill Middle School, and by the Council's School Admissions Team in order to understand their options for transfer to another school should the date of closure be brought forward.
26. Parents and carers of children in Year 5 have been offered reassurance that Beecroft Academy has sufficient capacity to accept their child should the decision be taken to bring forward the closure date. Of the 9 children currently in that Year group, 1 has now made an in year application to transfer to Beecroft from September 2016. Other parents have indicated they will make an application once a decision is made.
27. Parents and carers of children in Year 6 have been offered support to apply for the Year 7 transfer to secondary round for September 2016. Of the 34 children currently in that Year group, 31 made an application by the closing date of 31 October 2015.
28. Parents and carers of children in Year 7 have been offered support by the Council's Admissions Team to make an in year application to transfer to a Year 8 place at a local secondary school in September 2016. The Council has also offered reassurance that there are sufficient Secondary places in Year 8 in the local area for next September. Of the 10 children currently in the Year 7 group, 5 have made or are intending to make an in year application to transfer to a local Secondary from September 2016.
29. The head teacher has also offered individual meetings with parents and carers of children in Year 5 and Year 7 to explain the situation and to seek views. School staff have also been kept abreast of the changing school demographics and of the potential to bring forward the closure date of the school as a result.

Modification consultation

30. The Council is required, as set out in the legal section of this report to undertake consultation with a range of stakeholders for a proposal to further modify the implementation date of the school's closure.
31. In addition to the advice and support provided since mid October to those most likely to be impacted by the proposed change, a further consultation has been undertaken, including further meetings with parents, carers, school staff and unions.
32. At the close of the consultation period on 11 November 2015 no responses had been received by the Council. Minutes of the consultation meetings are attached at Appendix A.

Reasons for decision

33. The proposal to modify the implementation date of the closure of Brewers Hill Middle School is as a result of the significant reduction in pupil numbers in the school and the significant impact on the future provision of a broad and balanced curriculum to remaining children if the original timeframe were to be retained.

Council Priorities

34. The report supports Central Bedfordshire's Medium Term Plan: Delivering your priorities – Our Plan for Central Bedfordshire 2012- 2016 and the specific priority of Improved Educational Attainment.

Legal Implications

35. The request to Executive is for a 'modification' of the decision made in August 2014. This is a 'modification' under s21(2) of Part 3 of Schedule 2 of the Education and Inspections Act 2006. Under this section "the relevant authority may, at the request of the proposers who made the proposals referred to in sub-paragraph (1), or, where the proposals were made by the authority themselves, on their own initiative (a) modify the proposals after consulting such persons as may be prescribed"
36. The consultees are not prescribed by legislation but are set out in the mandatory DfE Guidance 'School Organisation Maintained Schools Guidance for Proposers and Decision-Makers published in January 2014, ('the Guidance') which accompanies the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013.

This Guidance can be found at:

<https://www.gov.uk/government/publications/school-organisation-maintained-schools>

37. The Guidance, at Annex A part A3 paragraphs 27 and 28, refers to the body of consultees which must be consulted on school closure, being:
- LA (as appropriate);
 - parents of pupils;
 - where the LA is a county council the local district or parish council where the school that is the subject to the proposal is situated; and
 - in the case of a special school – any LA which maintains a statement of special educational needs in respect of a registered pupil at the school.
 - the governing body (as appropriate);
 - pupils at the school;
 - (if a proposal involves, or is likely to affect a school which has a particular religious character) the appropriate diocese or relevant faith group¹⁰;
 - the trustees of the school (if any);
 - teachers and other staff at the school;
 - any LA likely to be affected by the proposal, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
 - the governing bodies, teachers and other staff of any other school that may be affected;
 - parents of any pupils at other schools who may be affected by the proposal including where appropriate families of pupils at feeder primary schools;
 - any trade unions who represent staff at the school; and representatives of any trade union of staff at other schools who may be affected by the proposal;
 - MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal; and
 - any other interested body/person that the proposer thinks is appropriate.
38. Regulations do not prescribe the appropriate period for consultation but the Guidance recommends (at Paragraph 51) that consultation be for a minimum period of 6 weeks. Crucially, there is no specific guidance in the case of a 'modification', where prior consultation and decision making has already taken place. A decision has therefore been taken to undertake a shorter formal consultation period in addition to the informal consultations which have been ongoing.
39. Informal consultations have taken place at Brewers Hill School during the autumn term, which have included individual and group meetings with the Headteacher. Consultees have also been given the specific information that the Council will be seeking to bring forward the implementation date for the school closure and have been provided with an opportunity to comment by the close of consultation on 11 November 2015.

Financial Implications

40. There are financial implications for the Council and for Brewers Hill Middle School identified within previous reports as a result of the Executive's decision in August 2014 with regard to budgets for 2014/2015 and beyond. Schools revenue budgets are funded through Dedicated Schools Grant (DSG).
41. Following consultation with schools and others in September 2013, and the recommendations of School Forum, the Council's Executive approved the distribution of DSG at its meeting on 14 January 2014. This included approval of the recommendation of using admissions applications data for calculating schools' budgets for a limited number of schools and academies that are affected by their own change in age range or the impact of others locally.
42. This is to ensure that as far as is possible the financial resources follow the pupils where age range changes are approved, based on January admissions applications data for the period September to March, rather than the previous year's October Census data. The school's budget share for 2015/16 has been calculated based on this amended methodology.
43. The Governing Body of the school has been required to manage their budget with support of the Council as pupil numbers have reduced, in accordance with the Council's financial procedures for Maintained schools. In accordance with the 2002 Education Act and the Council's Redundancy Procedures for School Based Staff the default position is that redundancy costs must be charged to the Council's budget.
44. If the recommendation of this report is approved by Executive all employees engaged in Brewers Hill Middle School at the point of closure will be at risk of redundancy, a year earlier than currently proposed. The Council would seek to continue to mitigate the need to declare compulsory redundancies by supporting staff to take up opportunities to transfer to local schools and academies, including Beecroft Academy.
45. However where posts are required to be declared redundant due to a school closure all redundancy and premature retirement costs incurred at the point of school closure will be met by the Council. This may result in significant redundancy and premature retirement costs to the Council.
46. Should a maintained school close with a deficit budget the deficit would fall on the Council. The school's closing deficit as of August 2017 is currently estimated at £350k with further work underway continuing to reduce this further.
47. The further financial impact to the Council, in addition to the current forecast deficit, will be the redundancy and early retirement costs of those staff still employed at the point of closure. The Council is awaiting an estimate from Bedford Borough HR service (the HR service provider for the school) as this will be based on the length service / age etc of specific staff.

The impact of the proposal to bring forward the date of closure, on the total deficit and costs to the Council cannot be quantified at present although it is likely to be limited to a saving equivalent to the additional cost of a year of service of staff. The saving to DSG will be the lump sum of £120k plus rates costs.

48. Brewers Hill Middle School is a Community School with land and buildings owned by the Council. This report does not include consideration of potential future use or disposal of the site and subsequent reports will be made to the Council's Executive on options for the land and buildings.

Staff and Trade Unions

49. Staff and Trade Unions/Professional Associations were consulted on the original proposal to close Brewers Hill Middle School as part of the informal and statutory process required by regulations and DfE guidance and has been further consulted on the proposal to modify the closure date of the school.
50. Since August 2014 the Council's HR Team has monitored all proposed restructures to ensure redundancy charges to the Council are minimised and justified. The Council do not have any powers to redeploy staff to other schools as the Governing Body of each school is responsible for the appointment of staff. Affected staff can be placed on the Councils redeployment register, and in addition employment details placed on the Children's Trust website used by schools. The Council encourages schools to consider redeployees who have relevant and transferable skills within the primary and / or secondary age ranges.
51. A revised closure date will result in the Governing Body commencing redundancy consultation with all employees and trade unions in early 2016. This will ensure redundancies can be declared in accordance with the Council's redundancy procedure and the provision of statutory notice periods for Teachers and support staff.
52. All redundancy and actuarial pension strain costs arising from a statutory early release of pension benefits will be met by the Council in the 2016/17 financial year along with the staffing costs for the closure of Ashton and Streetfield Middle Schools.

Equalities Implications

53. The consultation and decision making process set out in regulation for proposals to close Council maintained schools requires an evaluation of any equalities and human rights issues that might arise.
54. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and to foster good relations in respect of the following protected characteristics: age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

55. This statutory duty includes requirements to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics.
- Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Specific equality issues have not been raised during the consultation and decision making process.

Risk Management

56. The original proposal to close Brewers Hill Middle School, reported to the Council's Executive on 19 August 2014, was subject of a 6 weeks consultation followed by a 4 week Statutory Notice period and supported the need to manage the supply of school places in the Dunstable area by reducing the significant surplus in places in the middle school year groups and addressing the impact that reducing rolls would have on the financial viability of the school and the education of children accommodated within it.

57. Key risks associated with taking no action include:

- Failure to discharge the Council's legal and statutory duties/guidance.
- Failure to deliver the Council's strategic priorities.
- Reputational risks associated with the ineffective management of school places.
- Inefficient use of dedicated schools grant and corresponding reduction in funding for all other schools and Academies in Central Bedfordshire.
- Financial and educational unviability as pupil numbers fall further.
- Unplanned and un-coordinated loss of teaching and support staff.

Appendices

Appendix A – Minutes of consultation meetings

Background Papers:

None