

NORTH YORKSHIRE COUNCIL

THE EXECUTIVE

19 March 2024

**PROPOSAL TO CEASE TO MAINTAIN FOUNTAINS EARTH, LOFTHOUSE
CHURCH OF ENGLAND ENDOWED PRIMARY SCHOOL**

1 PURPOSE OF REPORT

- 1.1 To provide the Executive with information upon which to determine the proposal to cease to maintain Fountains Earth, Lofthouse CE Endowed Primary School with effect from 31 March 2024, together with the future arrangements for the school's current catchment area.

2 EXECUTIVE SUMMARY

- 2.1 On 23 January 2024 the Executive approved the publication of statutory proposals to close Fountains Earth, Lofthouse CE Endowed Primary School with effect from 31 March 2024.
- 2.2 This followed careful consideration of the responses to public consultation carried out by the Children and Young People's Service.
- 2.3 The statutory proposals were published on 1 February 2024, giving 4 weeks until 29 February 2024 for representations to be made.
- 2.4 This report is supported by a number of Appendices as listed below:

Appendix A Statutory Proposal for school closure

Appendix B Public Notice in accordance with section 15(1) of the Education and Inspections Act 2006

Appendix C School Organisation Guidance for Decision-makers

Appendix D Climate Change Impact Assessment

Appendix E Equality Impact Assessment

3 BACKGROUND

- 3.1 The Education and Inspections Act 2006 sets out the procedures for closing a maintained school. These are detailed in School Organisation regulations and guidance¹. The regulations and guidance apply to Local Authorities and governing bodies proposing to close schools, and to Local Authorities (including the North Yorkshire Council's Executive and Executive Members) acting as decision-makers.

¹ School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and Department for Education statutory guidance Opening and closing maintained schools (January 2023).

4 PROPOSALS

4.1 North Yorkshire Council proposes:

- To cease to maintain Fountains Earth, Lofthouse Church of England Endowed Primary School from 31 March 2024.
- That the catchment area of St Cuthbert's Church of England Primary School, Pateley Bridge should be expanded with effect from 1 April 2024 to serve the area currently served by Fountains Earth, Lofthouse CE Endowed School.

5 CONSULTATION UNDERTAKEN, RESPONSES AND OTHER ENGAGEMENT

- 5.1 Consultation documents were distributed to a wide range of stakeholders. The consultation document and responses to the consultation are included in Appendix A as part of the statutory proposals.
- 5.2 On 23 January 2024, the Executive considered the consultation responses, and resolved to proceed with publication of the statutory proposals.
- 5.3 A petition of 1,103 signatories was received by the Council on 11 December 2023 and posted on the NYC Website [Petitions received North Yorkshire Council](#) This petition seeks an investigation into the leadership of the Upper Nidderdale Federation and was considered at the Skipton and Ripon Area Constituency Committee, held on 7 March 2024.

6 STATUTORY PROPOSALS AND NOTICES

- 6.1 The statutory proposals and public notices were published on 1 February 2024. The public notice, placed on the school gates and in the Harrogate Advertiser and the Ripon Gazette newspapers, invited written objections or comments to be submitted by 29 February 2024. A copy of the notice is attached as Appendix B. At the time of the publication of the notice, a copy of the complete proposal, including all the information required in the school organisation regulations and guidance, was published on the Council's website. A copy of the proposal can be found at Appendix A.
- 6.2 Following the publication of the Statutory Notices, no comments were received by the end of the notice period on 29 February 2024

7 ISSUES RAISED AND RESPONSES TO STATUTORY PROPOSALS

- 7.1 There were no responses received to the publication of statutory proposals.

Request for an independent investigation

- 7.2 The petition was considered at the Skipton and Ripon Area Constituency Committee, held on 7 March 2024. The petition asked for an *'investigation into leadership and management of the Upper Nidderdale Federation'* and for the council to *'halt any decision-making process regarding the closure of Fountains Earth Primary School until a full and thorough investigation has been conducted'*.

7.3 Conclusion

It is the view of LA Officers that the fundamental reasons for consulting on closure as set out in the October 2023 and January 2024 reports to Members remain.

The school currently has no pupils on roll and there have been no 'highest preference' applications to join Fountains Earth School in September 2024 and therefore there is no realistic prospect of Reception pupils requiring a place for September 2024. Officers have outlined in an earlier report that the school will receive no pupil-led funding for the next academic year and the LA is not able to approve any additional funding.

For these reasons officers recommend that the Council proceed with the closure process.

8 FINANCIAL IMPLICATIONS

- 8.1 As set out in the report to Executive dated 23 January 2024, in the event of Fountains Earth School closing on the 31 March 2024, any legacy costs associated with the operation of the school incurred in the 2023/24 financial year would need to continue to be charged to the Fountains Earth school budget. Any final deficit on the school budget, after all costs have been accounted for, would need to be met from Council funds. Any surplus revenue or capital balances would be allocated in line with the local authority Closing School Accounting Guidance.

Any annual savings to the Dedicated Schools Grant arising from the closure, if approved, would remain within the ring-fenced Dedicated Schools Grant as part of the funding for all schools.

Transport Costs

- 8.3 As there are currently no pupils at Fountains Earth, Lofthouse CE Endowed School, there would be no immediate transport costs. Any pupils living in the current Fountains Earth, Lofthouse catchment area applying for school places at other local schools after the closure would be assessed under the home to school transport policy at the time of application. As such future transport costs cannot be estimated.

9 LEGAL IMPLICATIONS

REGULATIONS AND GUIDANCE

- 9.1 The consideration and determination of school organisation proposals by the Local Authority is set out in regulations and in guidance produced by the Department for Education.² Careful regard has been had to these provisions.

PRELIMINARY CHECKS

- 9.2 The Decision Maker must consider, on receipt of each proposal:
- whether any information is missing;
 - whether the published notice of the proposal complies with statutory requirements;
 - whether the statutory consultation has been carried out prior to the publication of the notice;
 - and whether the proposal is related to other published proposals.

Having undertaken an audit of these preliminary checks, the Assistant Chief Executive (Legal and Democratic Services) advises that:

- all information required has been supplied;
- the published notice complies with statutory requirements;
- statutory consultation has been carried out prior to publication of the notice;
- and that the preliminary points for consideration have been dealt with sufficiently to permit the Executive to proceed to determine this proposal.

TYPES OF DECISION THAT CAN BE MADE

- 9.3 In considering proposals for a school closure, the Executive (or the Executive Member for Schools, if there are no objections received during the representation period), as Decision Makers can decide to:
- reject the proposals;
 - approve the proposals;
 - approve the proposals with a modification;
 - approve the proposals subject to them meeting a specific condition.

10 PROCEDURE FOR THE MEETING

- 10.1 The Executive agreed on 25 September 2007 that in making a decision on school organisation proposals:
- (a) The decision maker must have regard to the Decision Makers' Guidance and to the Executive Procedure Rules laid down in the Council's Constitution.

² See footnote 1.

(b) All decisions must give reasons for the decision, indicating the main factors/criteria for the decision.

11 REASONS FOR THE RECOMMENDATION.

11.1 The report to the Executive Members dated 7 November 2023 set out the key concerns and these issues were explored in further detail in the Executive Report on 23 January 2024. The latest position on these issues is summarised below.

11.2 Pupil Numbers

There are currently no pupils on roll at Fountains Earth Primary School. All of the school's pupils transferred to other schools before the start of the current academic year and there were no new starters in the Reception year group in September 2023. There have been 'no highest preference' applications for Reception places at Fountains Earth Primary School in September 2024 (two applications received, both 3rd preference applications for Fountains Earth, Lofthouse). On current information there is no realistic prospect that any of these pupils would require a school place at Fountains Earth Primary School. There have also been no applications made for 'in year' transfers into other year groups at Fountains Earth Primary School. It therefore appears that from September 2024 the school would continue to have no pupils on roll. The school has in recent times experienced recruitment and retention difficulties associated both with the location of the school and the challenge of securing suitably skilled staff to deal with the differentiation required by whole school teaching in a single class structure.

Finances

The pupil numbers for the October 2023 census form the basis of a schools' funding for the 2024/25 financial year. The Department for Education (DfE) have confirmed that in an exceptional circumstance where a school has no pupils in the October census, they will not allocate any funding for that school in the schools block element of Dedicated School Grant (DSG) funding that a local authority receives to fund schools and academies located within the local authority area.

The DfE have confirmed that if the LA were to fund the school, then only the lump sum and rates should be allocated. The school would not be eligible for sparsity funding as there are no pupils so the school could not meet the eligibility criteria.

It is the view of LA that the North Yorkshire Schools Forum would not approve expenditure on a school with no pupils. The LA would have to publicly state this is its formal position, and then seek approval from the

Secretary of State to override the School Forum's decision.

It is also the case that any request for funding for one school to remain open may have consequences/ considerations for other cases of potential school closure. The local authority maintains a number of schools who are in an accumulated deficit position and/or are projecting to be in a financial deficit position. In viable school positions, the local authority requires local governing bodies to address any deficit and develop a recovery plan to operate within the funds and resources available.

Awarding funding to a school with no pupils, and not awarding funding to other schools in financial difficulty or who are geographically vital, and have pupils on roll, risks setting a precedent that will not gain universal agreement and may result in potential future liabilities in other potential school closures.

11.3 Standards and Curriculum

The most recent full graded Ofsted inspection for Fountains Earth, Lofthouse was in April 2017. At that time there were 22 pupils on roll. Ofsted judged the school to be 'Good'. A short monitoring (section 8 inspection) took place in June 2022 when there were 11 pupils on roll. The report stated that the school continued to be a 'Good' school. However, pupil numbers have fallen rapidly. As numbers fall, it is increasingly difficult to provide the remaining pupils with access to the full range of experiences and the quality of education they require. At present, if any pupils were to apply to join Fountains Earth Primary there is no real prospect of them being able to get a full and balanced school experience in the absence of any peers.

12 HUMAN RIGHTS IMPLICATIONS

12.1 There are no Human Rights issues in relation to this issue.

13. OTHER IMPLICATIONS

13.1 A Climate Change Impact Assessment has been undertaken in respect of this proposal and is attached as Appendix D. The assessment concluded that *'This proposal has positive and negative environmental impacts. The positive impacts will be a reduction in energy usage associated with a whole establishment and site ceasing to be used. Reducing surplus capacity indicates a more efficient use of resources. This would include reductions in heating, lighting and water usage but also other resource usage. However, there is likely to be a negative impact associated with some increased use of vehicles to transport the pupils to and from school. Ultimately there is an overriding consideration in this proposal to provide the best outcome for the education of children in the local area and no other educationally sustainable option has been identified'*.

The Council owns the school site. Details about future use of the school site will be taken after determination of the closure proposal.

- 13.2 An Equality Impact Assessment has been undertaken in respect of this proposal and is attached as Appendix E. The assessment concluded that *'The purpose of the consultation and proposed decision is to ensure that the children are provided with the best education provision in the area in a sustainable, stable and effective manner. In order to achieve these aims the proposal to close Fountains Earth, Lofthouse, CE Endowed school needs to be considered. Whilst it is recognised that there may be adverse impact upon those with protected characteristic of religion/belief any potential impact is mitigated because the next nearest school, St Cuthbert's in Pateley Bridge, is also a Church of England primary school. There are more positive impacts that will result if these proposals are implemented. As these proposals develop any adverse impacts will be carefully monitored, and all reasonable mitigations will be taken'*.

14 RECOMMENDATIONS

- 14.1 (a) That having undertaken the required preliminary checks, the Executive resolve that the issues listed above in section 9 have been satisfied and there can be a determination of the proposals.

(b) That the following proposal be determined:

i) To cease to maintain Fountains Earth, Lofthouse CE Endowed Primary School with effect from 31 March 2024.

ii) To extend the catchment area of St Cuthbert's Church of England Primary School, Pateley Bridge with effect from 1 April 2024 to include the area currently served by Fountains Earth, Lofthouse CE Endowed Primary School.

Stuart Carlton
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List of Appendices:

Appendix A:	Statutory Proposal for school closure
Appendix B:	Public Notice in accordance with section 15(1) of the Education and Inspections Act 2006
Appendix C:	School Organisation Guidance for Decision-makers
Appendix D:	Climate Change Impact Assessment
Appendix E:	Equality Impact Assessment

Background documents

Report, Executive, 23 January 2024

Report, Corporate Director's meeting with Executive Members, 7 November 2023