

# Birmingham City Council

## Report to Cabinet

Date: 19<sup>th</sup> January 2021



**Subject:** PROPOSAL TO CLOSE HUNTERS HILL COLLEGE

**Report of:** Dr Tim O'Neill  
Director for Education & Skills

**Relevant Cabinet Member:** Cllr Jayne Francis - Education Skills and Culture  
Cllr Kate Booth – Children's Wellbeing

**Relevant O &S Chair(s):** Cllr Kath Scott - Education & Children's Social Care

**Report author:** Name: Jaswinder Dially  
Head of Service, Education Infrastructure;  
Telephone No: 0121 303 8847  
E-mail address: [jaswinder.dially@birmingham.gov.uk](mailto:jaswinder.dially@birmingham.gov.uk)

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 008377/2021		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		

### 1 Executive Summary

1.1 To seek the determination of a statutory proposal:

- Closure of Hunters Hill College with effect from 31<sup>st</sup> August 2021.

## **2 Recommendations**

- 2.1 That Cabinet, approve, having taken into account the statutory guidance, the statutory proposal to close Hunters Hill College.

## **3 Background**

- 3.1 Hunters Hill College is a Birmingham community special school situated outside the City boundary at Spirehouse Lane, Bromsgrove, Worcestershire. The school can offer up to 135 places for pupils with an Education Health and Care Plan (EHCP) for Social, Emotional and Mental Health needs, (SEMH). The school historically offered boarding provision. There are currently 83 pupils on roll.
- 3.2 Both Hunters Hill College and the boarding provision were inspected by OFSTED on 18<sup>th</sup> and 19<sup>th</sup> September 2019 after a number of complaints were made to OFSTED that raised serious concerns. Following these inspections, both the school and the residential provision received ratings of “inadequate”.
- 3.3 OFSTED found that “the arrangements for safeguarding at the school were not effective and at times pupils’ safety was at risk because staff did not manage behaviour well.”
- 3.4 Following a full school organisation consultation, Cabinet member approval was given on 25<sup>th</sup> March 2020 for the closure of the boarding provision with effect from 1<sup>st</sup> July 2020.
- 3.5 Following OFSTED’s rating of inadequate, Hunters Hill College became subject to a Directive Academy Order (DAO) on 22<sup>nd</sup> October 2019. The local Authority has been working with the school to develop a post OFSTED action plan.
- 3.6 On consideration of options as per the DfE Guidance for Schools Causing Concern the Local Authority agreed to implement an Interim Executive Board (IEB) as an academy sponsor had not come forward to sponsor the school. The IEB was established on 21<sup>st</sup> February 2020.
- 3.7 A condition survey of Hunters Hill College was carried out on 1<sup>st</sup> March 2019 and identified major structural issues. Several of the buildings on the site are beyond economical repair and no longer fit for purpose. Some buildings have been boarded up for safety and security. Some of the provision on site (e.g. vehicle maintenance workshop, the farm) has been decommissioned due to health and safety concerns. The cost of bringing all buildings up to a basic, warm and dry standard is estimated to cost circa £5,000,000. This level of investment would not provide value for money and would not provide a suitable building for the needs of the children.

In fact, health and safety issues onsite have become more prevalent this term. As a result of these issues the school has not been able to open fully for all pupils since schools reopened in September 2020. Pupils who have not been able to attend the school site have been educated through remote learning which is not sufficient to support these pupils’ educational needs in the long term.

- 3.8 The Council considers that the circumstances of Hunters Hill College do not allow for the school to make the necessary improvements identified in the OFSTED report without identification of an Academy sponsor and the conversion to an Academy.
- 3.9 Plans are being developed to create capacity in other Birmingham special schools to accommodate the remaining pupils should the proposal to close Hunters Hill College be approved. SENAR and Education Infrastructure will liaise closely with schools and providers to ensure a suitable alternative placement is available for each pupil at Hunters Hill College who are Birmingham residents. The quality of proposed settings is being evaluated carefully to ensure pupils will receive an improved standard of education that meets a pupils' needs as detailed in their EHCP. A proposed placement will also need to meet the requirements for special educational needs provision, as set out in section 7.1.1 of this report. Officers refer to these requirements as the "SEN improvement test".

**Appendix 6** outlines further information around the current number of pupils on roll at the school and progress to date in terms of ongoing placement requests.

- 3.10 There are currently no pupils on roll in Year 7. Should the proposal to close the school be approved, the Local Authority has a statutory duty to ensure that all pupils are provided a school place. If the proposal is approved, the Council's Special Educational Needs Assessment and Review (SENAR) service, together with relevant professionals, will work closely with current Year 8, 9 and 10 pupils and their families to agree appropriate alternative placements. SENDIASS will be part of those conversations. Subsequently any agreed placements for pupils will be in accordance with each pupils' EHCP and may be at another special school or an alternative provider. Current Year 11 pupils will be able to complete their education at school and leave at the end of the academic year in July 2021. SENAR will also liaise with the relevant Local Authority for those pupils at Hunters Hill College who are resident in another authority area. **Appendix 6** outlines further information around the current number of pupils on roll at the school.
- 3.11 Hunters Hill College is located out of the City boundary in Worcestershire with a large proportion of pupils currently traveling long distances using various forms of transport to reach Hunters Hill College. The Council's transport arrangements, Travel Assist, for children with special needs will apply where appropriate. Travel Assist will be fully engaged with any changes to travel plans and arrangements where required. The aim is to provide a high-quality school place for each Birmingham child, as local as possible to their home and community. Pupils' home address will be considered when offering alternative places. Such places should provide an opportunity to significantly reduce the travel time for pupils, which could have a positive impact on wellbeing.
- 3.12 Hunters Hill College occupies buildings and land that is held by the Council in trust, known as the Cropwood Estate. The Council holds the freehold interest of the land and the trust is managed through the Council's Trusts and Charities Committee with decisions made at meetings of the Council as trustee. If the proposal to close

Hunters Hill College is approved, the Council's Trust and Charities Committee will consider the future of the site in accordance with the trusts governing documents and charitable scheme approved by the Charity Commission (England and Wales) and in compliance with charity law and relevant Charity Commission guidance. In line with the School Organisation process, the future of the land and buildings does not form part of the school closure proposal or decision contained in this report, (see section 7.2 and **Appendix 4**).

- 3.13 As per DfE guidance and best-practice, a statutory pre-publication consultation was completed for the proposal between 22<sup>nd</sup> June 2020 and 16th October 2020. This was in the form of a pre-publication proposal document. Two staff and two parents' meetings were held during the pre-publication period. The length of the pre-publication was 17 weeks, of which 11 were in term time. The extended consultation was due to the COVID-19 emergency. It was felt that consideration should be given to pupils who were due to start in year 7 and also consideration to pupils who would be returning in September to closure proposals. We received 153 responses to the pre-publication consultation, of which 54 were in favour, 89 were opposed and 10 didn't know or didn't state a preference.
- 3.14 The Cabinet Member for Education, Skills and Culture notified all Birmingham Local Councillors of the proposal by email at the beginning of the School Organisation process and also invited direct comments and questions.
- 3.15 In compliance with DfE guidance, a statutory notice and proposal were published between 12<sup>th</sup> November 2020 and 10<sup>rd</sup> December 2020 (four weeks). The representation period commenced with the publication of a statutory notice in the Birmingham Post and the Bromsgrove and Droitwich Standard. During the four weeks representation period, comments on the proposal were submitted in writing to Education Infrastructure, via the BeHeard webpages, email or letter. A copy of the full proposal and public notice can be found within **Appendices 1 & 2**.
- 3.16 At the close of the representation period, 60 responses were received regarding the proposal. Of the 60 responses received 48 were opposed, 12 were in favour. A detailed quantitative and qualitative analysis of the consultation and copies of the comments received can be found in **Appendix 3** of this report.

Details of both the internal and external stakeholders consulted and the means by which both consultations were carried out are detailed in section 5 of this report.

- 3.17 The Education and Inspections Act 2006 states that the Local Authority must have regard to any guidance issued by the Secretary of State when making a decision on such proposals. The relevant statutory guidance is attached (**Appendix 4**). The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the Department for Education Statutory Guidance for proposers and decision makers on opening and closing maintained schools (November 2019) allows for the proposals to be approved, approved with modification, approved subject to meeting a prescribed condition, or rejected.

3.18 If the proposals are approved, Hunters Hill College will close with effect from 31<sup>st</sup> August 2021.

#### **4 Options considered and Recommended Proposal**

4.1 The option of doing nothing would mean that Hunters Hill College will remain open and financially unviable with the school deficit growing year on year. The Directive Academy Order will stand and the Department for Education (DfE) will need to identify a sponsor. To date no Academy sponsor has been identified.

4.2 The buildings are reaching the end of their life and are unsuitable as a place of education. The buildings are not sustainable within the school's budget allocation and will be in danger of falling into further disrepair without significant investment, for which there is currently no identified budget. The option of addressing the immediate concerns is not a viable option as it is estimated that the cost of bringing the building up to a basic, warm and dry standard is estimated at circa £5,000,000. This level of investment would not provide value for money and would not provide a suitable building for the needs of the children.

4.3 The option to allow for the closure of Hunters Hill College would;

- Address the concerns raised by OFSTED and meet the requirements set out in section 7.1.1 of this report for special educational needs provision ("SEN Improvement Test"), ensuring that the needs of the pupils are met at an alternative school in accordance with their Education Health and Care Plans which lead to improvements in the standard, quality and/or range of the educational provision for the pupils.
- Remove the obligation by the Local Authority to maintain and staff the buildings which are becoming unfit for purpose and have become financially unviable.
- Resolve the issue of the outstanding academy order with no identified sponsor.

### **5 Consultation**

#### **5.1 External**

5.1.1 The proposal has been fully consulted upon in line with the requirements set out in the statutory guidance "Opening and closing maintained schools" (November 2019) published by the Department for Education (DfE). A copy of the guidance for decision makers can be found in **Appendix 4**.

5.1.2 During the statutory pre-publication consultation period, information about the proposal was publicised to the parents, teaching staff, non-teaching staff and governors in writing. In addition, two parents' meetings and two staff meetings were held remotely in September 2020 via zoom and Microsoft teams. Other stakeholders were consulted by email.

During the statutory consultation period, information about the proposal was publicised to all parents, staff and Governors in writing. Other stakeholders

consulted during the statutory pre-publication period were consulted again during the statutory representation consultation by email and included the following consultees:

- Birmingham Schools;
- Neighbouring Local Authorities;
- The Archdiocesan and The Anglican Diocese of Birmingham;
- Professional Associations and Trade unions
- All Birmingham Local Councillors
- All Birmingham Members of Parliament and the following members of Parliament that have pupils of Hunters Hill College living in their constituency;
  - Sajid Javid MP for Bromsgrove
  - Saqib Bhatti MP for Meriden
  - Neil Hudson MP for Penrith & the Border
  - Pat McFadden MP for Wolverhampton South East
  - Nigel Huddleston MP for Mid Worcestershire
  - Rachel Maclean MP for Redditch
- Birmingham Parent Carer Forum
- Special Educational Needs and Disability Information, Advice and Support Services (SENDIASS)
- Birmingham City Council Charities and Trust Committee.

5.1.3 The information was publicised in the following ways:

- Public notice in Birmingham Post newspaper;
- Public notice in the Bromsgrove and Droitwich Standard
- On Birmingham City Council BeHeard webpage;
- On the schools' webpages;
- On the Birmingham City Council School Notice Board.

5.1.4 A copy of the full proposal document can be found in **Appendix 1** and the Public Notice in **Appendix 2**. The outcome of the external consultation is set out in Section 3 of this report and in **Appendix 3**

## 5.2 Internal

During both the statutory pre-publication and statutory representation consultation periods, information about the proposal was sent to:

- All Ward Councillors in Birmingham
- Officers from services across Birmingham City Council including Admissions, Finance, School and Governor Support, Human Resources, Legal, Planning, Research and Statistics Information Officers for Education and Skills.

Details of the responses received and analysis of the statutory consultation is set out in **Appendix 3**. The Ward Councillors consulted and the date and method of consultation is set out in **Appendix 5**.

## **6 Risk Management**

Should the proposals for the closure of Hunters Hill College not be approved an alternative solution would need to be sought to address the following serious issues at the school;

- The financial viability of Hunters Hill College:  
The cumulative forecast deficit for 2020/21 is £1.1 million. This will be Local Authority's liability at the point of closure. If the school continues to operate there is a considerable risk of the deficit growing at the rate of £100,000 per month, which the Local Authority would have to fund at the point of conversion.
- The outstanding Directive Academy Order and identification of an Academy sponsor by the DfE.
- The deterioration and suitability of the buildings (the buildings are reaching the end of their natural life for the purpose of education) which require a significant level of investment.
- OFSTED's judgement of inadequate: "There are serious and widespread failures, which mean that children and young people are not protected, or their welfare is not promoted or safeguarded" (OFSTED 2019).

## **7. Compliance Issues:**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

7.1.1 The proposal to close Hunters Hill College is necessary in response to the following;

- Give all children from every background and community the best start in life with a clear pathway to achieve success and realise their potential.
- The Local Authority has a statutory duty to ensure that there are sufficient pupil places, secure diversity in the provision of schools and increase opportunities for parental choice through planning and securing sufficient provision.
- The Local Authority has landlord responsibilities to ensure that schools are Health and Safety compliant and fit for purpose.
- To meet the aims set out in the Council's Education Services Delivery and Improvement Plan; -

- Securing a good school place for children across Birmingham
- Raising attainment and closing gaps for children across Birmingham
  
- Ensuring children and young people with special educational need and disabilities have their needs met in appropriate provision
  
- Ensuring children are safe and develop resilience
  
- Preparing young people with the skills they need for life.
  
- To meet the requirements for discontinuance of special educational needs provision (“SEN Improvement Test”) as set out in Schedule 2 paragraph 13 of the School Organisation (Establishment and Discontinuance) Regulations 2013, which reads:

“Special educational needs provision

13. Where existing provision that is recognised by the local authority as reserved for pupils with special educational needs is being discontinued, a statement as to how the local authority or the governing body (as the case may be) **believe the proposals are likely to lead to improvements in the standard, quality and/or range of the educational provision for these children”**.

## 7.2 Legal Implications

7.2.1 This report exercises powers contained within section 15 of the Education and Inspections Act 2006 and the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 together with the Department for Education Statutory Guidance for proposers and decision makers on opening and closing maintained schools (November 2019), whereby the Local Authority of a Community Special School can propose to close the school by following a statutory process. Under this Act, Regulations and statutory guidance, the Local Authority is the decision maker for this statutory proposal.

## 7.3 Financial Implications

7.3.1 The budget plan for the financial year 2019/2020 predicted a significant deficit and at the end of year the deficit was £494,000. As at September 2020, the cumulative forecast deficit for 2020/21 is £1.1 million. The cumulative deficit is predicted to grow further and would amount to between £1.7 and £2.0 million by the end of the 2021/22 financial year, if the school continued to remain open throughout the whole of that period. The financial deficit is primarily the result of a substantial reduction in pupil numbers which is, in part, driven by parental preference. The current total budget for the school is only £2.9 million. This indicates that, even with concerted efforts to reduce expenditure, the budget of the school would not be balanced. The Local Authority has worked consistently with the school to minimise the level of the financial deficit, whilst ensuring that safeguarding standards remain in place.

7.3.2 Staffing costs are being minimised by the use of agency staff and short-term contracts where practicable and some staff will transfer to other schools, so the precise costs of redundancies / retirements is unknown but is expected to be £700k.

7.3.3 As part of the considerations regarding the 2021/22 High Needs Block (which forms part of the Dedicated Schools Grant), there will be a proposal to set aside resources to assist special schools in financial difficulties. This should mitigate the impact of the eventual deficit on the General Fund. The existing budget for deficits plus a budget pressure to be considered as part of the Council's 2021/22 budget considerations will cover expected schools' deficits next financial year.

#### **7.4 Procurement Implications (if required)**

Not applicable

#### **7.5 Human Resources Implications (if required)**

7.5.1 All staff have been consulted on the closure during the school organisation process. This has included two whole school staff meetings, with official trade union representatives also in attendance. Should the School Organisation proposal be approved, the service redesign process will then commence, in consultation with the trade unions and staff as per BCC policy and procedure. This may or may not result in staff redundancies.

#### **7.6 Public Sector Equality Duty:**

7.6.1 An equality analysis for the School Organisation Process was completed under EQUA221. A project specific equality assessment has been carried out for the Hunters Hill College closure proposal under EQUA507.

The proposal to close the school would mean all pupils currently on roll will be displaced and will need to be offered an alternative place (according to EHCP). The closure proposal impacts mainly the following groups with protected characteristics: males between the age of 11 – 16 years of age with Social Emotional and Mental Health needs. A mental health condition is considered a disability if it has a long-term effect on one's normal day-to-day activity (as defined by the Equality Act 2010).

The equality impacts have been reviewed following feedback received during the statutory consultations. Although this proposal has a risk of adversely impacting pupils with protected characteristics, the School Organisation Regulations 2013 require by law that the local authority must provide a statement how the proposals are likely to lead to improvements in the standard, quality and/or range of educational provision. The requirements are as set out in section 7.1.1 of this report and the statement for how this will be achieved is set out in section 3.9 and 3.10 of this report.

## **8 Appendices**

1. Full Proposal Document
2. Public Notice
3. Statutory Consultation Analysis
4. DFE Guidance for Decision Makers
5. Ward Councillors Consulted
6. Displaced Pupils

## **9. Background Documents**

- Education and Inspections Act 2006
- Opening and Closing Maintained Schools. “Statutory guidance for proposers and decision makers” published by the Department for Education (DfE) November 2019.
- OFSTED Full Inspection Report 2019 Reference: Hunters Hill College  
<https://reports.ofsted.gov.uk/provider/25/103609>
- OFSTED report for Residential special school 2019  
<https://reports.ofsted.gov.uk/provider/10/SC043050>
- Hunters Hill College – Non-Building Condition Report March 2019
- Equality Impact Assessment EQUA507