



Northumberland

County Council

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Date: 7th January 2019

Dear Sir

Case Reference – STP635, Bellingham Middle School and Sports College (School)

We refer to the decision of Mr Brooke dated 13th November 2018, which we have reviewed carefully. We appreciate that there is no right of appeal from Mr Brooke's decision short of commencing judicial review proceedings but the purpose of this letter in the first instance is to help us understand the reasons given for allowing the School to remain open and for rejecting the Council's proposal to close the School. We are therefore writing to request your assistance in interpreting Mr Brooke's decision and the reasoning that underpinned it. In the meantime, we reserve our position in terms of pursuing the matter further through judicial review.

We refer to the statutory guidance on "Opening and closing maintained schools" issued by the Department for Education and, in particular, the requirements set out in Schedule 2 of the Establishment and Discontinuance Regulations, which set out the information that **must** be included in any notice to close a school. One of the pieces of information which is required is the reasons for closure of the school. It is noted, and we accept, that in circumstances where a decision of a local authority in relation to closure of a foundation school is appealed by the governing body of that school, the Adjudicator is to look at the case for closure ab initio, and does not have to satisfy himself that the process carried out by the Council was correct. It follows, however, that in circumstances where the Council has determined that a school should be closed, the Adjudicator is similarly obliged to give his reasons for rejecting the Council's proposal.

In endeavouring to understand the Adjudicator's reasons for his decision, we have as a starting point reviewed the Conclusion of the Report (contained in paragraphs 107-110). His reasons for rejecting the proposal to close the School are, we believe, set out in the first two paragraphs of the Conclusion. We consider each in turn below.

Paragraph 107 – addressing external factors and support for a single system

Paragraph 107 states as follows:

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I have found that the overall proposals do not address to any great extent the "external factors" identified by the local authority as prompting the proposals for school reorganisation in the west of Northumberland. The response to the informal consultation showed opposition to school closures, including opposition to the closure of HBHS. The response did show support for a single system, of either two or three tiers of educational provision and did not show support for mixed provision across the two partnerships.

There are three different points made in this paragraph:

- firstly, that the overall proposals "...do not address to any great extent the "external factors" identified...as prompting the proposals for school reorganisation..." What this means, we believe, is that the proposals do not in themselves go far enough in terms of reorganising education in the west of the County;
- secondly, the Adjudicator states that the response to the consultation showed opposition to school closures – this seems merely to be a statement of fact, and not an explanation for his decision; and
- thirdly, and perhaps more substantively, he states that the consultation response did not show support for mixed provision (ie two and three tier) across the Hexham and Haydon Bridge partnership.

We will address the first and third aspects of his conclusion in more detail below.

External factors

The external factors are set out by the Adjudicator are specified in paragraphs 56-70 of the Report. These are (in brief):

- the withdrawal of Bright Tribe Trust as a proposed sponsor of Haydon Bridge High School (**HBHS**);
- the consultation of Queen Elizabeth High School, Hexham (**QEHS**) on the potential for it to become an 11-18 academy;
- the financial difficulties of schools in the west of the County;
- the introduction of the National Funding Formula;
- the significant over-capacity of schools in the west of the County;
- the need to ensure school buildings are of top quality and can meet the needs of the new curriculum; and
- the need to provide excellent provision for the most vulnerable children, and those with special needs.

Because the Council has not been running HBHS in the main over the last three years, and because QEHS is an academy, it is clear that the Council has very limited influence over the first two of these factors. Of the next three, given the regulations which specifically restrict the ability to close rural schools and the guidance around journey times for primary school age children (discussed in more detail below), the decision of the Council to close the School was at least a positive step towards addressing these issues – and, given that the only other middle school in the partnership is itself an academy, short of closing a rural primary and/or first school, this is the only step (short of also closing HBHS) in terms of closure that the Council can take to address these issues.

In terms of school buildings, the Council is (as part of a wider proposal in the west of the County) committed to making significant investment in a number of primary schools. A sum of £5.1 million has been set aside for capital investment. This is a very significant sum, given the size of the schools involved.

Finally, in terms of support for children with special educational needs, the Adjudicator suggests that the closure does not improve provision for such children, but does not make it worse either.

In terms of addressing the external factors, therefore, it is hard to see how the Council could have identified a significantly different strategy from that which it has chosen. The Adjudicator has not justified how not closing the School will offer the Council any viable alternative in terms of addressing these external factors – he refers in the Conclusion (paragraph 109) to the "*wide range of options*" available to the Council without explaining what these are, or how they could be used to address the external factors he has identified. If, as appears to be the case, the existence of these alternative options was a key part of the Adjudicator's reasoning, please confirm what the Adjudicator believes these options are and how they would address some or all of the external factors identified.

Mixed two and three tier provision

Whilst we acknowledge that the consultation response did not show support for mixed provision, we do not see why of itself this should be viewed as a reason for rejecting the Council's proposal, especially because the Haydon Bridge Partnership already operates a partial two tier system. Across the County generally there is a mix of two and three tier education provision with some partnerships operating different models, and this has not proved to be problematic to date, so long as parental choice has not been compromised.

Paragraph 108 – parental choice and travel time

Paragraph 108 states as follows:

The closure of Bellingham Middle School will displace pupils who will, in many cases, attend HBHS. HBHS is currently judged by Ofsted to be inadequate and it is too early to say whether measures to secure its improvement will be effective. Parental choice will be restricted by a system which would have two tier provision feeding into a more vocational offer at Haydon Bridge alongside three tier provision feeding into a more academic offer at Queen Elizabeth High School. Pupils will face a longer journey to school, in some cases in excess of the maximum recommended by guidance.

Parental choice

On the face of it, paragraph 108 seems to concern, in the main, the question of parental choice. The Adjudicator is concerned for the long term future of HBHS and argues that the closure of the School means that, in practice, parents of pupils at the School will have no choice but to send their children to HBHS, whereas currently they have a choice of sending their children in Year 9 to either HBHS or QEHS. This analysis is not correct. Whilst QEHS is normally full in terms of pupil admissions, Hexham Middle School, its neighbouring feeder school, has more than 170 surplus places (more than 40 places per year group). There is also the possibility of parents sending children to St Joseph's Roman Catholic VA Middle School in Hexham (though this school is almost fully subscribed). Therefore, if the School was closed, it would be open for parents in the North Tyne area to send their children to Hexham Middle Schools from the age of eleven, once they had finished schooling in the various village primary schools. This would in turn mean that those children would have no lesser chance, and in all likelihood a greater chance, of being able to attend either HBHS or QEHS following the closure of the School. Please confirm whether in reaching his decision the Adjudicator took account of the surplus places in particular available at Hexham Middle School and their corresponding impact on parental choice. If he did, please explain why he felt able to conclude that parental choice would still be restricted. If he did not, please explain why.

It should be noted that, where parents choose to send their child to a school which is not the nearest to their home, then the Council's position is that it will not pay for free travel for that child. In terms of

the choice between HBHS or Hexham Middle, it should be noted that for some parents whose child is currently at the School, the likelihood is that the distance to travel to Hexham Middle may be shorter than to HBHS.

This observation leads us into the issue of travel which the Adjudicator also addresses in his conclusions.

Travel time

Paragraph 108 also addresses the issue of journey times to and from school. The Adjudicator's findings in regard to travel and accessibility are set out in more detail in paragraphs 83-85 of the Report. At paragraph 85, the Adjudicator considers that *"the extended journey times for children in Years 6 and 7 are a legitimate cause for concern"* – the Adjudicator here intends to refer to Years 7 and 8. It is noted that the statutory guidance around home to school travel states that the maximum each way length for a journey should be 45 minutes at primary school and 75 minutes at secondary school. At present, the longest journey time to HBHS is 80 minutes, so is outside the statutory guidance. The Council however had in any event committed to look at bespoke transport for affected pupils to ensure that travel times were kept to a minimum and where possible within the statutory guidance.

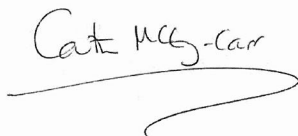
The effect of closing the School would be to require children in Years 7 and 8 to make longer journeys at a younger age, but also shorter journeys in Years 5 and 6, as they would continue to be schooled in their local village schools.

On balance, we consider that any prejudice suffered by children as a consequence of closing the School in terms of journey times is marginal. The journey to HBHS for some pupils is already outside statutory guidelines. This would not have been changed by closure of the School. The only change would have been that children journeying to HBHS in Years 7 and 8 would be making that journey sooner, but the guidance relates to pupils at secondary school in any event, so the nature of the breach of any guidelines remains the same. Please confirm whether this factor was taken into account when concluding that journey times were *"a legitimate cause for concern"*.

Please also explain to what extent increased journey times in Years 7 and 8 were a determining factor in the Adjudicator's decision – we ask for this clarification because a closure of the School will always have this effect on pupils in those year groups and, therefore, if this is a determining factor, we do not see how closure could be justified under any circumstances.

We are keen to understand the reasons underpinning the Adjudicator's decision to assist us in further developing our strategy for improved educational provision in the west of the County. We therefore look forward to receiving a substantive response to the questions raised in this letter. As explained at the outset of the letter, we do not rule out challenging the Adjudicator's decision and we are mindful of the timescales within which any such challenge must be made. We therefore look forward to receiving your substantive response on or before close of business on 25th January 2019.

Yours faithfully

A handwritten signature in black ink, reading 'Cath McEvoy-Carr', with a long, sweeping horizontal line underneath.

Cath McEvoy-Carr
Executive Director, Adults Social Care and Children's Services
Northumberland County Council