

**Committee Name and Date of Committee Meeting**

Cabinet – 21 November 2022

**Report Title**

Proposal to close Rowan Centre Pupil Referral Unit (PRU) – following the transfer of pupils to Elements Academy

**Is this a Key Decision and has it been included on the Forward Plan?**

Yes

**Strategic Director Approving Submission of the Report**

Suzanne Joyner, Strategic Director of Children and Young People's Services

**Report Author(s)**

Dean Fenton – Head of Service, Access to Education

[Dean.fenton@rotherham.gov.uk](mailto:Dean.fenton@rotherham.gov.uk)

**Ward(s) Affected**

Borough-Wide

**Report Summary**

Elements Academy was established under the Department for Education's (DfE) Free School presumption procedure and opened in September 2022 as a new Academy for pupils with Education, Health, and Care Plans (EHCP's) with a presenting need of Social, Emotional and Mental Health (SEMH). Elements Academy is situated on the old College site at Dinnington.

All pupils who attended the Rowan Centre Pupil Referral Unit (PRU) have now transferred to Elements Academy as a special school specialising in supporting the SEMH presenting need of pupils and this has been facilitated by amendments to individual pupils' EHCP's.

Teaching, support, and ancillary staff who worked at the Rowan Centre PRU, have also transferred to Elements Academy to ensure a continuity of education and support for pupils. Subsequently Rowan Centre PRU has now been completely vacated.

This report seeks approval to commence statutory processes prescribed by DfE to bring forward proposals to formally close Rowan Centre PRU, following Statutory Guidance for Proposers and Decision makers 2019 – Opening and Closing Maintained Schools.

Should the proposal be approved, at the conclusion of statutory processes, the Local Authority will be in a position to make the site available for other educational purposes in line with DfE requirements.

### **Recommendations**

1. That approval be granted to commence a period of pre-statutory consultation on proposals to close Rowan Centre PRU.
2. That a further report be brought to Cabinet following pre-statutory consultation, outlining the outcome of the consultation, and seeking approval to enter into a period of statutory consultation.

### **List of Appendices Included**

Appendix 1 Equalities Impact Assessment

Appendix 2 Environmental Impact Assessment

### **Background Papers**

DfE guidance to proposers and decision makers 2019 – opening and closing maintained schools.

SEND sufficiency Phase 3 – November 2020 report to Cabinet

SEMH Free School update – September 2022 report to Cabinet

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## **Proposal to close Rowan Centre Pupil Referral Unit (PRU) – following the transfer of pupils to Elements Academy**

### **1. Background**

- 1.1 The Rowan Centre Pupil Referral Unit (PRU), Estate Road, Rawmarsh had evolved over time into a provision exclusively for children with Education, Health, and Care Plans (EHCPs) with a presenting need of Social, Emotional and Mental Health (SEMH).
- 1.2 As all pupils had an EHCP with a presenting need of SEMH, it was necessary to redesignate appropriate specialist provision to meet the needs of the pupils.
- 1.3 Following the Department for Education (DfE) Free School Presumption process, proposals were brought forward by the Local Authority to establish a specialist provision to meet the SEMH presenting needs of pupils who will attend.
- 1.4 A robust Academy Trust sponsor selection process was completed to appoint Ethos Academy Trust as sponsor. The Academy Trust expertise is in the field of SEMH support with a strong education outcome for pupil's track record.
- 1.5 The old Dinnington College site at Doe Quarry Lane, Dinnington was converted into a fit for purpose specialist school to support the presenting needs of pupils in line with the sponsors requirements and subsequently opened in September 2022. The school is known as Elements Academy.
- 1.6 Pupils who attended Rowan Centre PRU were transferred to Elements Academy via the EHCP process. Also teaching, support and ancillary staff were transferred to the new school to ensure continuity for pupils in their new school.
- 1.7 Subsequently, the Rowan Centre site has now been vacated and currently stands empty.
- 1.8 This report brings forward proposals to follow due process as prescribed by the DfE to formally close the Rowan Centre PRU and make the site available for other educational use as required by DfE.

### **2. Key Issues**

- 2.1 As the Rowan Centre PRU site is no longer in use following the vacating of pupils, staff and assets to Elements Academy, the building now stands empty.
- 2.2 To use the site for other registered education provision, it is necessary to follow a statutory process to formally close the Rowan Centre as a Local Authority maintained School and make the site available for other educational purposes as required by DfE.
- 2.3 Should proposals to formally close the Rowan Centre be approved following statutory process, the site can be offered to education providers for the use of

education provision where there is an identified need and the proposal be approved by DfE in due course.

### **3. Options considered and recommended proposal**

- 3.1 **Option 1:** Leave the Rowan Centre 'as is'. However, as the site has now been vacated, the building will inevitably fall into disrepair over a period of time.
- 3.2 **Option 2: (Preferred option)** Follow a formal process to formally close the Rowan Centre which if approved will then make the site available for other educational use in due course.
- 3.3 Should the proposal to close the Rowan Centre be approved, expressions of interest for alternative education provision would need to be sought. Any subsequent expression of interest brought forward would need to meet with DfE approval.
- 3.4 To use the site for other purposes than educational use would require the submission of a school land transaction proposal to DfE and would require Secretary of State for Education approval. This could only be pursued if there were no viable alternative education options.

### **4. Consultation on proposal**

- 4.1 The DfE have been consulted in relation to the process to make the site available for other educational needs.
- 4.2 This report seeks approval to enter into a statutory process, which will then follow a pre-statutory and statutory consultation process with a range of stakeholders prescribed by DfE on the proposals brought forward.

### **5. Timetable and Accountability for Implementing this Decision**

- 5.1 November 2022 - Report to Cabinet seeking approval to commence a period of pre-statutory consultation on proposals to close the Rowan Centre PRU.

February 2023 - Report to Cabinet outlining the outcome of pre-statutory consultation and seeking approval to proceed to a period of statutory consultation by public notice (representation period).

February / March 2023 - Public notice period - during the representation period, submit formal proposals to DfE being consulted on.

April 2023 - Report to Cabinet outlining the outcome of statutory consultation and seeking determination of the proposals.

April 2023 - Formally notify the Secretary of State for Education of the determination.

- 5.2 It should be noted, that as the Local Authority is the decision maker in relation to this proposal, it must make a decision within a period of two months of the

end of the representation period (public notice). Where a decision is not made within this time frame, the proposal must be referred to the Schools' Adjudicator for a decision.

## **6. Financial and Procurement Advice and Implications**

- 6.1 There are no direct procurement implications arising from the recommendations detailed in this report.
- 6.2 As the Rowan Centre site has become vacant following the opening of the SEMH School and transfer of Rowan staff and pupils the site costs are being incurred, there will be a Corporate Landlord responsibility until future use of the site can be determined. Asset Management and CYPs colleagues have started a process to gain expressions of interest for the use of Rowan site with an aim to have a clear usage for Rowan site post the formal process to close the school. Indicative timescales would seek to have a new plan in place for the site for Easter 2023, with a school taking on the site from September 2023.
- 6.3 Future use of the Rowan Centre site and associated revenue and capital financial implications cannot be determined at this stage.

## **7. Legal Advice and Implications**

- 7.1 The Education Act 1996 requires an English local authority to secure (as far as their powers enable them to do so) efficient education in their area (section 13(1); and so far, as is compatible with efficient instruction and training and the avoidance of unnecessary expenditure, a local authority must exercise its Education Act powers and duties having regard to the general principle that pupils are educated in accordance with the wishes of their parents (section 9). Consultation to inform the use of the building for other alternative provision goes towards compliance with the section 13 duty; furthermore, consultation assists compliance with the section 9 duty. The Local Authority should ensure compliance with the statutory duties at all times.
- 7.2 In line with the DfE statutory guidance for proposers and decision makers 2019 – opening and closing maintained schools, there is a clear process prescribed. It is vital that this process is followed to minimise the legal risks of challenge.
- 7.3 The Equality Act 2010 requires that local authorities, in exercising their functions, have due regard to the need to:
1. Eliminate discrimination, harassment, victimisation, and other unlawful conduct under the Act.
  2. Advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not share it.

It is vital that this duty is considered throughout the process and due regard given to all relevant factors to reduce the risk of legal challenge.

## **8. Human Resources Advice and Implications**

- 8.1 There are no human resource implications for the Local Authority to consider as the school is resourced to support the cohort of pupils attending. As the site is vacated, there are no staff employed at the Rowan Centre.
- 8.2 At the point of establishing Elements Academy a full Transfer of Undertakings (Protection of Employment) regulations (TUPE) process was completed for all staff transferring from Rowan Centre PRU to Elements Academy.

## **9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 Additional Special Educational Needs and Disability (SEND) places created within the borough give more children and young people the opportunity to access high quality provision to meet their educational needs and in line with parental wishes. The opening of Elements Academy has created appropriate provision for the pupils who are attending and in line with their presenting needs.

## **10. Equalities and Human Rights Advice and Implications**

- 10.1 Paragraph 7.3 of this report outlines the Equality Act 2010 requirements on public bodies in exercising their functions.
- 10.2 An Equalities Impact Assessment (initial screening) was undertaken in relation to the proposal and is Appendix 1 to this report. As the DfE statutory guidance requires stakeholder consultation, this will be used to inform a full equalities impact assessment.
- 10.3 The previous Equalities Impact Assessment aligned to the establishment of Elements Academy and transfer of pupils from Rowan Centre PRU to the new school did not identify any potential for unlawful conduct or disproportionate impact and concludes that all opportunities to advance equality are being addressed. The increase in SEND places on a permanent basis contributes to ensuring sufficient provision for the increasing numbers of children within Rotherham with SEND needs and ensures that appropriate provision is made in accordance with parental preference. By acting to ensure children in Rotherham have access to a high-quality school place, the Council is promoting equality of opportunity for all children and young people.
- 10.4 The Council must ensure it meets its public law duties when making decisions, including meeting its public sector equality duty. It must consider all relevant information, disregard irrelevant information, act in accordance with the statutory requirements and make its decision in a fair and transparent manner.

## **11. Implications for CO2 Emissions and Climate Change**

- 11.1 An impact assessment has been undertaken linked to the proposals contained within this report and is attached as Appendix 2.

## 12. Implications for Partners

- 12.1 The proposals will have a positive implication for Ward priorities across the borough, as more children are able to access specialist provision in line with their presenting needs.
- 12.2 Should the proposal be approved at the end of the statutory process, the vacated Rowan Centre site can be made available for other educational use.

## 13. Risks and Mitigation

- 13.1 Following the vacating of the Rowan Centre site, the buildings are now empty and run the risk of falling into disrepair.
- 13.2 To make the site available for other educational use, the Local Authority is required by DfE to follow due statutory process by bringing forward proposals to formally close the Rowan Centre.

## 14. Accountable Officers

Nathan Heath (Assistant Director of Education and Inclusion)  
Dean Fenton (Head of Service - Access to Education)

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	07/11/22
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	31/10/22
Assistant Director, Legal Services (Monitoring Officer)	Phillip Horsfield	01/11/22

*Report Author: Dean Fenton  
Head of Service – Access to Education*

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