

NORTH YORKSHIRE COUNTY COUNCIL
CHILDREN AND YOUNG PEOPLE'S SERVICE
CORPORATE DIRECTOR MEETING WITH EXECUTIVE MEMBERS

23 March 2021

**PROPOSAL TO CEASE TO MAINTAIN KELL BANK CHURCH OF ENGLAND
VOLUNTARY CONTROLLED PRIMARY SCHOOL**

1 PURPOSE OF REPORT

- 1.1 To provide Executive Members with information upon which to determine the proposal to cease to maintain Kell Bank Church of England Voluntary Controlled Primary School with effect from 31 August 2021, together with the future arrangements for the School's current catchment area.

2 EXECUTIVE SUMMARY

- 2.1 On 26 January 2021 the Executive approved the publication of statutory proposals to close Kell Bank CE VC Primary School with effect from 31 August 2021.
- 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 5 February 2021, giving 4 weeks until 5 March 2021 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 Responses to the Statutory Notice
 - Appendix D School Organisation Guidance for Decision-makers

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 County 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 and Guidance for decision makers November 2019.

4 PROPOSALS

4.1 North Yorkshire County Council proposes:

To cease to maintain Kell Bank CE VC Primary School with effect from 31 August 2021. It is proposed that the catchment area of Masham CE VA Primary School shall be expanded with effect from 1 September 2021 to serve the area currently served by Kell Bank CE VC Primary School.

5 CONSULTATION UNDERTAKEN AND RESPONSES

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.

5.2 On 26 January 2021, the Executive considered the consultation responses, and resolved to proceed with publication of the statutory proposals.

6 STATUTORY PROPOSALS AND NOTICES

6.1 The statutory proposals and public notices were published on 5 February 2021. The public notice, placed on the school gates and in the Ripon Gazette newspaper, invited written objections or comments to be submitted by 5 March 2021. 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 County Council's website. A copy of the proposal can be found at Appendix A.

6.2 Following the publication of the Statutory Notices, one comment was received by the end of the notice period on 5 March 2021. A copy of this comment can be found at Appendix C and has been anonymised.

7 ISSUES RAISED IN RESPONSE TO STATUTORY NOTICES

7.1 The one response that was received to the statutory notices was from a former pupil of the school, who stated their desire to send their pre-school child to the school in the future, noting the benefits of attending a small school but also recognising the need for the school to be financial viable.

8 FINANCIAL IMPLICATIONS

8.1 As set out in the report to Executive dated 26 January, 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. Any revenue or capital balances would be made available to the receiving school(s) in line with the Closing School Accounting Policy.

8.2 If the school closed, there could be a potential additional cost to the Local Authority in providing transport to other schools. Free home to school transport would be provided for entitled pupils in accordance with the revised catchment area arrangements in accordance with the County Council's Home to School transport policy. Depending on the individual choices of schools by parents, potentially up to four children attending Kell Bank CE VC School at the start of the consultation period could be eligible for home to school transport. There could be additional home to school transport costs of

approximately £40 per day. Other transport costs may arise dependent on individual circumstances of individual pupils.

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 or Executive Members 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 North Yorkshire County Council Constitution.

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

11 REASONS FOR THE RECOMMENDATION.

² See footnote 1.

11.1 The report to the Executive dated 26 January 2021 set out the key concerns. The latest position on these issues is summarised below.

11.2 BREADTH OF CURRICULUM

This proposal is not being brought forward due to any concerns to this point about educational standards. However, the small size of the school and the very small number of pupils in each year group will limit the range of personal and academic challenges for pupils including opportunities for child-initiated play and interaction in early years. This is particularly the case now with only six pupils in total at the school, comprising two pupils in each of three year groups: Year 1 (2 pupils), Year 2 (2 pupils) and Year 6 (2 pupils).

The Ofsted Education Inspection Framework, introduced in September 2019, places significant weight on curriculum provision. Delivering a curriculum that has 'breadth and ambition' is a particular challenge for a very small school. For example, the National Curriculum for PE states that "pupils should be taught to play competitive games (for example, cricket, football, hockey, netball, rounders)". With a pupil count of six (ranging in age from 5 to 11) it is very difficult for the school to provide meaningful opportunities for competitive sport.

11.3 PUPIL NUMBERS

The number of children at Kell Bank CE VC Primary School has been falling over the past few years. At the beginning of September 2019, there were 15 pupils on roll in the school. This was well below the capacity of the school which could accommodate around 50 pupils. The Governing Body and Friends of the School have been active in their collective efforts to raise numbers at the school through many initiatives over recent years. However, since the start of this academic year there has been a further fall in numbers and in September 2020 the school had six pupils remaining on roll, two of these were in Year 6. Six pupils remain at the School at the date of this report. There have been no highest preference applications for Reception places to start in September 2021. Forecasts indicate that these numbers will not recover significantly in the longer term.

In these circumstances, it would be difficult to sustain quality education.

11.4 FINANCIAL POSITION

Pupil numbers determine the school budget. There are currently 6 pupils on the school roll. With these low numbers, and a reduced budget, the school would have to reduce staff. The school has projected in-year deficits of £17.7k in the financial year 2020/21, £17.5k in 2021/22 and £30k in 2022/23, and cumulative deficits of £2k in 2020/21, £19.5k in 2021/22 and £49.5k in 2022/23. These were based on pupil number assumptions of 16 in 2020/21 and 13 in 2021/22, so the position will be significantly worse now that pupil numbers have fallen and there appears to be no reasonable prospect of recovery.

12 HUMAN RIGHTS IMPLICATIONS

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

13 RECOMMENDATIONS

13.1 (a) That having undertaken the required preliminary checks, Executive Members 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 Kell Bank CE VC Primary School with effect from 31 August 2021.

ii) To extend the catchment area of Masham CE VA Primary School with effect from 1 September 2021 to serve the area currently served by Kell Bank CE VC Primary School.

Stuart Carlton
Corporate Director – Children and Young People’s Service

Report prepared by Sue Turley, Strategic Planning Team.

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:	Responses to the Statutory Notice
Appendix D:	School Organisation Guidance for Decision-makers

Background documents

Report, Executive, 26 January 2021

Report, Corporate Director’s meeting with Executive Members, 20 October 2020

Statutory proposals for closure of Kell Bank CE VC Primary School.

As set out in the Establishment and Discontinuance Regulations the information below **must** be included in a proposal to close a school:

Contact details

Proposal, published by North Yorkshire County Council, County Hall, Northallerton, DL7 8AE, to discontinue:

Kell Bank Church of England Voluntary Controlled Primary School, Healey, Masham Ripon, HG4 4LH, from 31 August 2021.

Kell Bank Church of England Voluntary Controlled Primary School is a 4-11 Church of England Voluntary Controlled primary school in North Yorkshire.

Implementation

It is proposed to close the school from 31 August 2021.

Reason for closure

There are three key concerns: 1) Low pupil numbers, 2) Breadth of curriculum, 3) The schools financial position

Low pupil numbers

The critical concern is the fall in pupil numbers, which would inevitably result in an inability to provide the necessary breadth of curriculum experience and would also irrevocably undermine the schools future financial position.

The number of children at Kell Bank CE VC Primary School has been falling over the past few years. At the beginning of September 2019, there were 15 pupils on roll in the school. This was well below the capacity of the school which could accommodate around 50 pupils. The Governing Body and Friends of the School have been active in their collective efforts to raise numbers at the school through many initiatives over recent years. However, since the start of this academic year there has been a further fall in numbers and in September 2020 the school had 6 pupils remaining on roll.

In these circumstances, it would be difficult to sustain quality education.

Breadth of Curriculum

This proposal is not being brought forward due to any concerns to this point about educational standards. However, the small size of the school and the very small

number of pupils in each year group will limit the range of personal and academic challenges for pupils including opportunities for child-initiated play and interaction in early years. This is particularly the case now with only 6 pupils in total at the school, comprising two pupils in each of three year groups: Year 1 (2 pupils), Year 2 (2 pupils) and Year 6 (2 pupils).

The Ofsted Education Inspection Framework, introduced in September 2019, places significant weight on curriculum provision. Delivering a curriculum that has ‘breadth and ambition’ is a particular challenge for a very small school. For example, the National Curriculum for PE states that “pupils should be taught to play competitive games (for example, cricket, football, hockey, netball, rounders)”. With a pupil count of 6 (ranging in age from 5 to 11) it is very difficult for the school to provide meaningful opportunities for competitive sport.

The Financial Position

Pupil numbers determine the school budget. There are currently 6 pupils on the school roll. With these low numbers, and a reduced budget, the school would have to reduce staff. The school has projected in-year deficits of £17.7k in the financial year 2020/21, £17.5k in 2021/22 and £30k in 2022/23, and cumulative deficits of £2k in 2020/21, £19.5k in 2021/22 and £49.5k in 2022/23. These were based on pupil number assumptions of 16 in 2020/21 and 13 in 2021/22, so the position will be significantly worse now that pupil numbers have fallen and there appears to be no reasonable prospect of recovery.

Pupil numbers and admissions

The numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is currently made at the school.

There are currently 6 pupils on roll at the school as of October 2020, all of which are pupils of compulsory school age. 5 of these 6 pupils are female, and 1 pupil is male.

	Pupil numbers	PAN
Reception	0	5
Year 1	2	5
Year 2	2	5
Year 3	0	5
Year 4	0	5
Year 5	0	5
Year 6	2	5
Totals	6	

The school’s age range is 4-11 years, and provision is available for boys and girls.

There is no boarding provision. Information on special educational needs of pupils is not provided as this would contravene the Data Protection Act. Total pupil numbers are significantly lower than the capacity of the school which is designed to accommodate around 50 pupils.

Displaced pupils

A statement and supporting evidence about the need for school places in the area including whether there is sufficient capacity to accommodate displaced pupils.

Details of the schools or further education colleges at which pupils at the school to be discontinued will be offered places, including—

- a) any interim arrangements;
- b) the provision that is to be made for those pupils who receive educational provision recognised by the local authority as reserved for children with special educational needs; and
- c) in the case of special schools, the alternative provision made by local authorities other than the local authority which maintain the school.

Details of any other measures proposed to be taken to increase the number of school or further education college places available in consequence of the proposed discontinuance.

a) No interim arrangements have been necessary

There are 7 other North Yorkshire primary schools within reasonable travelling distance with places available currently. Across the area there are places available for all the pupils currently at Kell Bank CE VC School.

The nearest school to Kell Bank CE Primary School is Masham CE Primary School. Masham School has reached its published admission number in some year groups, although there is capacity in others. There is currently capacity in some year groups at Grewelthorpe CE, which is the next nearest school. All applications will be dealt with on an individual basis and the Admissions Team will have discussions with appropriate Headteacher to see if the school are in a position to admit additional pupils in that year group.

There are also places available at St Nicholas, West Tanfield CE, Thornton Watlass CE, Kirkby Malzeard CE, Snape CP, Fountains Earth Lofthouse CE. These schools were all judged 'Good' in their last Ofsted.

It is also proposed that the catchment area of Masham CE VA Primary School would, in the event of closure, be extended to include the current Kell Bank School catchment area. For any children currently at Kell Bank CE VC, North Yorkshire County Council would work with each family to try to meet their individual preferences for other schools.

Parents have a right to express a preference for any school and, in the case of community and voluntary controlled schools, the relevant Local Authority is the admissions authority and will meet that preference provided there are vacant places or the school is happy to admit above the published admission number. In the case of Voluntary Aided schools, the governing body decide the conditions for admission to their particular school. Where a child attends a school which is not their normal

school or nearest school, parents are normally responsible for making transport arrangements.

- b) This is a mainstream primary, and therefore, not a school that is reserved for providing to pupils with special educational needs
- c) This is a mainstream school, and therefore, not a special school that is reserved for providing to pupils with special educational needs

Impact on the community

A statement and supporting evidence about the impact on the community of the closure of the school and any measures proposed to mitigate any adverse impact.

In some communities the school is the only meeting space. Fearby Village Hall at Fearby which has capacity for 100 is situated 0.3 miles from Kell Bank School. The Hall is a valuable resource for Fearby and its surrounding villages (Healey, Ilton, Ellingstring, Warthermarske) and hosts a wide variety of events and activities. It has a large modern well-equipped kitchen and free off road parking for around 40 vehicles.

St Paul's in the village of Healey, is the local church situated (0.2 miles from Kell Bank School). The children of the parish attend Sunday School on the 3rd Sunday of the month joining the morning service in time for communion. As well as regular services the parishioners of St Paul's are active in the local community; each year have a number of Coffee Mornings, a Domino Drive, Barbeque, Harvest Lunch, and Christmas Carols in the local pub 'The Black Swan at Fearby'.

There is no early years unit at Kell Bank CE VC School.

The Diocese have confirmed that the school site, other than the playing field, is vested in the Diocesan Board of Finance. The playing field is owned by the County Council. Decisions about the future use of the school site and buildings will be taken by the owners after the closure proposal has been determined.

There is unlikely to be any significant new housing in the settlements of Fearby and Healey as they are not Designated Service Villages within the Harrogate District Local Plan.

Whilst the impact on the wider economic and social sustainability of the community is an important consideration, the key consideration is to determine whether the proposal is in the best interests of children's education.

Rural primary schools

Where proposals relate to a rural primary school designated as such by an order made for the purposes of Section 15 (Education and Inspections Act 2006 (EIA)), a statement that the local authority or the governing body (as the case may be) considered Section 15(4) EIA.

Kell Bank CE VC is designated as a rural school under the Designation of Rural Primary Schools (England) Order. The School Organisation regulations and guidance contain a presumption against closure of rural schools, and it is a requirement that

proposers must consider the effect of the discontinuance of any rural primary school on the local community. The statutory guidance specifically states that 'This does not mean that a rural school will never close, but the case for closure should be strong and a proposal must be clearly in the best interests of educational provision in the area.' The guidance states that when producing a proposal, the proposer must carefully consider:

- the likely effect of the closure of the school on the local community;
- the proportion of pupils attending the school from within the local community i.e. is the school being used by the local community;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- the availability, and likely cost to the LA, of transport to other schools;
- whether the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium or long term);
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase; and
- any alternatives to the closure of the school.

These are examined in turn below.

The likely effect of closure of the school on the local community

Please see the section above 'Impact on the Community'

The proportion of pupils attending the school from within the local community i.e. is the school being used by the local community

There are currently 6 pupils on roll at the school three of which reside within the Kell Bank School catchment area.

There are 11 primary aged children who reside in the Kell Bank CE catchment area who attend a North Yorkshire maintained school (October 2019 Census, Department of Education).

The availability, and likely cost to the LA, of transport to other schools

If the school closed, there would be a potential additional cost to the Local Authority in providing transport to other schools. Free home to school transport would be provided for entitled pupils within the enlarged catchment area in accordance with the County Council's Home to School Transport policy. The County Council's Home to School transport policy sets out that free school transport will be provided to the catchment school or nearest school to a child's home address if it is over the statutory walking distances set out by law. This is:

- Two miles for children under eight years of age;
- Three miles for children aged over eight; or

•where the route to the catchment or nearest school is not safe to walk accompanied by a responsible adult.

If the nearest catchment or nearest school is full, transport will be provided, in accordance with the authority's transport policy, to the nearest school with places available. In this case, it is estimated that there would be additional home to school transport costs in the range of approximately £40 per day, dependant on the pattern of parental preference to alternative schools, and the mix of transport provision that would be required.

Children from low income families (children entitled to free school meals or whose parent are in receipt of the maximum level of Working Tax Credit) have additional eligibility criteria for additional home to school transport and details are available on the County Council's website at <http://www.northyorks.gov.uk/article/26071/School--travel-support>

Whether the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium or long term)

There are 7 primary schools within 7.9 miles of Kell Bank School by road:

- Masham CE VC
- Grewelthorpe CE
- St Nicolas, West Tanfield CE VC
- Thornton Watless CE VC
- Kirby Malzeard CE VC
- Snape Community
- Fountains Earth Lofthouse CE Endowed

Masham CE VA Primary School

- 2.8 miles from Kell Bank by road
- Rated Good by Ofsted in July 2019
- Net Capacity 116
- 121 pupils on roll
- Forecast 119 pupils + 17 from housing by 2025/26 (Outstanding permissions)

Grewelthorpe CE VC Primary School

- 5.8 miles from Kell Bank by road
- Rated Good by Ofsted in March 2017
- Net capacity 70
- pupils currently on roll 75
- Forecast 56 pupils + 1 from housing by 2025/26 (Outstanding permissions)

St Nicholas West Tanfield CE VC (Federated with Kirby Malzeard)

- 6.1 miles from Kell Bank by road
- Rated Good by Ofsted in March 2019
- Net capacity 70
- 36 pupils currently on roll

- Forecast 28 pupils + 12 from housing by 2025/26 (Outstanding permissions)

Thornton Watlass CE VC (Federated with Snape)

- 6.7 miles from Kell Bank by road
- Rated Good by Ofsted in November 2017
- Net capacity 51
- 27 pupils currently on roll
- Forecast 20 pupils + 1 from housing by 2025/26 (Outstanding permissions)

Kirby Malzeard CE VC (Federated with St Nicholas, West Tanfield)

- 7.2 miles from Kell Bank by road
- Rated Good by Ofsted in March 2018
- Net capacity 105
- 85 pupils currently on roll
- Forecast 79 pupils + 13 from housing by 2025/26 (Outstanding permissions)

Snape Community School

- 7.5 miles from Kell Bank by road
- Rated Good by Ofsted in May 2018
- Net capacity 52
- 24 pupils currently on roll
- Forecast 27 pupils + 1 from housing by 2025/26 (Outstanding permissions)

Fountains Earth Lofthouse CE Endowed

- 7.9 miles from Kell Bank by road
- Rated Good by Ofsted in April 2017
- Net capacity 42
- 16 pupils currently on roll
- Forecast 13 pupils + 2 from housing by 2025/26 (Outstanding permissions)

The view of the Local Authority is that there are surplus places in the local area which can accommodate displaced pupils.

Any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase

It is not considered that there would be significant additional car use given the small number of pupils who would be affected by the closure.

Any alternatives to the closure of the school

The Governing Body and officers from the County Council and Diocese have explored alternatives to the closure of the school. It is considered that there is no potential for the school to convert to academy status or to join a multi-academy trust because it would not meet tests of due diligence due to its small size. The fundamental issues of low numbers, breadth of curriculum and financial sustainability remain.

The school has worked collaboratively with the Federation of Snape Community and Thornton Watlass CE Primary Schools since 2015. All three schools share the same Executive Headteacher, although Kell Bank has not formally federated with the other two schools and retains a separate governing body. The three schools maximise available opportunities to bring together pupils to share activities and learning opportunities.

To date, no other school has come forward that would be prepared to federate with Kell Bank CE. Federation is a decision for individual school governing bodies and cannot be imposed by the County Council. Whilst collaboration between schools can enrich children's educational experiences to some extent and lead to sharing of resources or services it cannot guarantee the security of a school, which has reached a critical level in terms of pupil numbers and associated budget deficits, without other forms of support or intervention.

Balance of denominational provision

Where the school has a religious character, a statement about the impact of the proposed closure on the balance of denominational provision in the area and the impact on parental choice.

Kell Bank is a Church of England Voluntary Controlled Primary School. The LA is under an obligation to consider the impact on the proportion of church places before it determines the outcome of school closure proposals.

- The nearest Church of England school, 2.8 miles from Kell Bank CE VC is Masham CE VA Primary School.
- There is also a Church of England school at Grewelthorpe CE VC Primary School which is 5.8 miles away.

The next nearest Church of England schools are at:

- St Nicholas West Tanfield, CE VC 6.1 miles from Kell Bank CE
- Thornton Watlass CE, VC, 6.7 miles from Kell Bank CE
- Kirkby Malzeard CE VC, 7.2 miles from Kell Bank CE, Fountains Earth Lofthouse CE Endowed, 7.9 miles from Kell Bank CE.

The Diocese is supporting the LA with the consultation and given the availability of places at other local Church of England schools has expressed no specific concerns about the impact on proportionality of places in this area.

Maintained nursery schools

Not applicable

Sixth form provision

Not applicable

Special educational needs provision

The existing provision at Kell Bank CE VC Primary School is not reserved for pupils

with special educational needs.

Travel

Details of length and journeys to alternative provision.
The proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will mitigate against increased car use.

Eligibility for home to school transport will be determined in line with the County Council's current home to school transport policy and procedures based on each child's home address and individual circumstances.

Where a child attends a school which is not their normal school or the nearest school, parents are normally responsible for making transport arrangements.

Parents were, and will be, reminded of the County Council's home to school transport policy when considering alternative schools. Pupils up to the age of 8 would normally be eligible for free home to school transport if they live more than 2 miles from their normal area school (or 3 miles for those over the age of 8). Parents can always express a preference for a school other than their normal area school, however, they would usually be responsible for making transport arrangements. Eligibility is assessed on an individual basis taking into account the child's home address.

North Yorkshire County Council's Home to School transport policy states that 'Transport will be arranged so that children will not normally spend more than 1 hour 15 minutes travelling to a secondary school or 45 minutes to a primary school. Journey times might need to be longer than this in some more rural areas and where road or weather conditions mean that these times are not practical.' This is in line with statutory guidance from the Department for Education. The journey time for children living within the current Kell Bank CE VC Primary School catchment area would depend on which other school they attended and their home address. The nearest schools are:

Masham CE VA (2.8 miles from Kell Bank CE School, approximate travel time 7 minutes away, Grewelthorpe CE VC (5.8 miles away, approximate travel time 13 minutes away). Some year groups in both these schools have reached their published admission numbers, although there is capacity in other year groups.

St Nicholas West Tanfield CE, Thornton Watlass CE, Kirkby Malzeard CE, Snape CP, Fountains Earth Lofthouse CE are all well below the maximum travel time of 45 minutes for primary-aged pupils. Pupils would be eligible for travel arrangements from NYCC in line with the transport policy.

Procedure for making representations (objections and comments)

Within four weeks from the date of publication of this proposal, any person may object to or make comments on the proposal by sending them to Corporate Director-Children and Young People's Service, North Yorkshire County Council, County Hall, Northallerton, DL7 8AE, or by email to schoolorganisation@northyorks.gov.uk

by 5 March 2021

Consultation

The decision to consult on closure was taken by the Executive Member for Schools on 20 October 2020 following a request from governors. A consultation paper setting out the proposal was sent to parents of pupils on roll, staff at the school as well as other interested parties and individuals. A copy of the consultation paper and a list of the consultees is included in Appendix 3. The consultation period ran from 2 November 2020 to 21 December 2020. Two virtual public meetings were held online on 17 November 2020 and 2 December 2020, notes of the meetings are attached as Appendix 4. There have been 12 consultation responses received (Appendix 5).

Appendices

Appendix 1 - Consultation Paper and list of consultees

Appendix 2 - Notes of the Public Meetings

Appendix 3 - Consultation Responses

Appendix 4 – Equalities Impact Assessment

Appendix 1 Consultation Document and Consultees List



Consultation Document

Proposal to close Kell Bank Church of England

Voluntary Controlled Primary School

from 31 August 2021

Kell Bank Church of England Voluntary Controlled Primary School

November 2020

This paper sets out background and details of a proposal to close Kell Bank CE VC Primary School, Healey, Masham, Ripon, North Yorkshire, HG4 4LH, with effect from 31 August 2021.

There will be a virtual public meeting on: Tuesday 17 November 2020 at 7pm and Wednesday 2 December at 7pm.

If you wish to be part of this virtual meeting could you please let us know by emailing schoolorganisation@northyorks.gov.uk and joining instructions will be provided

If you do not have the facilities to participate in a virtual meeting but would still like to engage directly in the consultation process then please could you liaise directly with Kell Bank CE VC Primary School, Healey, Masham, Ripon, North Yorkshire, HG4 4LH (Tel. 01765 689410).

The Current Position

Following discussions and working closely with the Church of England Diocese of Leeds, North Yorkshire County Council is consulting on a proposal to close the school.

The Local Authority has reflected on the school's position and agree with the conclusion reached by the Governing Body in September 2020 that the school is not viable as a result of a falling pupil roll.

The Local Authority and the Governing Body of Kell Bank Church of England Primary School have not reached this position lightly.

Background

Kell Bank is a Church of England Voluntary Controlled Primary school in the Masham area, serving the settlements of Fearby and Healey. The school has worked collaboratively with the Federation of Snape Community and Thornton Watlass CE Primary Schools since 2015. All three schools share the same Executive Headteacher, although Kell Bank has not formally federated with the other two schools and retains a separate governing body. The three schools maximise available opportunities to bring together pupils to share activities and learning opportunities.

The School was last inspected by Ofsted in October 2013, when there were 45 pupils on roll. The overall effectiveness was judged to be 'Outstanding', as were all five contributory judgements. Under the current Ofsted Education Inspection Framework (introduced in September 2019), that level of judgement, given the significant weight on curriculum provision and the low level of pupil numbers at the school, would be difficult to maintain.

Pupil Numbers

The number of children at Kell Bank CE VC Primary School has been falling over the past few years. At the beginning of September 2019, there were 15 pupils on roll in the school. This was well below the capacity of the school which could accommodate around 50 pupils. The Governing Body and Friends of the School have been active in their collective efforts to raise numbers at the school through many initiatives over recent years. However, since the start of this academic year there has been a further fall in numbers and in September 2020 the school had 6 pupils remaining on roll.

The October 2019 School Census recorded that the majority of primary aged pupils who lived in the school's catchment area at that time were attending the school (8 pupils attended the school out of a total of 11 pupils who lived in the school's catchment area). There is unlikely to be any significant new housing in the settlements of Fearby and Healey as they are not Designated Service Villages within the Harrogate District Local Plan.

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Reception	4	5	2	2	3	2	0
Year 1	4	4	5	2	2	3	2
Year 2	7	4	4	2	1	2	2
Year 3	4	5	3	4	2	0	0
Year 4	5	5	5	3	3	3	0
Year 5	6	5	5	5	3	3	0
Year 6	9	5	5	5	5	2	2
Total	39	33	29	23	19	15	6

Forecasts indicate that pupil numbers will not recover in the longer term and may reduce still further.

The Financial Position

Pupil numbers determine the school budget. With these low numbers, and a reduced budget, the school would have to reduce staff. The school has projected in-year deficits of £17.7k in the financial year 2020/21, £17.5k in 2021/22 and £30k in 2022/23, and cumulative deficits of £2k in 2020/21, £19.5k in 2021/22 and £49.5k in 2022/23. These were based on pupil number assumptions of 16 in 2020/21 and 13 in 2021/22 so the position will be significantly worse now that pupil numbers have fallen and there appears to be no reasonable prospect of recovery.

The Proposal

For the reasons above it is proposed that Kell Bank CE VC Primary School should close with effect from 31 August 2021.

It is also proposed that the catchment area of Masham CE VA Primary School would, in the event of closure, be extended to include the current Kell Bank School catchment area.

Masham is the nearest alternative school to Kell Bank School. Masham School has

reached its published admission number in some year groups, although there is capacity in others. The School has a capacity of 116 pupils and a total pupil roll of 121 in September 2020. It is therefore operating around capacity but this is due in part to attendance by pupils who reside in other areas. At the October 2019 census the total roll was 114 pupils of which 43 (37%) came from outside of the school's catchment area. At the same time there were 85 primary aged pupils living in the catchment area of Masham School and 11 primary aged children living in the catchment area of Kell Bank School. The conclusion is that Masham CE Primary School would be the appropriate choice to adopt the existing Kell Bank catchment area as an addition to its existing area in the event of a closure.

The County Council would welcome views regarding this catchment area proposal as part of this consultation.

Other local schools

For children currently at Kell Bank CE VC Primary School, North Yorkshire County Council will work with each family to try to meet their individual preferences for other schools. Staff and governors at Kell Bank CE VC Primary School are also committed to supporting families in their choice of school and in making a smooth transition in the event of closure.

Other primary schools in the local area are:

Masham Church of England (Voluntary Aided) Primary School, 1 Millgate, Market Place, Masham, Ripon, North Yorkshire, HG4 4EG

Grewelthorpe Church of England (Voluntary Controlled) Primary School, Cross Hills, Grewelthorpe, Ripon, North Yorkshire, HG4 3BH

St Nicholas, Church of England (Voluntary Controlled) Primary School, West Tanfield, Ripon HG4 5JN

Thornton Watlass Church of England (Voluntary Controlled) Primary School, Thornton Watlass, Ripon, North Yorkshire, HG4 4AH

Kirkby Malzeard Church of England (Voluntary Controlled) Primary School, Church Street, Kirkby Malzeard, Ripon, North Yorkshire, HG4 3RT

Snape Community Primary School, Ings Lane, Snape, Bedale, North Yorkshire, DL8 2TF

Fountains Earth Lofthouse Church of England Endowed (Voluntary Controlled) Primary School, Fountains Earth, Lofthouse, Harrogate, North Yorkshire, HG3 5RZ

All these schools were judged 'Good' at their last Ofsted inspection.

Parents have a right to express a preference for any school. The Local Authority is the

admissions authority for community and voluntary controlled schools and will meet that preference provided there are vacant places, or the school is happy to admit above the published admission number. In the case of Voluntary Aided schools, the governing body decides the conditions for admission to their particular school. Some schools may be able to admit over their published admission numbers for some year groups.

Eligibility for home-to-school transport will be determined in line with the County Council's current home-to-school transport policy and procedures, based on travel distances from each child's home address and individual circumstances.

Where a child attends a school, which is not their normal school or nearest school, parents are normally responsible for making transport arrangements.

North Yorkshire County Council's Admissions Team is always happy to give advice to parents – please contact Karen Crossland on 01609 534825 or Lisa Herdman on 01609 534953.

Staff

A separate staff consultation process will run in parallel with the consultation on the closure proposal.

The Building

The Diocese have confirmed that the school site, other than the playing field, is vested in the Diocesan Board of Finance. The playing field is owned by the County Council. Decisions about the future use of the school site and buildings will be taken by the owners after the closure proposal has been determined.

What Happens Next?

Your views about this proposal are welcomed. You can complete and return the attached response sheet by post or submit an online response.

Paper responses should be returned to North Yorkshire County Council at the address below:

Online responses may be submitted by following this link: [Kell Bank response form](#)

The closing date for responses is 21 December 2020

All responses to the consultation received by this date will be considered by the County Council's Executive on 26 January 2021.

If the County Council's Executive decides to proceed with the closure proposal, then statutory notices would be published in the local press on 5 February 2021. These notices provide a further four weeks for representations to be made. A final decision

would then be made by North Yorkshire County Council's Executive Committee on 23 March 2021. If agreed the school would close on 31 August 2021.

Key Dates

All dates subject to approval at each stage.

Consultation opens	2 November 2020
Virtual Public meeting	17 November 2020 at 7pm 2 December 2020 at 7pm
Consultation closes	21 December 2020
County Council's Executive considers consultation responses	26 January 2021
Statutory Notices published (4 weeks for representations to be made)	5 February 2021 to 5 March 2021
Final decision by County Council's Executive	23 March 2021
Proposed school closure date	31 August 2021

Kell Bank CE VC Primary School

A consultation on whether the school should be closed

A copy of our Corporate Privacy Notice can be viewed here [NYCC Privacy Notices](#)

All personal information collected by North Yorkshire County Council will be anonymised when the consultation closes. Comments submitted will help to determine the outcome of this proposal.

Do you agree with the proposal to close Kell Bank Church of England Voluntary Controlled Primary School with effect from 31 August 2020? (Yes/No)

Do you agree that in the event of closure that Masham Church of England Voluntary Aided Primary School should be the school to serve the existing Kell Bank CE VC Primary School area (Yes/No)

Observations and/or suggestions:

Interest/Status

e.g. Parent/Governor/Teacher/Community

Name of School

This information is collected to confirm your proximity to the school

Name (Block Capitals)
Address:
.....
.....
Postcode:

To help us assess whether we have provided clear information, please let us know whether you found this consultation easy to understand? YES/NO

Do you have any suggestions for improvement?

.....

.....

Under the provisions of the Freedom of Information Act 2000, responses to the consultation may be published on the County Council’s website where it may be accessed by members of the public.

You may submit your response via the link below or alternatively send this response sheet to the following “FREEPOST” address. You do not need to use a postage stamp.

FREEPOST RTKE-RKAY-CUJS Kell
Bank
Strategic Planning
North Yorkshire County Council
County Hall NORTHALLERTON
DL7 8AE

Or click on the following link: [Kell Bank response form](#)

To be received by no later than 21 December 2020

We are collecting this information for the purpose of gathering views on the proposal. Your personal data will not be published or passed to any other organisation unless a legal obligation compels us to do so. We may contact you to discuss your views further. For more information about how your personal data is handled at North Yorkshire County Council please visit: [NYCC Privacy Notices](#)

Kell Bank CE Primary School – List of Consultees

Kell Bank CE	Parents
	Staff and governors
	Chair of Governors
Local Primary Schools:	Masham CE
	Grewelthorpe CE
	St Nicholas West Tanfield CE VC
	Thornton Watlass CE
	Kirkby Malzeard CE
	Snape Community
	Fountains Earth Lofthouse
Middleham CE VA	
Unions and Professional Associations:	NAHT
	NASUWT
	NEU (formerly NUT & ATL)
	VOICE
	NUT
	UNISON
Diocese	Diocese of Leeds
Neighbouring Local Authority:	
Local County Councillor:	Margaret Atkinson
Harrogate Borough Councillor:	Nigel Simms
Local Parish/Town council	Fearby, Healy, Colsterdale, Ellingstring & Ilton-cum-Pott Masham, Burton on Yore, Ellington High, and Low and Swinton with Wathermarske
Masham Community Office	
Local MP	Julian Smith
RSC Secretary of State:	
Early Years Providers within 5 miles	

Appendix 2 Notes of Public Meeting

Record of Public Meeting concerning proposed closure of Kell Bank CE VC Primary School**First Public Meeting held on 17 November 2020 at 7pm using Microsoft Teams (due to Covid 19 restrictions in place at the time of the meeting)**

Present: County Cllr Patrick Mulligan (Executive Member for Education and Skills, NYCC), Andrew Dixon (Strategic Planning Manager, NYCC), Canon Richard Noake (Director of Education, CoE Diocese Leeds, Jane Wood (Executive Headteacher, Kell Bank CE VC School), Jeff Loveday, (Chair of Governors, Kell Bank CE VC School), Matt George (Strategic Planning Officer, NYCC) and Sue Turley (Strategic Planning Officer, NYCC).

Five school governors, Chair of Fearby Healey and District Parish Council and three members of the public.

Apologies: None noted

16 people were present at the meeting via Microsoft Teams.

AGENDA

Meeting opens – brief welcome	Jeff Loveday – Chair of Governing Board
Executive Members Opening Remarks <ul style="list-style-type: none"> • Introduction to the Panel • Short statement about background 	County Cllr Patrick Mulligan
Presentation <ul style="list-style-type: none"> • The proposal • Background to the proposal • Pupil numbers • Finances • Local Schools • Local Housing • Catchment area • How can people comment 	Andrew Dixon – Strategic Planning Manager NYCC
Question and Answer Session	County Cllr Patrick Mulligan
Meeting Close	County Cllr Patrick Mulligan

1. Welcome

Chair of Governors Kell Bank CoE VC School opening remarks

Jeff Loveday, Chair of Governors, Kell Bank CE VC School welcomed everyone to the meeting and introduced Jane Wood, Executive Headteacher of Kell Bank CoE VC Primary School and County Councillor Patrick Mulligan.

Jeff Loveday said the public meeting tonight was to discuss the consultation on the proposed closure of the school which followed a request from the School's Board of Governors in September 2020. It is important we hear what everyone has to say as part of the public consultation tonight.

Executive Member opening remarks

County Councillor Patrick Mulligan introduced the rest of the panel, including Richard Noake representing the Diocese of Leeds. The meeting was supported by three LA Officers; Andrew Dixon, Strategic Planning Manager, Matt George and Sue Turley, Strategic Planning Officers.

2. Presentation

Andrew Dixon, Strategic Planning Manager at NYCC said the meeting would be recorded to aid the note taking and support the decision making process. The recording would be deleted once the written record was finalised.

Andrew provided a presentation which covered:

- The proposal
- Background to the proposal
- Pupil numbers
- Finances
- Local Schools
- Local Housing
- Catchment area
- Diocese statement from Canon Richard Noake
- How can people comment

Richard Noake said he was representing the Diocese and thanked the governing body for all the work they had done to support the school and at looking at the different options for the future of the School. He also thanked the LA as part of their statutory duty. He added the Diocese, sits in partnership with the governing body and LA in terms of supporting the best way forward. He urged everyone to ask questions and understand the process. Noting the School is celebrating 200 years of education provision in the village, he added it would have been one of the first schools set up under the National Society in 1811. Adding, it is difficult to have these conversations at this time of celebration of 200 years of the School but it is important as part of the Diocese's duty and he would be happy to take any further questions.

A Q&A session followed the presentation and comments.

3. Q&A Session chaired by Cllr Mulligan

A member of the public and previous teacher and a governor at the school said they were extremely concerned about its future. It was recognised the school had only 6 pupils and therefore difficult to maintain. There has been a number of improvements over the years to facilities but it has always been a great centre of excellence for learning and noting now celebrating 200 years. In terms of the future of the School building could it be used as a pre-school, a Forest School, an Outward Bounds Centre or as a centre for excellence for training teachers in using their local environment?

David Cleaves Vice Chair of Kell Bank CoE VC School and governor Masham CoE VA School, asked the question if the field was owned by the County Council as it was purchased with a donation to the governing body?

Andrew Dixon responded saying his understanding was that the field was owned by the County Council.

Richard Noake added that the Diocese inventory indicated they own the rest of the site.

A governor said she had received the documentation regarding the consultation and praised the work of the Chair of Governors and said he had done an amazing job over the years. Noting at Masham CoE VA School the capacity was at 116, asked why there are 121 pupils and remarked those additional 5 children could have made a difference to Kell Bank CoE VC School or to another small school.

Andrew Dixon said the specific reason for numbers at Masham was not something that had not been looked at prior to the meeting but added that if oversubscription were a factor it could be because parents had gone to an independent appeals panel and their decision is binding to the school.

A governor said that Brian Gregg, Chair of Fearby, Healey and District Parish Council, had wanted to make a comment but was currently unable to join the meeting due to technical difficulties but had asked the question regarding the numbers at Masham CoE VA School. Brian had grandchildren coming up to school age and wanted to support the school. The governor added she also wanted to comment on the higher numbers at Masham CoE VA School which were not helping smaller schools like Kell Bank CoE VC School.

Cllr Mulligan added it could be due to admission appeals which is a parental right and choice.

David Cleaves responded saying it is generally where a class had not reached its Published Admission Number (PAN) in a particular year group and if parents went to appeal they would probably get in. David added Masham CoE VA School had not sought to actively attract out of area pupils.

A governor asked if the County Council was taking any of the future housing

development in Masham into account because it would increase pupil numbers.

Andrew Dixon responded saying the County Council had taken the housing growth into account in Masham and said that as the sites in Masham are built out, pupil yield would be impacted over time. If the building developments come to fruition then pupils from the Kell Bank area would have priority over the quite high proportion of children who, to date, had secured places from out of catchment at Masham CoE VA School. It would be a gradual change of the type of intake. Masham CoE VA School has 37% of pupils attending from out of catchment (based on the October 2019 school census) that would gradually be displaced over time. Andrew stated there were around 100 pupils in the Masham and Kell Bank area, allowing headroom for Masham School to absorb additional numbers and the LA had given careful consideration to this.

Responding to this answer, the governor stated the catchment area for Kell Bank was wide in terms of countryside but had few children living in it.

Andrew Dixon said that was important to note and as indicated in the presentation, it is also about parental preference. Although Masham CoE VA School potentially could become the catchment school for the Kell Bank area that did not preclude any parent applying for any school in the area and this is a common feature in both town and rural areas across North Yorkshire.

Another governor added that due to the fact Masham CoE VC School takes 37% of pupils out of catchment it does not help other local schools. It would be helpful if parents stuck to their catchment areas and this could have attracted more pupils to Kell Bank.

At this point Brain Gregg was able to join the meeting by phone.

Brian Gregg, Chair of Fearby, Healey and District Parish Council asked the question why the school numbers had gone down so much given its high academic achievement, what assistance had the LA given the school over the last few years?

Andrew Dixon replied saying the presentation had covered the support provided by the LA and the Diocese to the School.

David Cleaves asked about the development in Masham and entitlement to S106 funding. Regarding the capacity at Masham, their PAN is 20 per year so the total number on roll could rise to 140. He added Kell Bank CoE VC School also historically attracted some out of area pupils. Another contributing factor is the type and cost of property in the area, which precludes it being bought by young families.

Richard Noake said he empathised with the question around parental preference. The government in the mid 1980s said parents should be able to make a preference. This is challenging in terms of the distribution of children over a number of schools, but parents can choose and if spaces are available, an opportunity is provided to attend. The opposite end of this is when a school becomes vulnerable and goes into an Ofsted category, parents then take children to other schools. It is a challenge faced in the sector in terms of how admissions operate.

Various attendees at the meeting raised several points about the communication of the meeting date/time and sight of the consultation document. Attendees requested NYCC reflect on this and that a further meeting be established.

Cllr Mulligan said he had noted all the comments regarding the publicising of the meeting and would consider the need for another meeting and it was important that a public consultation was made available to all. He urged everyone to respond to the consultation. He thanked everyone for attending the meeting and noted it was a significant issue for the community.

The meeting closed at 20:20

Post meeting note 19 November 2020

NYCC confirmed a further virtual public meeting via Microsoft Teams would be held on the 2 December 2020. The additional public meeting would be communicated as previously to all known stakeholders, which included; parents, staff and governors at the School, Councillors both County and District, National Teaching Union, all other local schools in the area and Early Years providers and additionally via the Masham Community Office as suggested in the public meeting and including Masham Town Council.

In addition, these stakeholders were notified that the closing date of the consultation was extended to 21 December 2020, a week later than the original closing date of 14 December 2020.

Record of Public Meeting concerning proposed closure of Kell Bank CE VC Primary School

Second Public Meeting held on 2 December 2020 at 7pm using Microsoft Teams (due to Covid 19 restrictions in place at the time of the meeting)

Present: County Cllr Patrick Mulligan (Executive Member for Education and Skills, NYCC), Andrew Dixon (Strategic Planning Manager, NYCC), Canon Richard Noake (Director of Education, CoE Diocese Leeds, Jane Wood (Executive Headteacher, Kell Bank CE VC School), Jeff Loveday, (Chair of Governors, Kell Bank CE VC School), Matt George (Strategic Planning Officer, NYCC) and Sue Turley (Strategic Planning Officer, NYCC).

Three school governors, Chair of Fearby, Healey and District Parish Council, two members of Masham Parish Council, two members of the public, a National Education Union representative (North Yorkshire District).

Apologies: None noted

16 people were present at the meeting via Microsoft Teams.

AGENDA

Meeting opens – brief welcome	Jeff Loveday – Chair of Governing Board
Executive Members Opening Remarks <ul style="list-style-type: none"> • Introduction to the Panel • Short statement about background 	County Cllr Patrick Mulligan
Presentation <ul style="list-style-type: none"> • The proposal • Background to the proposal • Pupil numbers • Finances • Local Schools • Local Housing • Catchment area • How can people comment 	Andrew Dixon – Strategic Planning Manager NYCC
Question and Answer Session	County Cllr Patrick Mulligan
Meeting Close	County Cllr Patrick Mulligan

4. Welcome

Andrew Dixon, Strategic Planning Manager at NYCC welcomed everyone to the meeting. Andrew Dixon invited Jeff Loveday Chair of Governors, Kell Bank CE VC School to open the meeting.

Chair of Governors Kell Bank CoE VC School opening remarks

Jeff Loveday said the public meeting tonight was to discuss the consultation on the proposed closure of the school which followed a request from the School's Board of Governors in September 2020. A request that was very difficult to make and heart rendering. It is important we hear what everyone has to say as part of this public consultation tonight and from this point the LA will take comments, read, analyse and make deliberations after the (closing date of) 21 December 2020. Jane Wood, Executive Headteacher at the School was asked to identify herself to everyone as part of the Teams meeting. Jeff invited Cllr Mulligan to speak.

Executive Member opening remarks

County Councillor Patrick Mulligan introduced himself and noting this was the second public meeting. He introduced the rest of the panel, noting Richard Noake was representing the Diocese of Leeds. The meeting was supported by three LA Officers; Andrew Dixon, Strategic Planning Manager, Matt George and Sue Turley, Strategic Planning Officers.

Cllr Mulligan noted the meeting would be recorded. It would be helpful if attendees could keep their cameras on for the 'Q&A' part of the meeting. He encouraged everyone to contribute in the meeting.

5. Presentation

Andrew Dixon explained the purpose of the meeting was to consider the proposal that Kell Bank CoE VC Primary School should close with effective from 31 August 2021. Andrew said the presentation would address school numbers, the financial position and places available locally at other schools.

The meeting was part of the process to consider the views of all those likely to be affected by the proposal and would be considered as part of the decision making process.

Andrew explained the background to the proposal, noting this was the second meeting having held a previous public consultation meeting on 17 November 2020.

Ofsted last inspected the school in October 2013 when there were 45 pupils on roll. All judgements at that time were 'Outstanding'. Andrew highlighted the consultation was not about school standards, however, increasingly low numbers attending make it difficult to maintain quality and breadth of education.

Andrew talked through the slide relating to pupil numbers. The school's current

capacity is for c50 pupils. Numbers on roll have been reducing since 2014. Housing growth in the local area is not expected as part of the Local Plan and therefore not in any significant numbers in the school's catchment area. Pupil numbers over time have reduced year on year, from 39 in 2014 to 15 in September 2019. Currently there are 6 pupils on roll, 4 pupils in KS1 and 2 in KS2 (Year 6) who will leave the school for secondary education at the end of this academic year.

In relation to the local primary aged cohort (number of children of primary age who lived in the school catchment area and identified through their attendance at a NY school), there were 11 pupils of primary age in the October 2019 Census and 8 of those pupils attended the school at that time. Andrew noted for added context, that with around 113 residential properties in the rural catchment area, using the LA's formula for assessing the potential primary pupil yield (1 primary aged pupil generated for every 4 dwellings), this would yield around 28 pupils. Currently, from the 113 existing residential properties, there were only 11 children.

Pupil recruitment efforts had taken place through publicity through a private nursery, estate agents, positive press coverage celebrating the success of the school, signage locally and school positively involved in community projects.

School projections revealed that In year deficit projections of £17k would occur in 2020/21, £17k in 2021/22 and rising to £30k in 2022/23, leading to a cumulative deficit of £49k in March 2023. These forecasts were based on pupil number assumptions of 16 in the current 2020/21 and 13 in 2021/22, numbers are now significantly lower.

School governors had attempted to bring the school into a sustainable position through financial strategies. There is an Executive Headteacher arrangement in place at the school and efficiencies through a collaboration with two other local schools have been maximised. It is not a formal federation under one single governing body but the school has sought and achieved financial efficiencies through this collaboration.

There are several local schools in proximity to Kell Bank CE VC with Masham School the nearest at 2.8 miles (distance from school to school). The school is in a primary collaboration with Snape Community and Thornton Watlass CE primary schools a little further away but with established links. The nearest alternative school is at Masham CE VA with a total pupil roll of is 121. 43 pupils (37%) attend from outside the Masham school catchment area (October 2019 census figures). The primary aged cohort (number of children of primary age who lived in the school catchment area and identified through their attendance at a NY school) for Masham is 85 and the primary aged cohort for Kell Bank is 11. This would equate currently to 96 primary aged pupils and Masham school's capacity is around 116. There are three year groups with 20 on roll at Masham School and other year groups below the Published Admission Number (PAN), which is 20.

In the event of closure of Kell Bank CoE VC School, the proposal is that Masham School should become the catchment school for the area currently served by Kell Bank School and this would be effective from 1 September 2021. Andrew said NYCC

would welcome comments on the closure proposal and the catchment arrangements going forward.

Andrew highlighted that the LA would ask that parents familiarise themselves with admission arrangements for other schools and noting that Voluntary Aided schools and Academies are responsible for their own admission decisions.

Advice and assistance for the remaining pupils at the school will be available at any time through NYCC staff based in Harrogate. Pupils remaining on roll following a decision on closure, will be offered places at alternative schools, with places available in line with parental preference wherever possible. Assistance with transport would be provided to children who were eligible where this involves travel beyond 2 miles (or 3 miles for those aged 8+) to the nearest catchment school or nearest school to home address.

School staff will be supported throughout the process. There will be a parallel staff consultation. Andrew noted there was Trade Union representation at the meeting tonight. The governing body would remain in place through to the implementation of the decision, and if a closure decision was made, the governing body would be dis-established in August 2021.

The School buildings and School site are owned by the Diocese. The playing field is owned by NYCC. Future use would be a matter for the Diocese and NYCC. Decisions about the future use would be taken after determination of the closure proposal.

Andrew asked Richard Noake to speak from a Diocese perspective regarding the current situation.

Canon Richard Noake, Director of Education, CoE Diocese of Leeds, thanked Andrew and said the Diocese is large and Kell Bank CoE VC is one of the 239 schools in the Diocese. The Diocese is the religious authority, the School is a church school.

The Diocesan Board of Education is a Statutory Board and sits alongside the LA as the other statutory partner in the decision making processes around schools and clearly involved when consulting on a proposed school closure. The Diocese is in listening mode as at the last consultation meeting and keen to hear views and concerns and to what the outcome might mean for the School. Noting Kell Bank School CoE VC is celebrating 200 years, making it one of the earliest schools. The CoE set up the National Society in 1811 and every church school after that time was created to serve the needs of the local community and Kell Bank has clearly achieved that and everybody should be very proud. Noting the Ofsted inspection was very strong, it is not about standards but sustainability due to low numbers and little indication they will increase over time. The Diocese will work in partnership with the governing body who have asked for this consultation and that they are part of the process.

Andrew Dixon outlined the next steps and highlighted:

- The consultation had been extended and now runs until the 21 December 2020 (previously 14 December 2020) without making any impact to the existing timeline and encouraged responses to the consultation, written or online.
- Complete form – written hard copy posted or online survey through the NYCC website survey.
- County Council Executive considers responses to the consultation on 26 January 2021 plus the records of the two meetings. If it decides to move to the next stage, there is a further four week representation period. The date of 23 March 2021 is scheduled for a decision to be taken by the Executive. It is important that this date is prior to Easter to ensure a full term's notice for both parents and staff. In the event of a closure decision being taken, the school would close at the end of August 2021.

The formal presentation ended and Cllr Mulligan asked for questions and for people to identify themselves when asking a question or commenting by raising the hand icon within the Microsoft Teams function.

6. Questions and Answers Chaired by Cllr Patrick Mulligan

Cllr Mulligan thanked Andrew Dixon and Richard Noake.

Paul Busby, National Education Union, North Yorkshire, commented that it was always a sad occasion to witness the demise of a school and paid tribute to the professionalism and standard of teaching. He wished all the staff well moving forward.

Cllr Pickard said that he had lived in the area a long time and can see the economic case with only 6 pupils remaining at the school and that children would be welcomed into Masham School's catchment area. It was noted there were only 4 pupils to relocate and that if there ever was a time to do it, it is now and he could not see the economics could be turned around to return to 40 pupils.

David Cleaves, Vice Chair of Governors Kell Bank School and Governor Masham CE VA School, said following on from Cllr Pickard's comments, at a recent governing board meeting, thought had been given to those children in the Kell Bank area starting school in the next year or so and unfortunately they could not identify any such children.

Cllr Grainger, said a fellow Parish Cllr had noted that an application for 60 houses has recently been passed and would probably start to be developed in the next year and other developments would follow. It was understood that Masham School was at capacity, and asked the question if it teaching the whole reception at both schools housed at Kell Bank School had been considered to free up space for other year groups at Masham School. Adding it will be inevitable that there will be a need for a further school possibility at Masham in the future.

Andrew Dixon said there were two parts to answering the question. Firstly, how strong do we see the likelihood of growth in Masham and the need for additional

school places. The LA is aware of the planning application for 60 houses and a further application. There might be some growth of 80-100 houses and the LA monitors this through the Local Plan. The most important factor is that Masham School currently accommodates a lot of pupils from out of its catchment area and if the proposal came to pass, pupils from Kell Bank area would get priority for places at Masham school going forward. Although Masham School appears full, it is not full with pupils from its own catchment area as stated in the presentation. The LA will carefully monitor any housing growth but do not see in the short/medium term that there will be a shortage of places from pupils from the Masham area. Secondly, the practicalities of a split site arrangement is in the LA's experience only something that is progressed out of necessity and in relation to the first part of the question, the LA does not see the necessity at this point in time. Working across a split site can be less efficient for staff and not always favoured by parents, with different ages of pupils at different sites introducing inefficiencies to the day to day running of the school but this model does and can happen successfully.

Jeff Loveday said he wanted to reassure tonight's meeting that the governing body had canvassed endlessly when new residents moved into the area with children, with estate agents and the local Swinton estate, all of which had yielded little results to date, all of this is still ongoing as the School is not closed yet.

David Cleaves acknowledged the meeting had discussed finance and efficiency but there is a need to bear in mind the education of the children in terms of low numbers that are not necessarily been well prepared for moving to a larger environment and receiving stimulus of a larger number of their peers, this is not a criticism of the teaching. The children would be transitioning from a group of 4/6 pupil to classes of 30 plus at secondary and this would be a big shock to them. We have to ask in terms of the wider social aspects of education, is Kell Bank CoE VA School able to provide that to the quality we would wish for.

Cllr Mulligan – acknowledged that was a good comment. Education is more than text books, it is also emotional, spiritual and social development.

Cllr Gregg added there is some significant housing development to happen in Masham, and asked what happens to the building at 31 August 2021, if the school is closed, is it disposed of straight away? Bearing in mind the developments in Masham would it not be possible to mothball the school until it might be needed in the future? Brian added, we don't know how many families will come with the new developments and will Masham School be able to cope?

Richard Noake responded to this question but said he could only speak generically about the closure of the building. He noted the Diocese are the custodian trustees for the buildings and when a school closes, the Diocese is liable for any costs of keeping that building going and that he did not know where that funding would come from to keep it mothballed. Adding, it takes some time to dispose of a building due to legal requirements. In relation to any of the assets, resources raised by disposal would not be the Diocese's money, it would be ringed fenced for church school education in other contexts and even possibly for use at Masham School, if needed for example to fund capital works from the funds generated from the sale, but he emphasised this

could not be promised. At a generic level, you look for the next best thing that could be done to support education and that would be to realise the funds generated from the sale of the property.

Paul Busby asked if any potential sale would be with or without planning permission?

Richard Noake replied that it is not usual to apply for planning permission, it is to dispose of the asset as quickly as possible, it would not normally seek to do that.

A member of the public asked if the school building could be used as an education facility like Bewerley Park or East Barnby? Adding children from the cities could visit the countryside and perhaps stay for a week using all the activities in the local area. This could support retaining the building for future use as an overflow for Masham School.

Richard Noake responded saying an organisation might want to put a proposal forward but as a Trustee of Marrick Priory which is an outdoor activity centre this and all of other outdoor organisations are struggling for funding. Richard confirmed the Diocese does not have funding to run outdoor centres.

Cllr Pickard said he was leading on the development of the Neighbourhood Plan and looking forward 10 years in the future, there might be up to 160 houses in Masham. Therefore in line with the formula of 1:4, that would generate 40 additional pupils. This number of additional pupils would take Masham School and the catchment of Fearby and Healey over their threshold, with no pupils able to attend from outside of the area. Looking at the prospect of someone funding a new site for Masham School and knowing the current site is very tight, if a new alternate school site in or on the outskirts of the town was identified as part of a developing Neighbourhood Plan, what would the LA's view of this be?

Andrew Dixon replied, adding if you took the longer term view and combined this with what we know is a tight site at Masham School, he could see a scenario where there could be difficulties. However the normal pupil yield may not be realised and there is some evidence that this it is not always the case in rural areas. Whether a small development site could generate the availability of an alternative local school site he would not be sure. That would be in the gift of the site promoter which would be over and above their normal responsibilities to mitigate the development. There are lots of uncertainties looking that far ahead and it does not change the known position and the situation of a high proportion of out of area children attending Masham School. 'Maybe' is the overall answer to the question.

Paul Busby said following on from the comments made regarding improving the facilities of Masham School, it seems a tragedy for education and the community if a developer was to snap up the buildings and get planning permission as any profit could help support and benefit a new school fit for purpose in Masham.

Andrew Dixon responded saying that covering the cost of delivery of a whole new school building is very unlikely from the sale of an existing school site and would need significant future capital investment from other sources. Taking note of the question of planning permission, it is a small site and unlikely to realise sufficient

funding in terms of a rebuild but improvements that Richard Noake alluded to maybe possible.

Cllr Pickard asked a question on behalf of those parents with children currently at Kell Bank School in relation to the priority given to admissions if the Masham catchment is enlarged to include Fearby and Healey. Do pupils with siblings out of the area get priority, or pupils in Fearby or Healey area?

Andrew Dixon said that Masham is a VA School and has its own admissions policy.

David Cleaves responded saying the governing body at Masham School had looked at this recently, the admissions policy gives priority to local children over and above siblings. As a Voluntary Aided school they have more authority than a Voluntary Controlled school. Governors have always seen Masham School CoE VA as a community school for local children and taken a decision to give priority to local children. The tie-break is the proximity to the school. David asked a further question regarding Section 106 funding and what a local school could look forward to getting from any new development to help with increased numbers?

Andrew Dixon replied saying it is a planning obligation through a Section 106 agreement. The LA has a policy based on DFE guidelines which allows the LA to request developer contributions where it can be seen that the pupil yield from a developer could not be accommodated within a school's existing capacity. It is not about correcting pre-existing problems at a school. Sometimes a flexible agreement in terms of wording can be secured for the school to use the contribution more widely but this is not always the case, and added it is normally around adding capacity at a school and linked to an increased PAN. The LA could make a case in order to obtain the most flexible use of the funding but the developer may insist through the negotiation of the agreement, noting the law is on their side, that it can only be used to increase capacity at the school.

Cllr Gregg stated it was an inevitable result and obvious that the catchment area for Kell Bank has not got the children. Stating many of the small farms have gone and had families attached to them. A lot of the houses in all the villages and outlying parishes are bought by more mature people and some are holiday cottages. He added there is leverage with developers building 80 plus houses. He is concerned about the closure of Kell Bank School and would be less concerned with a brand new school in Masham that nobody could object to. With this development in mind and the fact Masham is working hard to develop its own Neighbourhood Plan, there is an opportunity not just to upgrade facilities at Masham CoE VA but could go further to obtain a new school site. There is a site there that could be developed into something else. Masham is a great place to live with a brewing industry and hopefully more jobs and he would not like to see it become a retirement village.

Andrew Dixon replied saying with the size of the proposals in the current local plan it would be beyond the obligations of the developers/land owners to offer up a new school site, alongside the capital considerations that we have covered earlier.

Richard Noake added that he was encouraged by the vision of Masham. It is a thriving community with a lot going for it and the views of people in the meeting

cannot be underestimated and it is important that everyone works together to safeguard the future of Masham.

Jeff Loveday commented that it was interesting to hear about the future of Masham town but the meeting tonight is about the consultation around the proposed closure of Kell Bank CoE VC School. A lot of the discussion is for a later date in terms of the future of Masham. He stated that the governing body tried its best and it is very sad there are not the parents and therefore the children in the area.

Richard Noake said he agreed and that no decision had been taken yet but if a decision for closure is made, the Diocese will work with the school in terms of what a very positive end looks like in terms of celebrating 200 years of the School.

Jane Wood Executive Headteacher said they are desperately keen to mark the 200 years of the School and to embrace the community with the celebrations of Kell Bank and urged people to get in touch with School.

Jeff Loveday wanted to back up what the Headteacher has just said and acknowledged the work of the Community Office in publicising their situation and the consultation. Jeff said they were hoping to form a committee to publicise the 200 years celebration of the school and there will be a lot to read about in the local press.

Cllr Mulligan, after receiving no further comments from the public, thanked everyone for attending and understood the difficulties presented at the meeting and said that all comments and questions had been noted. Everyone is passionate about the School and noted that this had been represented very well. Whatever the outcomes of the consultation, the history and achievements of what the school has achieved throughout its 200 years will be celebrated.

The meeting closed at 20:05

Appendix 3 – Consultation Responses

		Agree with closure proposal	Agree that in the event of closure Masham CE be the local school	Comments received
1	Headteacher of neighbouring school	Yes	Yes	No comments submitted.
2	Parent of a child at a Federated School	No	N/A	<p>Interesting how there is a large proportion of children outside of catchment at Masham with a good Ofsted rating. I would have thought Kell bank would have attracted children out of catchment given its outstanding Ofsted. When is NYCC going to recognise that federations and collaborations are not of benefit to the children. It seems to me that parents are moving their children out of these schools to schools which are not federated or collaborated playing straight into your hands to amalgamate schools. I have children in a federated school and the school community is much less nurturing with more of a business mindset. These rural schools expect the children to travel between schools eating into the school day as by their very nature they can be remote and travelling times are long. School leaders are not transparent and often secretive which leads to a feeling of mistrust between stakeholders and the community deteriorates and parents move their children out. Sharing of catering facilities results in a deterioration of food quality for those meals that have to travel. Our school is also promoting reception children to be enrolled at the larger school which is reducing the number on roll and is a nail in the coffin for the smaller school in the federation. We have experienced all of this at our school. The parish council blaming the fall in numbers on houses being unaffordable in the catchment I think is not necessarily true. I know of other village schools with excessive house prices locally who have large numbers of children shipped in from outside catchment.</p>

Appendix A – Statutory Proposals

3	Local Community Member	No	Yes	Kell Bank School should be amalgamated with Masham Primary School and used to accommodate Year 1 and Year 2 pupils. This would give Masham School increased capacity to accommodate children from proposed new housing developments in Masham. Year 1 and 2 pupils would have more space to play and enjoy more opportunities to be outside in nature.
4	Local Community Member	Yes	Yes	6 pupils in a school for 50 is a monumental waste of money. Close it.
5	Masham Parish Councillor	Yes	Yes	Bearing in mind the low pupil numbers at Kell Bank there appears to be no alternative to closure.
6	Community member, former pupil and parent of Kell Bank	No	Yes	It is very sad to see it due to close. It shows a wide problem that families cannot afford to buy properties in the area hence retired or holiday lets properties seem to be what happens. Aside from the pending new builds due there are a number of empty properties owned by the local large landowning estate whom are not rented out at present which may be a possible for families to rent if up to standard. Have potentially rented properties been taken into account of the figures? Another wider issue is that as a school closes then it discourages families to move there and then other services also struggle to survive..pub and village hall. A viscous circle of decline. Given the covid pandemic there is an upsurge of people looking for a more rural community lifestyle...has this been considered too? As Masham school already over quota and uses temporary classrooms has Kell Bank site not been considered as being used as part of site to be used. Some of the schools you list as alternatives are not practical when the weather is bad...snow, ice and flooding. As council cut backs in rural areas means roads are not gritted, or kept clear enabling safe passage to over school ie over Trapping hill to Middlesmoor, or Start Bank to Middlesmoor, or flooding to Masham...the Swinny or Thornton Watlass via Masham Bridge, Kilgram bridge etc. Extreme weather will be more the norm so interrupt travel . The wider picture must be weighed up!
7	Former pupil	No	Yes	Such a waste of a excellent school grounds. Masham primary is bursting at the seam, surely Kell Bank can be used to help ease Masham's overflow, instead of going to waste.

Appendix A – Statutory Proposals

8	Local Community Member	N/A	Yes	Will it reopen when the new houses to be built in Masham are occupied with young families anxious to find school places for their children and the small school in Masham is unable to accommodate them? Is it possible to use Kell Bank as an annex? Will there be a free school bus?
9	Chair of Governors Masham School	Yes	Yes	The GB of Masham School considered the proposal at meetings on 16 November and on 7 December, to take account of feedback from the consultation meetings. This response is from the GB.
10	Local Community Member	No	Yes	As an ex teacher, a member of the community and the parent of a former Kell Bank pupil, I feel that the closing of the school would have a very negative effect on the Fearby and Healey community. In the current climate, I appreciate that schools must be financially viable, however I feel very strongly that all the supporting information that has been given focuses on the barriers to keeping the school open, rather than looking at the possibilities that may be considered. Having been involved in the last consultation process many years ago when Kell Bank was threatened with closure, one of difficulties was that Masham school would struggle to accommodate the Kell Bank children .That may not be the case at this time, but Masham School has a limited capacity, offering little room for growth. If Kell Bank and Masham were to function as a split site school, using the strengths of both sites, not only would it offer room for growth in numbers but also in curriculum development. Due to the nature of the building and grounds at Masham, meeting the requirements of a free-flow system for the Early Years always been a challenge, however the accommodation at Kell Bank, given its layout and it's available outdoor space, has potential to become a centre of excellence! Could it be possible to have Reception and KS1 at Kell Bank, and KS2 at Masham? This could not only 'future- proof' both schools, but would help to make connections with both communities.
11	Local Community Member			<p>1. As ex chair of governors of Kell Bank school in the 1990's I would like to register a very strong protest at the lack of any notice to everyone concerned re the meeting tonight! It is shockingly unprofessional and gives no time for all interested parties to be informed.</p> <p>2. Yes I have the Teams information, but as an ancient technophobe I am highly unlikely to manage accessing the meeting, I will do my best.</p>

Appendix A – Statutory Proposals

				<p>To the best of my knowledge no one from the Parish council has informed us of tonight's consultation. I MAY have to rely on other contacts to find out what is said tonight. This is discrimination of the worst kind, through lack of ensuring everyone was informed in every way possible, not just by technology and parish councils. Covid is a good excuse for you not to deal with this face to face. A public announcement in a local newspaper at least 2 weeks ago would have informed everyone living in the area, and a message to publicise it through Masham community office would have reached a very large majority of people. Kell Bank school now 200 years old is an integral part of the history of Colsterdale, and matters to the whole community! It seems to me the Covid rules are a very convenient way to avoid a very packed village hall full of people who care and value Colsterdale and its history</p> <p>3. After the disappointing Team meeting last night, I hope you will consider delaying the date the consultation closes. The notice of the meeting which was NOT relayed by the Parish Council gave the many supporters of Kell Bank no chance of getting together to make a plan. I only managed to get in for the last 20 minutes and only to listen in – it seemed like a total waste of time. I request a delay till after this lock down, - a chance for as many as is safely possible to meet you socially distancing at County Hall or even an open space somewhere outside. The technology didn't work properly for everyone to hear or have their say. As a member of the group who saved the school in 1990's when it went on to be a Beacon School for the Country, and won many accolades for the quality and depth of its education, I ask that you delay the Consultation closure until the matter has been discussed by both sides in a proper and organised meeting, with everyone informed well before hand. Otherwise this will, and does appear to be closure by stealth using Covid to prevent a true discussion from all concerned parties.</p>
12.	Local Community Member			<p>As highlighted before, my daughter & son in law are in the process of visiting & evaluating local primary schools for their daughter. As mentioned, they are due to have their second child in Feb 2021. They have visited Snape and are planning to visit Masham & Grewelthorpe. The teacher teams at these schools are keen to point out the potential</p>

				<p>closure of Kell Bank. Probably to increase their numbers.</p> <p>I mentioned before that it sounds like you are following a Beeching type plan for education. This as Kell Bank school appears to be of high quality and has a good Ofsted report but has low student numbers. As with Beeching this might well be regretted in future years.</p> <p>I think you are at risk of falling into a self-fulfilling prophecy relative to low school numbers. Firstly you announce the school might/will close. This concerns parents regarding longevity & consistency and they look elsewhere to place their offspring. You then say student numbers are low at Kell Bank. Could, to the neurotic, sound like a conspiracy! I'm sure its not but it does sound a little like a vicious circle versus a virtuous circle.</p> <p>I notice comments in your background information relative to Fearby/Healey becoming retirement villages for people with index linked pensions. This, demographically, might be trueish but most of those people have children & grandchildren living locally. There would be a large benefit in these people helping their children blend their jobs & education of their children by delivering/collecting them etc.</p> <p>The only thing you need to do is market Kell Bank fairly. This means stop all the noise about potential closure and emphasise to local parents/grandparents the benefits of sending their children for a long term, high quality primary education to Kell Bank, Snape, Grewelthorpe or Masham. This, let alone easing the pressure on oversubscribed local primary schools due to the closure noise ... what do you think?</p>
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Appendix 4 Equalities Impact Assessment

Equality impact assessment (EIA) form: evidencing paying due regard to protected characteristics

(Form updated April 2019)

Proposal to close Kell Bank CoE VC Primary School

If you would like this information in another language or format such as Braille, large print or audio, please contact the Communications Unit on 01609 53 2013 or email communications@northyorks.gov.uk.



যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

اگر آپ کو معلومات کسی دیگر زبان یا دیگر شکل میں درکار ہوں تو برائے مہربانی ہم سے پوچھئے۔

Equality Impact Assessments (EIAs) are public documents. EIAs accompanying reports going to County Councillors for decisions are published with the committee papers on our website and are available in hard copy at the relevant meeting. To help people to find completed EIAs we also publish them in the Equality and Diversity section of our website. This will help people to see for themselves how we have paid due regard in order to meet statutory requirements.

Name of Directorate and Service Area	CYPS Strategic Planning Team
Lead Officer and contact details	Andrew Dixon, County Hall
Names and roles of other people involved in carrying out the EIA	Sue Turley, Strategic Planning Officer

How will you pay due regard? e.g. working group, individual officer	LA Officers and School Governing Body
When did the due regard process start?	Consultation started on 2 November 2020

Section 1. Please describe briefly what this EIA is about. (e.g. are you starting a new service, changing how you do something, stopping doing something?)

A proposal to close (cease to maintain) Kell Bank CE VC Primary School. A period of consultation with the community has been carried out, including written consultation and two virtual public meetings. A statutory representation period will follow.

Section 2. Why is this being proposed? What are the aims? What does the authority hope to achieve by it? (e.g. to save money, meet increased demand, do things in a better way.)

The County Council is under a statutory duty to ensure there are sufficient school places in the area, promote high educational standards, ensure fair access to educational opportunity and promote fulfilment of every child's educational potential. There are three key concerns: 1) Low pupil numbers; 2) The schools financial position, and 3) Breadth of curriculum. These issues are laid out in detail in the consultation document and the report to CYPS Executive Members on 20 October 2020.

Section 3. What will change? What will be different for customers and/or staff?

It is proposed that Kell Bank CE VC Primary School should close with effect from 31 August 2021 and that Masham CE VA would adopt the existing Kell Bank catchment area as an addition to its existing area in the event of a closure.

Section 4. Involvement and consultation (What involvement and consultation has been done regarding the proposal and what are the results? What consultation will be needed and how will it be done?)

The consultation period ran from 2 November to 21 December 2020. Consultation documents were distributed to a wide range of stakeholders, and two virtual public meeting was held. The consultation document and responses are included in the report to the Executive on 26 January 2021.

Section 5. What impact will this proposal have on council budgets? Will it be cost neutral, have

increased cost or reduce costs?

Please explain briefly why this will be the result.

Any 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. Any revenue or capital balances would be made available to the receiving school in line with the Closing School Accounting Policy.

If the school closed, there could be a potential additional cost to the Local Authority in providing transport to other schools. Free home to school transport would be provided for entitled pupils in accordance with the revised catchment area arrangements in accordance with the County Council's Home to School transport policy.

Section 6. How will this proposal affect people with protected characteristics?	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
Age		x	x	<p>Currently there are only 6 pupils on roll and two of those are currently in Year 6 and will leave in 2021 to transition to secondary provision. If the decision is taken to close the school this adversely affects the current cohort.</p> <p>Moving to an alternative school will increase the opportunities for pupils to work and play with children their own age.</p>
Disability	x			<p>Pupils – The school is mainstream offering universal provision.</p> <p>Expertise will be utilised from the County Council to provide appropriate SEN support.</p> <p>Staff – As an organisation NYCC will continue to meet the requirements of the Equality Act 2010 which obligates us to make reasonable adjustments to accommodate disabled individuals as employees or service users.</p>
Sex	x			No impact is anticipated.
Race	x			No impact is anticipated.

Appendix A – Statutory Proposals

Gender reassignment	x			No impact is anticipated.
Sexual orientation	x			No impact is anticipated.
Religion or belief			x	If the decision is taken to close the School, this will adversely impact upon those pupils who wish to be educated in a Church of England School. There are several Church of England primary schools within an 8 mile distance from Kell Bank CoE School. The nearest CoE School is Masham CE VA which is 2.8 miles away. The next nearest CoE School is Grewelthorpe CE VC at 5.8 miles away.
Pregnancy or maternity	x			No impact is anticipated.
Marriage or civil partnership	x			No impact is anticipated.

Section 7. How will this proposal affect people who...	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
..live in a rural area?	x			<p>This proposal would have an adverse impact for those living within its catchment that attend the school as they would have to travel to alternative schools.</p> <p>Across the area there are places available for all the pupils currently at Kell Bank CE VC Primary School. The nearest Church of England school is Masham CE VA Primary School which is 2.8 miles from Kell Bank by road and holds a 'Good' Ofsted judgement. The next nearest school is Grewelthorpe CE VC 5.8 miles from Kell Bank CE and holds a 'Good' Ofsted judgement.</p> <p>Free home to school transport would be provided for entitled pupils within the enlarged catchment area in accordance with</p>

				the County Council’s Home to School Transport policy. The County Council’s Home to School transport policy sets out that free school transport will be provided to the catchment school or nearest school to a child’s home address if it is over the statutory walking distances set out by law.
...have a low income?	x			There may be adverse impact on those families with low incomes by the proposed closure of the school. However, this would be mitigated by the LA provided transport assistance, in line with the Transport Policy.
...are carers (unpaid family or friend)?	x			No impact anticipated

Section 8. Geographic impact – Please detail where the impact will be (please tick all that apply)	
North Yorkshire wide	
Craven district	
Hambleton district	
Harrogate district	x
Richmondshire district	
Ryedale district	
Scarborough district	
Selby district	
If you have ticked one or more districts, will specific town(s)/village(s) be particularly impacted? If so, please specify below.	
Fearby and Healey Villages	

Section 9. Will the proposal affect anyone more because of a combination of protected characteristics? (e.g. older women or young gay men) State what you think the effect may be and why, providing evidence from engagement, consultation and/or service user data or

demographic information etc.

All pupils and staff at the school would experience changes under these proposals that staff and governors would need to manage sensitively.

The County Council's Officers now feel that this decision is in the best interests of children and families served by the school.

The Local Authority's Admission Team will continue to work with families to try to meet their individual preferences for primary schools.

Home to school transport will be assessed in line with the County Council's policy.

Section 10. Next steps to address the anticipated impact. Select one of the following options and explain why this has been chosen. (Remember: we have an anticipatory duty to make reasonable adjustments so that disabled people can access services and work for us)	Tick option chosen
1. No adverse impact - no major change needed to the proposal. There is no potential for discrimination or adverse impact identified.	
2. Adverse impact - adjust the proposal - The EIA identifies potential problems or missed opportunities. We will change our proposal to reduce or remove these adverse impacts, or we will achieve our aim in another way which will not make things worse for people.	
3. Adverse impact - continue the proposal - The EIA identifies potential problems or missed opportunities. We cannot change our proposal to reduce or remove these adverse impacts, nor can we achieve our aim in another way which will not make things worse for people. (There must be compelling reasons for continuing with proposals which will have the most adverse impacts. Get advice from Legal Services)	X
4. Actual or potential unlawful discrimination - stop and remove the proposal – The EIA identifies actual or potential unlawful discrimination. It must be stopped.	
<p>Explanation of why option has been chosen. (Include any advice given by Legal Services.)</p> <p>Kell Bank CE VC Primary School is designated as a rural school under the Designation of Rural Primary Schools (England) Order. The School Organisation regulations and guidance contain a presumption against closure of rural schools, and it is a requirement that proposers must consider the effect of the discontinuance of any rural primary school on the local community. The statutory guidance specifically states that 'This does not mean that a rural school will never close, but the case for closure should be strong and a proposal must be clearly in the best interests of educational provision in the area.' Careful consideration to alternatives to closure of the school, including transport implications and the impact on local people and the wider community has been given. A detailed analysis of these issues is contained in the Statutory Proposals and the report to Executive of 26 January 2021. It is concluded that the case for closure is strong and in the best interests of educational provision in the area.</p> <p>This proposal may be considered to have an adverse impact for those pupils currently on roll at</p>	

the school as they would have to move to an alternative a school, as set out above in Section 7. Careful consideration has been had to alternatives to closure, but it is concluded that the case for closure is strong and in the best interests of educational provision in the area.

Section 11. If the proposal is to be implemented how will you find out how it is really affecting people? (How will you monitor and review the changes?)

Monitoring of standards will be carried out through the County Council’s School Improvement Team and through Ofsted inspections. Monitoring of sufficiency of school places in the Masham/Ripon Outer areas will be undertaken by the CYPS Strategic Planning Team.

Section 12. Action plan. List any actions you need to take which have been identified in this EIA, including post implementation review to find out how the outcomes have been achieved in practice and what impacts there have actually been on people with protected characteristics.

Action	Lead	By when	Progress	Monitoring arrangements
Not applicable				

Section 13. Summary Summarise the findings of your EIA, including impacts, recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

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, despite the adverse impacts identified, the proposal to close the school needs to be considered.

Section 14. Sign off section

This full EIA was completed by:

Name: Sue Turley

Job title: Strategic Planning Officer

Directorate: CYPS

Completion date: 07/01/2021

Authorised by relevant Assistant Director (signature): Amanda Newbold

Date: 12/01/2021

NORTH YORKSHIRE COUNTY COUNCIL

**Proposal to Cease to Maintain a School
Kell Bank Church of England Primary School**

Notice is given in accordance with section 15(1) of the Education and Inspections Act 2006 that North Yorkshire County Council, County Hall, Northallerton, DL7 8AE, intends to discontinue Kell Bank Church of England (Voluntary Controlled) Primary School, Healey, Masham, North Yorkshire, HG4 4LH on 31 August 2021.

Copies of the complete proposal can be obtained from: Corporate Director - Children and Young People's Service, North Yorkshire County Council, County Hall, Northallerton, DL7 8AE and are available on the County Council's website at www.northyorks.gov.uk.

Within four weeks from the date of publication of this proposal, any person may object to or make comments on the proposal by sending them to Corporate Director - Children and Young People's Service, North Yorkshire County Council, County Hall, Northallerton, DL7 8AE, or by email to schoolorganisation@northyorks.gov.uk by 5pm on 5 March 2021.

Signed: B. Khan
Assistant Chief Executive
(Legal and Democratic Services)

Publication Date: 5 February 2021

Responses to Kell Bank CE VC Statutory Proposals

Response Number 1

I know it will make little difference to any decisions but then I thought every pupil matters, so I just wanted to say I have a pre-school child which I had hoped to send to Kell Bank and I have a friend (same age child) who said the same, I was lucky enough to attend myself and had the most amazing opportunities and have always believed a small school can offer the pupils so much more when setting them up for the future but I completely understand that it also needs to be financial viable.



Department
for Education

Opening and closing maintained schools

**Statutory guidance for proposers and
decision-makers**

November 2019

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1: Summary

About this guidance

This is statutory guidance from the Department for Education. This means that recipients must have regard to it when carrying out duties relating to establishing (opening) a new maintained school and / or the discontinuance (closing) of an existing maintained school.

The purpose of this guidance is to ensure that good quality school places are provided where they are needed, and that surplus capacity is removed where necessary. It should be read in conjunction with Part 2 and Schedule 2 of the Education and Inspections Act (EIA) 2006 as amended by the Education Act (EA) 2011 and *The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013*.

Review date

This guidance will be reviewed in September 2020.

Who is this guidance for?

This guidance is relevant to all categories of maintained school, unless explicitly stated otherwise, and is for those proposing to open and / or close a school (e.g. governing bodies, dioceses, and local authorities (LAs)), decision-makers (LAs, the [Schools Adjudicator](#) and governing bodies), and for those affected by a proposal (e.g. dioceses, trustees, parents etc.).

Proposers and decision-makers must have regard to this guidance when making proposals or decisions related to Schedule 2 of [EIA 2006](#) (as amended by [EA 2011](#)) and the [Establishment and Discontinuance Regulations](#).

Separate advice is available on making [prescribed alterations to maintained schools](#) and [significant changes to academies and academy closure by mutual agreement](#).

It is the responsibility of LAs, proposers and school governing bodies to ensure that they act in accordance with the relevant legislation and have regard to statutory guidance when seeking to make changes to or to open or close a maintained school and they are advised to seek independent legal advice where appropriate. Similarly when making decisions on such proposals, LAs and

Schools Adjudicator must act in accordance with the law and must have regard to statutory guidance.

Main points

- Where a LA identifies the need for a new school, specifically to meet increased basic need in their area, section 6A of EIA 2006 places them under a duty to seek proposals to establish an academy (free school) via the '[free school presumption](#)' process. The LA is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening revenue costs.
- The final decision on all new free school presumption proposals lies with the [Regional Schools Commissioner](#) (RSC) on behalf of the Secretary of State.
- In November 2018, the department launched a capital scheme for proposers to apply to the department for capital funding to support the creation of new voluntary aided (VA) schools under section 11 of the EIA 2006. More information can found [here](#).
- Proposers wishing to establish a new school may also wish to consider [opening a free school](#).
- It is possible for any person ('proposer'), in certain circumstances, to publish a proposal for a new maintained school outside of the competitions processes under section 11 of EIA 2006. It is also possible to apply to the Secretary of State for consent to publish proposals to establish a new maintained school under section 10 of EIA 2006.
- All decisions on proposals to open or close a maintained school must be made with regard to the factors outlined in this guidance and follow the relevant [statutory process](#).
- Both the consultation period and the representation period should be carried out in term time to allow the maximum numbers of people to see and respond to what is proposed.
- The decision-maker will need to be satisfied that the consultation and representation period were appropriate, fair and open, and that the proposer has given full consideration to all the responses.
- Proposers should be aware of the guidance for decision makers set out in part 5 of this guidance and ensure that their proposals address the considerations that the decision-maker must take into account. The decision-maker must consider the expressed views of all those affected

by a proposal or who have an interest in it, including cross-LA border interests. The decision-maker should not simply take account of the number of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal – especially parents¹ of children at the affected school(s).

- In determining proposals decision-makers must ensure that the guidance on [schools causing concern](#) (intervening in failing, underperforming and coasting schools) has been considered where necessary.
- Within one week of the date of their publication the documents below **MUST** be sent to the Secretary of State (via schoolorganisation.notifications@education.gov.uk):
 - a copy of the statutory proposal
 - a copy of the statutory notice
 - a copy of the decision record on the proposal.
- The School Organisation Team will make the necessary updates to the [Get Information About Schools](#) (GIAS) system

¹ A 'parent' should be considered to be anyone who has parental responsibility, including parents, carers and legal guardians.

2: Proposing a new school

This section sets out how to propose the establishment of a new school. Proposer groups may also wish to consider [establishing a free school](#).

Type of Proposal	Proposer	Decision-Maker	Right of appeal to the Adjudicator?
Free School Presumption	Other proposers (academy trusts/sponsors)	RSC (on behalf of the Secretary of State)	No
Section 7 (Stage 1) Any free school proposals will be considered first. If a proposal is received and considered suitable the competition ends and the the free school proposal is taken forward.	Other proposers	RSC (on behalf of the Secretary of State)	No
Section 7 (Stage 2) Where no suitable free school bid is received, proposals submitted for a new foundation, foundation special or voluntary school will be considered.	Other proposers	LA ² (Schools Adjudicator where the LA is involved in the Trust of a proposed foundation school)	No

² Where the LA does not make a decision within the prescribed two month period, they must refer the proposal to the Schools Adjudicator.

Type of Proposal	Proposer	Decision-Maker	Right of appeal to the Adjudicator?
Section 11	Other proposers	LA ³	The Diocesan Board of Education of any CofE diocese in the relevant area. The bishop of any Roman Catholic church in the relevant area. Proposers (if the LA is the decision maker)
Section 10	LA	Schools Adjudicator	No.
Section 10	All other proposers	LA (Schools Adjudicator where the LA is involved in the Trust of a foundation school)	Where the LA is the decision maker ⁴ ; Proposers The Diocesan Board of Education of any CofE diocese in the relevant area. The bishop of any Roman Catholic church in the relevant area.

Related proposals

A proposal should be regarded as 'related' if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal. Proposers should ensure that this information is set out clearly within their proposal.

³ Where the LA does not make a decision within the prescribed two-month period, they must refer the proposal to the Schools Adjudicator.

⁴ Where the Schools Adjudicator is the decision-maker, there is no right of appeal.

The free school presumption

Where a LA identifies the need for a new school to meet basic need for additional school places, section 6A of EIA 2006 places the LA under a duty to seek proposals to establish an academy (free school) via the [‘free school presumption’](#).

The LA is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening revenue costs. All new free school presumption proposals require the RSC’s approval (on behalf of the Secretary of State) as it is the Secretary of State who will enter into a funding agreement with the academy trust/sponsor.

LAs planning a presumption project to establish a primary school should include nursery provision in the specification, unless there is a demonstrable reason not to do so.

In considering the need for a new school, the LA should take account of any proposals they are aware of that will meet that need. If a LA has received a proposal for a new LA maintained school, and subsequently identifies the need for a new school, then the LA can decide the maintained school proposal⁵ before deciding whether it is necessary to seek proposals via the free school presumption.

School competitions

If the free school presumption competition does not yield a suitable proposal, then a statutory competition can be held under section 7 of the EIA 2006. This will not require a separate application for the Secretary of State’s approval, because the Secretary of State will inform the LA that approval to hold a section 7 competition is given at the same time as informing the LA that no suitable free school proposal was identified.

Where a LA holds a section 7 competition, the LA must follow the statutory process set out in Schedule 2 to EIA 2006 and the [Establishment and Discontinuance Regulations](#).

The LA must publish a specification for the new school. The specification is only the minimum requirement and proposals may go beyond this. Proposers may submit proposals for a free school, foundation, foundation special or voluntary school into the competition. Where a free school proposal is received, the RSC

⁵ Where the LA does not make a decision within the prescribed two month period, they must refer the proposal to the Schools Adjudicator.

(on behalf of the Secretary of State) will consider any free school proposals first when making a decision on the case.

The LA is expected to provide premises and meet the capital costs of implementing the winning proposal and must include a statement to this effect in the notice inviting proposals. Proposers should set out the estimated premises requirements and/or capital costs of a proposal submitted in response to a competition and, where these exceed the initial cost estimate made by the LA, the proposer should set out the reasons for the additional requirements and/or costs.

Proposing a maintained school outside competitive arrangements

It is possible to publish proposals for a new maintained school outside of the competitive arrangements at any time. Sections 10 and 11 of the EIA 2006 permit proposals to establish new schools under certain conditions either with the Secretary of State's consent (section 10 cases) or without (section 11 cases).

In all cases, proposers must follow the required statutory process as set out in part 4 of this guidance.

Section 11 proposals

Any persons ('proposer'), e.g. a diocese or charitable trust, may publish a proposal, at any time, for a new school outside the free school presumption and competitions process under section 11 of the EIA 2006.

The Secretary of State's consent is not required in the case of proposals for:

- a new community or foundation primary school to replace a maintained infant and a maintained junior school;
- a new voluntary aided school (e.g. in order to meet demand for a specific type of place such as demand from those of a particular faith);
- a new foundation or voluntary controlled school resulting from the reorganisation of existing faith schools in an area, including an existing faith school losing or changing its religious designation;
- a new foundation or community school, where a section 7 competition has been held but did not identify a suitable provider;
- a former independent school wishing to join the maintained sector; and
- a new maintained nursery school.

The statutory process described in [part 4](#) must be followed to establish the new school.

In November 2018, the department launched a capital scheme to support the delivery of new voluntary aided schools. Further information about the scheme is available [here](#).

Section 10 proposals

It is also possible to apply to the Secretary of State for 'consent to publish' proposals to establish a new school under section 10 of EIA 2006:

- for a community or foundation school to replace an existing maintained school; or
- for a brand new foundation or voluntary controlled school.

Proposers wishing to apply for consent should email schoolorganisation.notifications@education.gov.uk and request an application form. Each request for consent will be considered on its merits and the particular circumstances of the case.

Proposers should wait to receive confirmation of consent before following the statutory process in [part 4](#) to establish the new school.

The Schools Adjudicator will decide LA proposals (as well as proposals where the LA are involved in the trust of a proposed foundation school or fails to determine the proposals within the specified time). The LA will decide proposals from other proposers⁶.

Factors to consider when proposing a new school

Proposers should consider the following factors when making proposals to establish a new school.

Demand vs Need

For parental choice to work effectively, there may be some surplus capacity in the system as a whole. Competition from additional schools and places in the system will lead to pressure on existing schools to improve standards. However, excessive surplus capacity should be managed appropriately. Proposers may wish to discuss their plans with their LA to understand levels of need for their proposed school.

Proposers should also demonstrate parental demand for the new school places and the type of provision being proposed, the quality and diversity of provision available in the local area, and the impact of the new places on existing educational provision in the local area.

⁶ Where the LA does not make a decision within the prescribed two month period, they must refer the proposal to the Schools Adjudicator.

Proposed admission arrangements

Proposers should set out their intentions for the admission arrangements of the proposed school, including, where the proposal is for a voluntary or foundation school, whether the school will have a religious character and apply faith-based admissions criteria.

Proposers should ensure that they consider all expected admission applications when considering demand for the school, including those from outside the LA area in which the school is situated.

National Curriculum

All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community⁷.

Integration and community cohesion

Schools have a key part to play in providing opportunities for young people from different backgrounds to learn with, from and about each other; by encouraging, through their teaching, an understanding of and respect for other cultures, faiths and communities.

Proposer should have regard to the [Integrated Communities Action Plan](#) as well as any local integration and community cohesion strategies.

When making a proposal, the proposers should take account of the community to be served by the school and set out how:

- The school will be welcoming to pupils of all faiths and none; and show how the school will address the needs of all pupils and parents.
- How the school will provide a broad and balanced curriculum and prepare children for life in modern Britain including through the teaching of spiritual, moral, social and cultural (SMSC) education.
- How the school will promote fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs or none.
- How the school will encourage pupils from different communities, faiths and backgrounds to work together, learn about each other's customs, beliefs and ideas and respect each other's views.

⁷ Under sections 90, 91, 92 and 93 of the Education Act 2002.

Travel and accessibility

Proposers should be satisfied that accessibility planning has been properly taken into account and that the proposal will not adversely impact disadvantaged groups.

LAs have a duty to promote the use of suitable travel and transport to school.

Proposals should include a statement that the proposals are not expected to increase journey times, increase transport costs or result in children being prevented from travelling sustainably due to unsuitable walking or cycling routes.

Funding

Proposers must include a statement setting out that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement to the funding arrangements.

Proposers relying on the department as a source of capital funding should not assume that approval of the proposal will trigger the release of capital funds from the department, unless the department has previously confirmed in writing that such resources will be available.

School premises and playing fields

Under the School Premises (England) Regulations 2012 all maintained schools are required to provide suitable outdoor space in order to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely.

Under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, where proposals for a new VA school provide for the provision of playing fields, the duty to implement that part of the proposal (i.e. to provide the playing field) rests with the LA.

For Foundation, Foundation Special, and Voluntary Controlled schools, the duty to implement any proposals falls to either the governing body, or LA, as the proposal respectively provides for them to do so (i.e. the proposal for the new school will specify who will be providing the playing fields, which they then have a duty to actually provide).

[Non-statutory guidelines](#) setting out suggested areas for pitches and games courts are in place. Where the proposals for a new foundation or voluntary school are approved, the LA must transfer any interest it has in the premises to either the trustees of the school or, where the school has no trustees, the school's foundation body to be held by that body for the relevant purposes. The LAL must pay to relevant persons any reasonable costs incurred in connection with the transfer.

If any doubt or dispute arises as to the persons to whom that transfer it to be made, it must be made to such persons as the Schools Adjudicator thinks proper.

3: Proposing to close (discontinue) a maintained school

This section sets out information for LAs and governing bodies wishing to propose the closure of a maintained school.

Under Section 15 of the EIA 2006, a LA can propose the closure of ALL categories of maintained school. The statutory process is set out in [part 4](#). The governing body of a voluntary, foundation or foundation special school may also publish proposals to close its own school following the statutory process.

Alternatively, it may give [at least two years' notice of its intention to close](#) the school to the Secretary of State and the LA.

The table below sets out a summary of the process for closing a maintained school⁸:

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator? ⁹
LA	Following a statutory process to close a community, community special or maintained nursery school	LA	The Diocesan Board of Education of any CofE diocese in the relevant area. The bishop of any Roman Catholic church in the relevant area.

⁸ Proposers should be aware that in ALL cases where the LA does not make a decision within the prescribed two month period, they must refer the proposal to the Schools Adjudicator.

⁹ Where the Schools Adjudicator is the decision maker, there is no right of appeal.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator? ⁹
LA	Following a statutory process to close a foundation, foundation special or voluntary (VC or VA) school	LA	<p>The Diocesan Board of Education of any CofE diocese in the relevant area.</p> <p>The bishop of any Roman Catholic church in the relevant area.</p> <p>The governing body or any foundation of the foundation or voluntary school specified in the proposals.</p>
Governing Body	Following a statutory process to close a voluntary (VC or VA), foundation or foundation special school	LA	<p>The Diocesan Board of Education of any CofE diocese in the relevant area.</p> <p>The bishop of any Roman Catholic church in the relevant area.</p> <p>The governing body or any foundation of the foundation or voluntary school specified in the proposals.</p>

Reasons for closing a school

Reasons for closing a maintained school include, but are not limited to, where:

- There are surplus places elsewhere in the local area which can accommodate displaced pupils and there is no predicted demand for the school in the medium to long term;
- It is to be [merged or amalgamated with another school](#);
- It has been judged inadequate by Ofsted and there is no sponsored academy solution;
- It is to [acquire, lose or change its religious character](#);
- It is no longer considered viable; or
- It is being replaced by a new school.

Schools causing concern

In determining proposals, decision-makers must ensure that the guidance on [schools causing concern](#) (intervening in failing or underperforming schools) has been considered where necessary.

Related proposals

Where proposals are related, this should be made clear in consultation and representation periods, in published notices, and proposals. All notices should be published together / or as one notice (e.g. where one school is to be enlarged because another is being closed, a single notice could be published) and specified as 'related'.

Related proposals must also be considered together and, where possible, decisions should be made at the same time.

The presumption against the closure of rural schools

Proposers should be aware that the Department expects all decision-makers to adopt a presumption against the closure of rural schools. This doesn't mean that a rural school will never close, but that the case for closure should be strong and clearly in the best interests of educational provision in the area.

The presumption doesn't apply where a rural infant and junior school on the same site are being closed to establish a new primary school.

Proposers should set out whether the school is referred to in the [Designation of Rural Primary Schools \(England\) Order](#) or, where it is a secondary school, whether the school is identified as rural on the [Get Information about Schools](#) database.

Proposers should provide evidence to show they have carefully considered:

- alternatives to closure including: federation with another local school; conversion to academy status and joining a multi-academy trust; the

scope for an extended school to provide local community services and facilities e.g. child care facilities, family and adult learning, healthcare, community internet access etc;

- transport implications i.e. the availability, and likely cost of transport to other schools and sustainability issues;
- the size of the school and whether it puts the children at an educational disadvantage e.g. in terms of breadth of curriculum or resources available;
- the overall and long term impact on the local community of the closure of the village school and of the loss of the building as a community facility; and
- wider school organisation and capacity of good schools in the area to accommodate displaced pupils.

The presumption against the closure of maintained nursery schools

Proposers should be aware that decision-makers are expected to adopt a presumption against the closure of maintained nursery schools. This does not mean that a maintained nursery school will never close, but that the case for closure should be strong.

Where a proposal is for the closure of a maintained nursery school, the proposer should set out:

- plans to develop alternative early years provision clearly demonstrating that it will be at least equal in quantity and quality to the provision provided by the nursery school with no loss of expertise and specialism; and
- replacement provision is more accessible and more convenient for local parents.

Amalgamations

There are two ways to amalgamate two (or more) existing maintained schools:

- The LA or governing body (depending on school category) can publish a proposal to close two, or more, schools and the LA, or a proposer other than the LA (e.g. diocese, faith or parent group, trust), can publish a proposal to open a new school, depending on category. Where this is a presumption school, this will be subject to publication of a section 6A notice (see [part 2](#)). This will result in a new school number being issued.

- The LA and / or governing body (depending on school category) can publish a proposal to close one school (or more) and enlarge / change the age range / transfer site (following the statutory process as / when necessary) of an existing school, to accommodate the displaced pupils. The remaining school would retain its original school number, as it is not a new school, even if its phase has changed.

Existing schools wishing to acquire, change or lose a religious character

It is not possible for an existing maintained school to change its religious character. Instead, the LA or governing body must publish a proposal to close the existing school and a proposer, normally a faith organisation, must issue a 'related' proposal to establish a new voluntary or foundation school with a religious character. This can be done by either gaining the Secretary of State's consent under section 10 or as a special case under section 11 of EIA 2006.

In **ALL** cases, before the religious designation flexibilities can be utilised, the proposer will need to [apply separately, to the Secretary of State, for the new school to be designated with a religious character](#). This would normally be done once the proposal for the new school has been approved.

Schools designated with a religious character that close will automatically have the designation revoked. This means that where two or more schools have amalgamated and the intention is that the successor school will have a religious designation, the new school will have to apply for that designation. Upon gaining a religious designation, a school cannot immediately change its admissions policy to include faith-based criteria. It will need to have consulted on, and determined, its admission arrangements in accordance with the [School Admissions Code](#).

Two years notice of closure – voluntary and foundation schools

In addition to the statutory process for closure in [part 4](#), the governing body of a voluntary or foundation school may, subject to specified provisions¹⁰, give the Secretary of State and the LA at least two years' notice of their intention to close the school.

The trustees of a foundation or voluntary school must give their governing body at least two years' notice if they intend to terminate the school's occupation of its

¹⁰ As outlined in section 30 of the SSFA 1998, and including those in the DBE Measure 1991.

site. The minimum two years' notice allows the LA and / or governing body time to make alternative arrangements for pupils.

Closure of a community or foundation special school in the interests of pupils

The Secretary of State may direct¹¹ a LA to close a community special or foundation special school if he considers it is in the interests of the health, safety or welfare of the pupils. Prior to making the direction, the Secretary of State must consult: the LA, any other LA who would be affected by the closure of the school; the person(s) who appoints the foundation governors (for a foundation special school with a foundation); and any other person(s) the Secretary of State considers appropriate.

The Secretary of State must give notice of the direction in writing to both the governing body and the head teacher of the school. The school must be closed on the date specified by the Secretary of State.

Temporary school closures

A proposal to close a school is not required where a school will temporarily cease to operate due to a rebuild. Where a school operating over multiple sites proposes to cease operations on one (or more) of its sites, the proposal will be for a [prescribed alteration](#), and not a school closure.

¹¹ Section 17 of EIA 2006

4: The statutory process

This section sets out the stages of the statutory process. The statutory process below must be followed for opening¹² and closing¹³ a maintained school.

Stage one: consultation

It is a statutory requirement to consult any parties the proposer thinks is appropriate before publishing proposals under section 10 or 11 for new schools and for section 15 proposals to close a maintained school.

The proposer may use the consultation to consider a range of options for the future of a school (e.g. amalgamation, federation or closure). However, the proposer must then publish specific proposals (see stage two of the statutory process below). It is these specific proposals setting out details of the new school or the school to be closed which can be commented on or objected to during the statutory representation period.

It is for the proposer to determine the nature and length of the consultation. It is best practice for consultations to be carried out in term time to allow the maximum number of people to respond. Proposers should have regard to the Cabinet Office guidance on [Consultation principles](#) when deciding how to carry out the consultation period.

In the case of the closure of rural primary schools and special schools, the Act sets out some particular groups who must be consulted. This is set out in Annex A.

Stage two: publication

A statutory proposal should be published within 12 months of the initial consultation period being completed. This is so that it can be informed by up-to-date feedback. A proposal **MUST** contain the information specified in either Schedule 1¹⁴ for establishing a new school or Schedule 2 for closing a school of the Establishment and Discontinuance Regulations. Annex B summarises the information required for closure proposals and Annex C summarises the information required for establishing a new school under the section 10 or 11 processes.

¹² Under sections 10 and 11 of EIA 2006

¹³ Under section 15 of EIA 2006

¹⁴ Of the School Organisation (Establishment and Discontinuance) (England) Regulations 2013.

The proposer must publish the full proposal on a website along with a statement setting out:

- how copies of the proposal may be obtained;
- that anybody can object to, or comment on, the proposal;
- the date that the representation period ends; and
- the address to which objections or comments should be submitted.

A brief notice containing the website address of the full proposal must be published in a local newspaper and may also be published in a conspicuous place on the school premises (where any exist), such as at all of the entrances to the school.

In all cases, within one week of the date of publication on the website, the proposer **MUST** send a copy of the proposal and the information set out above to:

- the Secretary of State
(schoolorganisation.notifications@education.gov.uk);
- Where the proposal is to close a special school, the parents of every registered pupil at the school;
- The Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority; and
- any other body or person that the proposer thinks is appropriate (e.g. any relevant religious authority).
- Where the proposal is for a new school under section 10 or 11 of the EIA 2006 and the LA is not the proposer, the LA which it is proposed would maintain the school.
- Where the proposal is for the closure of a maintained school, the governing body or the LA responsible for maintaining the school (as appropriate)

Within one week of receiving a request for a copy of the proposal the proposer must send a copy to the person requesting it.

Stage three: representation

Except where a proposal is for the closure of a rural primary school or a special school, where there are prescribed consultees (see [Annex A](#)), proposers of a school closure should consult organisations, groups and individuals they feel to be appropriate during the representation period (the information at Annex A can be used for examples).

The representation period starts on the date of publication of the statutory proposal and **MUST** last for four weeks. During this period, any person or organisation can submit comments on the proposal to the LA, to be taken into account by the decision-maker. It is also good practice for LAs to forward representations to the proposer (subject to any issues of data protection or confidentiality) to ensure that they are aware of local opinion.

The decision-maker will need to be satisfied that the proposer has had regard for the statutory process and must consider **ALL** the views submitted during the representation period, including all support for, objections to, and comments on the proposal.

Stage four: decision

The LA will be the decision-maker on a school closure proposal, unless the closure proposal is 'related' to another proposal that is to be decided by the [Schools Adjudicator](#).

The Schools Adjudicator will decide proposals for new schools made by the LA (and cases where the LA is involved in the trust of a proposed foundation school). The LA will decide proposals for new schools from other proposers.

The Schools Adjudicator will also be the decision-maker in any case where the LA does not make a decision within a period of two months of the end of the representation period. Where this happens, the LA must, within a week of the end of that two-month period, refer the case to the Schools Adjudicator.

The decision-maker must have regard to the statutory decision makers guidance contained in this document.

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with such modifications as they think desirable, after consulting the LA and/or proposer (as appropriate); or

- approve the proposal – with or without modification – subject to certain conditions¹⁵ (such as the granting of planning permission) being met.

A proposal can be withdrawn by the proposer at any point before a decision is taken. When revoking a proposal prior to a decision being made, the proposer must send written notice to the LA and the [Schools Adjudicator](#) (where applicable). A notice must also be placed on the website where the original proposals were published.

Where the LA is the decision-maker, within one week of making a determination they **MUST** publish their decision and the reasons for that decision being made on their website. They **MUST** arrange for notification of the decision and reasons for it to be sent to:

- The Secretary of State (via schoolorganisation.notifications@education.gov.uk)
- the governing body/proposers (as appropriate);
- the Schools Adjudicator;
- The Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority; and
- for a special school, the parents of every registered pupil at the school;
- any other body considered appropriate (e.g. other relevant religious authority); and
- the trustees of the school (where relevant e.g. site trustees).

Where the Schools Adjudicator is the decision-maker, where possible they should send notification of the decision and reasons for it, within one week of making a determination to the LA and the Secretary of State (via schoolorganisation.notifications@education.gov.uk) to ensure the appropriate records can be updated and to allow for any actions required as a consequence of the decision to be completed (e.g. an admissions preference exercise following approval to close a school).

Rights to refer LA decisions to the Schools Adjudicator

For rights to refer a decision taken by the LA on establishment proposals to the Schools Adjudicator, see table on page 6. For rights to refer a decision taken by the LA on closure proposals to the Schools Adjudicator, see table on page 15.

¹⁵ As specified in regulation 16 of the Establishment and Discontinuance Regulations

Within one week of receipt of a request for a referral, a LA decision-maker must send the proposal, representations received and the minutes and papers from the meeting at which it considered the proposals to the [Schools Adjudicator](#).

There is no right of appeal against determinations made by the Schools Adjudicator. Adjudicator decisions can be challenged only by judicial review in the courts.

Stage five: implementation

There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation. However, decision-makers should be confident the proposers have good justification (for example an authority-wide reorganisation) if they propose a timescale longer than three years.

The proposer must implement a proposal in the form approved, including any modifications made by the decision-maker.

The school organisation team will make the necessary changes to the school(s) GIAS record(s).

For proposals to establish a new school, the proposer should contact the school organisation team (via schoolorganisation.notifications@education.gov.uk) one month before the proposed opening date to confirm that the new school will be opening on time. It is at this point that a GIAS record will be created and your school will be assigned a URN.

Modification post determination

If it becomes necessary, due either to a major change in circumstance or it being unreasonably difficult to implement a proposal as approved, the proposer can propose modifications (e.g. to amend the implementation date) to the decision-maker before the approved implementation date. However, proposals cannot be modified to the extent that new proposals are substituted for those that have been approved.

The LA or the Schools Adjudicator (where the original proposals were decided by the Schools Adjudicator) will be the decision maker for any proposals for modifications post determination.

Revocation

If the proposer does not wish to implement an approved proposal because doing so would be unreasonably difficult or circumstances have changed (so that implementation would be inappropriate) the proposer must publish a revocation

proposal, in order to be relieved of the duty to implement. A revocation proposal must contain:

- a description of the original proposal as published;
- the date of the publication of the original proposal; and
- a statement as to why the duty to implement the original proposal should not apply.

The proposer must publish the revocation proposal on a website and a brief notice of the proposal in a local newspaper. Details of what must be included in this notice are the same as in the [publication section](#).

Within one week of publication, the proposer must send copies of the proposal to:

- The Secretary of State (via schoolorganisation.notifications@education.gov.uk)
- Any other body or person that the proposer think appropriate.

Proposers must send the revocation proposal to the LA within one week of the date of publication on the website. Where the original proposal was decided by the [Schools Adjudicator](#), the LA must refer the revocation proposal together with any comments or objections within two weeks of the end of the representation period to the Schools Adjudicator.

5: Guidance for decision-makers

This section sets out the considerations that should be made by the LA or Schools Adjudicator when deciding proposals to establish or discontinue (close) a school. The decision-maker must have regard to the statutory guidance contained in this document. Proposers will wish to ensure that their proposals contain the information that the decision-maker will need in order to decide the proposal taking account of this section of the guidance.

The LA will be the decision-maker on a school closure proposal, unless the closure proposal is 'related' to another proposal that is to be decided by the [Schools Adjudicator](#).

The Schools Adjudicator will be the decision-maker for LA proposals to establish a new school (and cases where the LA is involved in the trust of a proposed foundation school). The LA is the decision-maker for any proposals for a new school from other proposers.

The Schools Adjudicator will be the decision-maker in any case where the LA does not make a decision within a period of two months from the end of the representation period. Where this happens, the LA must, within a week of the end of that two month period, refer the case to the Schools Adjudicator.

In all cases, the decision-maker should be satisfied that the proposer has carried out the statutory process satisfactorily and should have due regard to all responses received during the representation period.

Issuing a decision

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with such modifications as they think desirable, after consulting the LA and/or proposer (as appropriate);
or
- approve the proposal – with or without modification – subject to certain conditions¹⁶ (such as the granting of planning permission) being met.

Such decisions **must** be taken within two months of the end of the representation period, it is **not** possible for a LA to defer the decision beyond the two-month period.

¹⁶ As specified in regulation 16 of the Establishment and Discontinuance Regulations

A proposal can be withdrawn by the proposer at any point before a decision is taken. When doing so the proposer must send written notice to the LA and the [Schools Adjudicator](#) (if the proposal has been sent to them). A notice must also be placed on the website where the original proposal was published. It is good practice to notify any other interested parties that the proposal has been withdrawn.

Where the LA is the decision-maker, within one week of making a determination they **must** publish their decision and the reasons for such a decision being made on their website. They **must** arrange for notification of the decision and reasons for it to be sent to:

- The Secretary of State (via schoolorganisation.notifications@education.gov.uk)
- the governing body/proposers (as appropriate);
- the Schools Adjudicator;
- The Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority; and
- for a special school, the parents of every registered pupil at the school;
- any other body considered appropriate (e.g. other relevant religious authority); and
- The trustees of the school (where relevant e.g. site trustees).
- Where the Schools Adjudicator is the decision-maker, where possible they should send notification of the decision and reasons for it, within one week of making a determination to the LA and the Secretary of State (via schoolorganisation.notifications@education.gov.uk) to ensure the appropriate records can be updated and to allow for any actions required as a consequence of the decision to be completed (e.g. an admissions preference exercise following approval to close a school).

Factors to consider when determining proposals

Demand and need

When considering proposals to establish new provision, the decision-maker should be satisfied that the proposer has demonstrated demand for the provision being proposed. This should include:

- the evidence presented for any projected increase in pupil population (such as planned housing developments) and any new provision opening in the area (including free schools), in relation to the number of places to be provided.
- the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents; raise local standards and narrow attainment gaps.
- the popularity of other schools in the area and evidence of parental demand for a new school. Whilst the existence of surplus capacity in neighbouring schools should not in itself prevent the creation of new places, they should consider the impact of the new places on existing good educational provision in the local area.

When determining proposals to discontinue (close) provision, the decision-maker should be satisfied that there are sufficient surplus places elsewhere in the local area to accommodate displaced pupils, and the likely supply and future demand for places in the medium and long term.

The decision-maker should take into account the overall quality of alternative places in the local area, balanced with the need to reduce excessive surplus capacity in the system. The decision-maker should have regard for the local context in which the proposals are being made, taking into account the nature of the area, the age of the children involved and, where applicable, alternative options considered for reducing excess surplus capacity.

Suitability

When considering any proposal for a new maintained school, the decision-maker should consider the proposal on its merits and take into account all matters relevant to the proposal. Any proposal put forward by organisations which advocate violence or other illegal activity must be rejected. In order to be approved, a proposal should demonstrate that, as part of a broad and balanced curriculum, the proposed new school would promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, as set out in the department's guidance on [Promoting fundamental British values through SMSC](#).

Proposed admission arrangements

Before approving a proposal the decision-maker should confirm that the admission arrangements of the school are compliant with the [School Admissions Code](#). Although the decision-maker cannot modify proposed admission

arrangements, the decision-maker should inform the proposer where arrangements seem unsatisfactory and the admission authority should be given the opportunity to revise them.

National Curriculum

All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community¹⁷.

School size

Decision-makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. The decision-maker should also consider the impact on the LA's budget of the need to provide additional funding to a small school to compensate for its size.

Equal opportunity issues

The decision-maker must have regard to the Public Sector Equality Duty (PSED), which requires them to have 'due regard' to the need to:

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations between people with a protected characteristic and those without that characteristic.

The decision-maker must consider the impact of the proposals on the relevant protected characteristics and any issues that may arise from the proposals (e.g. where there is a proposal to establish new single sex provision in an area, there is equal access to single sex provision for the other sex to meet parental demand). Decision-makers should be satisfied that the proposer has shown a commitment to providing access to a range of opportunities which reflect the ethnic and cultural mix of the area, whilst ensuring that such opportunities are open to all.

Integration and community cohesion

The decision-maker should consider the impact of any proposal on local integration and community cohesion objectives and have regard to the [Integrated Communities Action Plan](#).

¹⁷ Under sections 90, 91, 92 and 93 of the Education Act 2002.

When considering, publishing or deciding a proposal, the proposer and the decision-maker should take account of the community to be served by the school and the views of different sections within the community. They should also consider:

- Whether the school will be welcoming to pupils of any faith and none; and how the school will address the needs of all pupils and parents.
- Whether the curriculum will be broad and balanced and prepare children for life in modern Britain including through the teaching of spiritual, moral, social and cultural (SMSC) education.
- Whether the school will promote fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs and none.
- Whether the school will encourage pupils from different communities, faiths and backgrounds to work together, learn about each other's customs, beliefs and ideas and respect each other's views.

Travel and accessibility

The decision-maker should satisfy themselves that the proposers have been taken into account accessibility planning and that the proposal will not adversely impact on disadvantaged groups.

Decision-makers should consider whether the proposal will unreasonably extend journey times or increase transport costs or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes. The decision-maker will need to consider the local context, for example in areas with excessive surplus places, the decision-maker should consider whether the travel implications of the proposal are reasonable compared to those for alternative options.

A proposal should also be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.

Further information is available in the statutory [Home to school travel and transport guidance](#) for LAs.

Funding

The decision-maker should be satisfied that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement to the funding arrangements.

Where proposers are relying on the department as the source of capital funding, there can be no assumption that the approval of a proposal will trigger the release of capital funds from the department, unless the department has previously confirmed in writing that such resources will be available.

Where a proposer is proposing a new voluntary aided school under section 11 and has applied for capital funding from the department, the decision-maker may, if satisfied that the department has given written 'in principle' agreement to provide capital funding, approve the proposals on the condition that the proposer enter into an arrangement with the Department for Education for any necessary building work.

Schools causing concern

In determining proposals, decision-makers must ensure that the guidance on [schools causing concern](#) (intervening in failing or underperforming schools) has been considered where necessary.

Rural schools and the presumption against closure

Decision-makers should adopt a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure should be strong and a proposal must be clearly in the best interests of educational provision in the area. When producing a proposal to close a rural primary school, the proposer must consider:

- the likely effect of the closure of the school on the local community;
- the proportion of pupils attending the school from within the local community i.e. is the school being used by the local community;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- the availability, and likely cost to the LA, of transport to other schools;
- whether the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium or long term);
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase; and
- any alternatives to the closure of the school.

'Rural primary school', in this context, means any school referred to in the [Designation of Rural Primary Schools \(England\) Order](#). Proposers should also consider the above factors when proposing the closure of a rural secondary school. Rural secondary schools are identified on the Get Information about Schools database using the Office for National Statistics' [Rural and Urban Area Classification](#). Decision-makers should consider this indicator when deciding a proposal for the closure of a rural secondary school. Where a school is not recorded as rural on GIAS, the decision-maker can consider evidence provided by interested parties that a particular school should be regarded as rural. The presumption against the closure of rural schools does not apply in cases where a rural infant and junior school on the same site are being closed to establish a new primary school.

Maintained nursery schools and the presumption against closure

Decision-makers should adopt a presumption against the closure of maintained nursery schools. This does not mean that a nursery school will never close, but the case for closure should be strong and the proposal should demonstrate that:

- plans to develop alternative early years provision clearly demonstrate that it will be at least equal in quality and quantity to the provision provided by the nursery school with no loss of expertise and specialism; and
- replacement provision is more accessible and more convenient for local parents.

In considering a proposal to close a school which currently includes early years provision, the decision-maker should consider whether the alternative early years provision will integrate pre-school education with childcare services and/or with other services for young children and their families.

Balance of denominational provision

In deciding a proposal to close a school that has been designated with a religious character, decision-makers should consider the effect that this will have on the balance of denominational provision in the area, as well as taking account of the number of pupils currently on roll, the medium and long term need for places in the area, and whether standards at the school have been persistently low.

In relation to the balance of denominational provision, if an infant and a junior school of a particular religious character in an area are to close and be replaced with a new all-through school, then there should normally be a preference for

that new school to be of the same religious character as the predecessor schools.

Where one school has a religious character and the other does not, or has a different religious character, both proposers and decisions-makers should consider what would best meet the needs of the local community. Decision-makers should consider what impact the proposal will have on the balance of denomination provision in the area, the quality of the provision available (particularly when proposing a merger) and parental demand in the area for the different types of provision.

Community services

Some schools may be a focal point for family and community activity, providing extended services for a range of users, and their closure may have wider social consequences. Where the school is providing access to extended services, provision should be made for the pupils and their families to access similar services through their new schools or other means.

Determining revocation proposals

When a proposer or LA does not wish to implement an approved proposal because doing so would be unreasonably difficult or circumstances have changed (so that implementation would be inappropriate), the proposer must publish a revocation proposal, to be relieve themselves and/or the LA of any duty to implement.

The LA will be the decision-maker for revocation proposals with the exception of cases where the original proposal was determined by the [Schools Adjudicator](#). In such cases, the LA must refer the revocation proposal together with any comments or objections within two weeks of the end of the representation period to the Schools Adjudicator. Where the LA made the initial determination of the original proposals and the proposals were later referred to the adjudicator, the LA should determine any revocations proposals made.

The decision-maker should be satisfied that the proposer has carried out the statutory process appropriately (as set out in part 4 of this guidance) and should have regard for any responses received during the representation period.

LAs must determine a revocation proposal within two months of the end of the representation period. Where the LA has not determined the proposal by the end of the two-month period, the decision-maker must refer the decision to the Schools Adjudicator. The decision-maker should make such persons aware of the decision as they consider appropriate. This should include:

- the Secretary of State (via schoolorganisation.notifications@education.gov.uk)
- the governing body/proposers (as appropriate);
- the Schools Adjudicator or LA (as appropriate);
- the Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority; and
- for a special school, the parents of every registered pupil at the school;
- any other body considered appropriate (e.g. other relevant faith organisation); and
- the trustees of the school (where relevant e.g. site trustees).

Determining requests to modify approved proposals

Proposers may request modifications to approved proposals or ask the body which approved the proposals to specify a later date in respect of conditional approval¹⁸. Where the Schools Adjudicator determined the original proposals, the LA must refer the case to the Schools Adjudicator within two weeks of receipt of the request from the proposers.

The decision-maker should be satisfied that the proposal does not modify the existing proposals to the extent that new proposals are substituted for those that were originally published.

Where approved proposals are modified, the LA or the Schools Adjudicator (as the case may be) must notify the Secretary of State (via schoolorganisation.notifications@education.gov.uk within one week of the date of the proposals being modified.

Where the bodies listed below are unsatisfied with the outcome of a decision taken on a revocation, they may appeal to the Schools Adjudicator within four weeks of the publication of the decision. The Schools Adjudicator will take a fresh decision on the proposals.

- the Diocesan Board of Education for any diocese in the Church of England that is comprised in the area of the relevant authority;
- the bishop of any Roman Catholic Church in the area of the relevant authority;
- the proposers;

¹⁸ Under paragraph 21(2)(a) of Schedule 2 to the Act

- the governing body or trustees of any foundation or voluntary school which is the subject of the proposals (where relevant).

Within one week of receiving the appeal the LA must send to the adjudicator:

- any objections or comments in relation to the proposals;
- minutes of the meeting at which the revocation proposals were considered; and
- any papers considered by the LA at that meeting.

Annex A: School closure consultations

In the case of the proposed closure of a rural primary school or a community or foundation special school, prior to publishing a statutory notice and proposal, proposers **must**, under section 16(1) of EIA 2006 consult:

- The LA (as appropriate);
- The parents of registered pupils at the school;
- 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 an EHC plan or statement of special educational needs in respect of a registered pupil at the school.

The Secretary of State considers that these bodies, along with those listed below should be consulted in the case of the proposed closure of all schools:

- the governing body (as appropriate);
- pupils at the school¹⁹;
- (if a proposal involves, or is likely to affect a school which has a particular religious character) the appropriate diocese or relevant faith group²⁰;
- 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;

¹⁹ Under section 176 of the Education Act 2002.

²⁰ Under the DBE Measure 1991 Church of England schools must consult with their diocese before making closure proposals.

- 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 organisation / person that the proposer thinks are appropriate.

Annex B: Statutory proposals for school closures

As set out in Schedule 2 to the Establishment and Discontinuance Regulations the information below **must** be included in a proposal to close a school:

Contact details

The name and contact address of the LA or governing body publishing the proposals and the name, address and category of the school it is proposed that should be discontinued.

Implementation

The date on which it is proposed to close the school or, where it is proposed that the closure be implemented in stages, the dates of and information about each stage.

Reason for closure

A statement explaining the reason why closure of the school is considered necessary.

Pupil numbers and admissions

The numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is currently made at the school.

Displaced pupils

A statement and supporting evidence about the need for school places in the area including whether there is sufficient capacity to accommodate displaced pupils.

Details of the schools or further education colleges at which pupils at the school to be discontinued will be offered places, including—

- a) any interim arrangements;
- b) the provision that is to be made for those pupils who receive educational provision recognised by the LA as reserved for children with special educational needs; and
- c) in the case of special schools, the alternative provision made by any LA other than the LA which maintain the school.

Details of any other measures proposed to be taken to increase the number of school or further education college places available if necessary, in consequence of the proposed discontinuance.

Impact on the community

A statement and supporting evidence about the impact on the community of the closure of the school and any measures proposed to mitigate any adverse impact.

Rural primary schools

Where proposals relate to a rural primary school designated as such by an order made for the purposes of section 15, a statement that the LA or the governing body (as the case may be) considered section 15(4).

Balance of denominational provision

Where the school has a religious character, a statement about the impact of the proposed closure on the balance of denominational provision in the area and the impact on parental choice.

Maintained nursery schools

Where proposals relate to the discontinuance of a maintained nursery school, a statement setting out—

- a) the LA's assessment of the quality and quantity of the alternative provision compared to the school proposed to be discontinued and the proposed arrangements to ensure the expertise and specialism continues to be available; and
- b) the accessibility and convenience of replacement provision for local parents.

Sixth form provision

Where the school proposed to be discontinued provides sixth form education, the effect for 16 to 19 year olds in the area that the closure will have in respect of—

- a) their educational or training achievements;
- b) their participation in education or training; and the range of educational or training opportunities available to them.

Special educational needs provision

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

Travel

Details of length and journeys to alternative provision.

The proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will mitigate against increased car use.

Annex C: Statutory proposals for establishing a new school

As set out in the Establishment and Discontinuance Regulations the information below must be included in section 10 and 11 proposals to establish a new school:

Contact details

The name and contact address of the LA or the proposers (as the case may be).

Implementation

The date on which it is proposed that the school be opened or, where it is proposed that the opening be implemented in stages, the dates of and information about each stage.

Where the proposals are to establish a voluntary, foundation or foundation special school, a statement as to whether the proposals are to be implemented by the LA or by the proposers, and if the proposals are to be implemented by both,

- (a) a statement as to the extent that they are to be implemented by each body, and
- (b) a statement as to the extent to which the capital costs of implementation are to be met by each body.

Reason for the new school

A statement explaining the reason why the new school is considered necessary and whether it is to replace an existing school or schools.

Category

Whether the school will be a foundation or foundation special school (and, if so, whether it is to have a foundation), a voluntary school (and whether it will be voluntary controlled or voluntary aided), a community or community special school, or a LA maintained nursery school and, if required by section 10, a statement that the Secretary of State's consent has been obtained to publish the proposals.

Ethos and religious character

A short statement setting out the proposed ethos of the school, including details of any educational philosophy, which it is proposed that the school will adhere to.

If it is proposed that the school is to have a religious character, confirmation of the religion or religious denomination in accordance with whose tenets religious education will, or may be required to be provided at the school; and a statement that the proposers intend to ask the Secretary of State to designate the school as a school with such a religious character.

Where it is proposed that the school—

- (a) has a religious character, evidence of the demand in the area for education in accordance with the tenets of the religion; or
- (b) adheres to a particular philosophy, evidence of the demand for education in accordance with that philosophy that is not already met in other maintained schools or academies in the area.

Pupil numbers and admissions

The numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is to be made at the school.

Admission arrangements

Except in relation to proposals for special schools, the proposed admission arrangements and over-subscription criteria for the new school including, where the school is proposed to be a foundation or voluntary school which is to have a religious character—

- (a) the extent to which priority for places is proposed to be given to children of the school's religion or religious denomination; and
- (b) the extent, if any, to which priority is to be given to children of other religions or religious denominations or to children having no religion or religious denomination.

Early years provision

Where the proposals are to include provision for pupils aged two to five—

- (a) details of how the early years provision will be organised, including the number of full-time and part-time pupils, the number of places, the number and length of sessions in each week, and the services for disabled children that will be offered;
- (b) how the school will integrate the early years provision with childcare services, and how the proposals for the establishment of the school are consistent with the integration of early years provision with childcare;

- (c) evidence of parental demand for additional early years provision;
 - (d) assessment of capacity, quality and sustainability of provision in schools, and in settings outside of the maintained school sector which deliver the Early Years Foundation Stage within three miles of the school; and
 - (e) the reasons why schools and settings outside the maintained school sector which deliver the Early Years Foundation Stage within three miles of the school and which have spare capacity, cannot make provision for any forecast increase in the numbers of such children.
- Sixth form provision

Where it is proposed that the school will provide sixth form education, for 16 to 19 year olds in the area, how the proposals will —

- (a) improve the educational or training achievements;
- (b) increase participation in education or training; and
- (c) expand the range of educational or training opportunities available to them.

Where the addition of sixth-form provision is being proposed, a change of age-range will be required, and proposers should refer to the prescribed alterations guidance.

Special educational needs provision

Whether the school will have provision that is recognised by the LA as reserved for children with special educational needs and, if so, the nature of such provision.

Details of the proposed policy of the school relating to the education of pupils with special educational needs.

Where the school will replace existing educational provision for children with special educational needs—

- (a) a statement on how the proposer believes the proposal is likely to lead to improvements in the standard, quality and range of educational provision for these children;
- (b) details of the improvements that the proposals will bring in respect of—
 - (i) access to education and associated services including the curriculum, wider school activities, facilities and equipment with reference to the LA's Accessibility Strategy;

- (ii) access to specialist staff, both education and other professionals, including any external support or outreach services;
- (iii) access to suitable accommodation; and
- (iv) supply of suitable places.

Single sex school

Where the school is to admit pupils of a single sex—

- (a) evidence of local demand for single sex education and how this will be met if the proposals are approved; and
- (b) a statement giving details of the likely effect the new school will have on the balance of provision of single sex education in the area.

Curriculum

Confirmation that the school will meet the general requirements in relation to the curriculum contained in section 78 of EA 2002 and an outline of any provision that will be in addition to the basic curriculum required by section 80 of EA 2002, in particular any 14-19 vocational education.

Relevant experience of proposers

Evidence of any relevant experience in education held by the proposers including details of any involvement in the improvement of standards in education.

Effects on standards and contributions to school improvement

Information and supporting evidence on—

- (a) how the school will contribute to enhancing the diversity and quality of education in the area; and (b) how the school will contribute to school improvement.

Location and costs

A statement about -

- (a) the area or the particular community or communities which the new school is expected to serve;
- (b) the location of the site or sites including, where appropriate, the postal address or addresses;

- (c) the current ownership and tenure (freehold or leasehold) on which the site will be held, and if the site is to be held on a lease, details of the proposed lease;
- (d) whether the site is currently used for the purposes of another school and if so, why the site will no longer be required by the other school;
- (e) the estimated capital costs of providing the site and how those costs will be met (including the extent to which the costs are to be met by the proposers and the LA) and how the proposers intend to fund their share of the costs of implementing the proposals (if any);
- (f) whether planning permission is needed under the Town and Country Planning Act 1990, and when it is anticipated that it will be obtained;
- (g) confirmation from the Secretary of State or LA (as the case may be) that funds will be made available (including costs to cover any necessary site purchase).

Travel

The proposed arrangements for travel of pupils to the school.

Federation

Details of any proposals for the school to be established as a federated school.

Voluntary aided schools

Where the school is to be a voluntary aided school—

- (a) details of the trusts on which the site is to be held; and
- (b) confirmation that the governing body will be able and willing to carry out their obligations under Schedule 3 to SSFA 1998.

Foundation schools

Where the school is to be a foundation or foundation special school, confirmation as to—

- (a) whether it will have a foundation and if so, the name or proposed name of the foundation;
- (b) the rationale for the foundation and the particular ethos that it will bring to the school;
- (c) the details of membership of the foundation, including the names of the members;

- (d) the proposed constitution of the governing body; and
- (e) details of the foundation's charitable objects.

Annex D: Further Information

This guidance primarily relates to:

- [The Education and Inspections Act 2006](#), as amended by the [Education Act 2011](#)
- [The School Standards and Framework Act 1998](#), as amended by the [Education Act 2002](#)
- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#)
- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#)
- [The free school presumption – Departmental advice for local authorities and new school proposers \(May 2018\)](#)
- [Presumption against the closure of primary schools](#)
- [Rural and Urban Area Classification](#)
- [The Religious Character of Schools \(Designation Procedure\) Regulations 1998](#)
- [How to apply for religious designation](#)
- [Schools Adjudicator](#)
- [School Admissions Code](#)

It also relates to:

- [School Governance \(Constitution\) \(England\) Regulations 2012](#)
- [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)
- [Governors handbook](#).
- [School Premises \(England\) Regulations 2012](#)
- [The School Companies Regulations 2002](#) as amended by the [2003 Regulations](#) and the [2014 Regulations](#)
- [Change your charity's governing document](#)
- [Academies Act 2010](#)
- [Making significant changes to an existing academy and Closure by Mutual Agreement \(2018\)](#);
- [Regional Schools Commissioner](#)
- [Consultation principles](#)

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