

Public Document Pack



**Service Director – Legal, Governance and
Commissioning**

Julie Muscroft

The Democracy Service
Civic Centre 3
High Street
Huddersfield
HD1 2TG

Tel: 01484 221000

Please ask for: Penny Bunker

Email: penny.bunker@kirklees.gov.uk

Tuesday 30 July 2019

Notice of Meeting

Dear Member

Children's Scrutiny Panel

The **Children's Scrutiny Panel** will meet in the **Main Hall - Town Hall, Huddersfield** at **10.00 am** on **Wednesday 7 August 2019**.

This meeting will be webcast live and will be available to view via the Council's website.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Children's Scrutiny Panel members are:-

Member

Councillor Andrew Marchington

(Chair)

Councillor Aafaq Butt

Councillor Paul Davies

Councillor Amanda Pinnock

Councillor Richard Smith

Councillor Paul White

Toni Bromley (Co-Optee)

Dale O'Neill (Co-Optee)

Linda Summers (Co-Optee)

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Interests

1 - 2

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

3: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

4: Call-in of Cabinet Decision in relation to Almondbury Community School

3 - 18

The Panel will consider issues arising from a Call-in request in relation to the decision taken by Cabinet on the 16th July 2019, on the Almondbury Community School.

This page is intentionally left blank

KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Childrens Scrutiny Panel			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Children’s Scrutiny Panel

Date: 7th August 2019

Title of report: Call-in of Cabinet Decision in relation to Almondbury Community School

Purpose of report

To provide members of the Children’s Scrutiny Panel with background information in respect of the Call-In.

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Is it in the Council's Forward Plan ?	Yes
Is it eligible for “call in” by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name	
Is it signed off by the Director of Finance?	N/A
Is it signed off by the Service Director - Legal Governance and Commissioning?	N/A For Information purposes only
Cabinet member portfolio	Learning Aspiration and Communities - Cllr Carole Pattison Children’s Services – Cllr Viv Kendrick

Electoral [wards](#) affected: All

Ward councillors consulted: N/A

Public or private: Public Report

(Have you considered GDPR?)

Yes GDPR has been considered. The information in this report does not identify any individuals.

Summary

2. Key Points

- 2.1 On 23rd July 2019, the Service Director for Legal, Governance & Commissioning received written notification from 5 non-executive councillors of their wish to call-in a decision of Cabinet made on 16th July 2019. The decision was in relation to Future Options for Almondbury Community School. Following a validation exercise of the Call-in request form by the Chair of Scrutiny and the Service Director for Legal, Governance and Commissioning, a validated Call-in request has been produced. A copy of the validated call-in notice, including reasons for the call-in, is attached at Appendix 1.
- 2.2 The Panel has access to all papers considered by the Cabinet when making the decision, and will be able to question the relevant officers and Cabinet Members. Committee Members are also able to hear from other interested parties including other councillors and members of the public. A detailed timetable for the Panel meeting is attached at Appendix 2.
- 2.4 The Panel should focus its attention and questions on those issues that are set out in the validated Call-in request.
- 2.5 Once the Panel has considered the points raised and all supporting information and evidence, it must resolve either to:
- (1) Free the decision for implementation
 - (2) Refer it back to the Cabinet with a recommendation for amendment
 - (3) In exceptional circumstances, refer the issue to the next Council meeting if the decision is not consistent with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Service Director: for Legal, Governance and Commissioning.
- 2.6 If the decision is referred back to Cabinet, it will be considered at the next meeting of Cabinet. Cabinet may:
- Accept the recommendation of the Scrutiny Panel and amend its decision;
 - Decide that further work needs to be done and defer the item until this is completed. The Children's Scrutiny Panel should be kept informed of the work as it progresses and be formally notified when it is to be reconsidered;
 - Not accept the view of the Scrutiny Panel and confirm its original decision;
 - Refer the issue for discussion at the next appropriate Council meeting.
- 2.7 If the Cabinet confirms its original decision, it can be implemented immediately as there is no scope for further review and challenge. A decision may only be reviewed once.

3. Implications for the Council

There are no specific implications for the Council within this report as the Panel does not have decision making powers. However as a result of hearing the call in evidence, recommendations may be made to Cabinet to amend its decision which, if accepted, could result in implications for the Council.

4. Consultees and their opinions

No consultation was appropriate in respect of the contents of this report.

5. Next steps

Following consideration of all the information and evidence, Members of the Panel need to make one of the following three recommendations, in accordance with the Council Procedure Rules:

- (1) Take no further action and free the decision for implementation.
- (2) Refer it back to the Cabinet with recommendation(s) for amendment.
- (3) In exceptional circumstances, refer to the next Council meeting (only if the decision is not in line with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Service Director for Legal, Governance and Commissioning.)

6. Officer recommendations and reasons

That Members of the Panel consider all of the information and evidence and make one of the three recommendations as set out in Section 5, in accordance with the Council Procedure Rules.

7. Cabinet portfolio holder recommendation

Not applicable

8. Contact officer and relevant papers

Penny Bunker, Governance & Democratic Engagement Manager
Tel: 01484 221000
Email: penny.bunker@kirklees.gov.uk

9. Service Director responsible

Julie Muscroft, Service Director, Legal, Governance & Commissioning

This page is intentionally left blank

Scrutiny Areas of Focus following Call In request - Future Options for Almondbury Community School – Final Decision Report

1. WHO IS MAKING THE CALL IN REQUEST?

Please tick the option that applies and list the names of the Councillors who wish to call in the decision (signatories):

Option A

Two Members of the relevant Scrutiny Panel or Overview and Scrutiny Management Committee, including the Lead Member / Chair

or **Option B**

Five non executive Councillors

Names of and signatures of Councillors

Cllr Paola Antonia Davies – Lead Signatory

Cllr Alison Munro

Cllr Bernard McGuin

Cllr Karen Allison

Cllr John Taylor

2. WHAT DECISION DO YOU WISH TO CALL IN?

Date of Cabinet when decision was taken: 16th July 2019

Name of Item

Agenda Item 8 Future Options for Almondbury Community School Final Decision Report



Clr Karen Allison



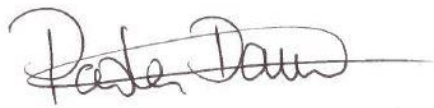
Clr Bernard McGuin



Clr John Taylor



Clr Alison Munro



Clr Paola Antonia Davies

Following consideration of the call in request form, the following areas have been validated as the focus of the call in review meeting on 7 August 2019.

Decision making principle	Area of focus
1. Relevant considerations	Issues connected with the capacity of secondary school places
2. Openness	Issues relating to the availability of information
3. Lawfulness and financial propriety	Clarity of the legislation relevant to the issue of the statutory notice

Amalgamated information taken from the call in request form under each area of focus.

1. Relevant Consideration
<p><i>The Plans for alternative Secondary provision at ACS have never been fully explained and do not add up:</i></p> <p>1. At the Cabinet meeting on the 19th March 2019, a question was asked in relation to the Local Plan as follows: (<i>background</i>)</p> <p><i>“Do pupil projections factor in the potential children’s numbers from the houses in the Local Plan?”</i></p> <p>The response from the Cabinet member was:</p> <p><i>“This issue was not on the scene when the Local Plan was made, but I know from the figures it won’t matter.”</i></p> <p>This means that pupil numbers from houses in the Local Plan were not considered at the time of the proposals in the report to cabinet on the 19th March. In any event, at that meeting, we were referred to Page 5 of the report, which details current numbers of pupils and projected pupil numbers, but only up to 2021, so excluding future pupils emanating from housing in the Local Plan.</p> <p>At the Cabinet meeting on the 29th May 2019, a question relating to a piece of land in the Local Plan that lies within the current paa for ACS and is to be fast tracked for housing was raised as to where will the children from these houses go.</p> <p>The response was:</p>

“All we know is that a piece of land has been allocated for housing and that has to go before another planning procedure and it is from there that you begin to calculate the numbers. Officers have concluded it won’t change the situation significantly.”

At the Cabinet meeting on the 29th May 2019, a question asking whether the National Calculation on pupil numbers were minimum numbers i.e. 2 per year group in Secondary school and 3 per year group in Primary the question could not be answered, i.e. it wasn’t known whether the national calculation figures were minimum numbers of children or maximum numbers of children, but a cabinet member then informed everyone at the meeting that parents can choose to send their children to a good school and this may not necessarily be within their planning area. This suggests that children moving into houses emanating from the Local Plan in the Fenay Bridge area will have no opportunity for a place at their local school.

List of supporting evidence:

Kirklees Council webcast 19th March 2019

Kirklees Council webcast 29th May 2019

Calculation of pupil numbers from the houses in the Local Plan?

Local Plan – Lepton and Fenay Bridge homes planned – 1050. Secondary – 2 pupils per 100 homes. Primary – 3 pupils per 100 homes. This means that 21 secondary places per year group and 33 primary places per year group. Plus Kirkheaton – 12 pupils at secondary level and 18 pupils at primary level, which results in 33 places required for secondary level and 51 places required for primary level.

2. In the paper *“Future options for Almondbury Community School”* the proposal was to remove secondary provision at the School and to explore the possibility of increasing the number of places at King James’s School and to make some adjustment to local catchment areas. In the future, children who currently attend secondary school at Almondbury Community School would have priority for a place at a different school, mainly King James’s or Newsome. This was misleading.

The proposed catchment area was suddenly changed in the statutory proposal issued on the 7th June 2019 and Netherhall Learning Campus was included. Netherhall suddenly became a big player in this, but no consideration of travel to the school were touched on. This decision has an adverse effect on the people living in Lowerhouses and Waterloo.

List of supporting evidence :

The report to Cabinet 19th March 2019

The statutory proposals 7th June 2019

3. Following a decision by Cabinet on the 19th March 2019, a non-statutory consultation was proposed to:

- i. Remove secondary provision at Almondbury Secondary School,
- ii. Consolidate the School as a 210 place Primary Provision at the Greenside Centre building on Fernside Avenue

This meant that parents and children were not given a choice over the future of the School, it was simply a matter of when it closes.

List of supporting evidence:

The report to Cabinet 19th March 2019

The report to Cabinet 29th May 2019

The response from the RSC 16th April 2019

4. The buildings at Almondbury Community School house both secondary pupils and primary pupils. The plan is to close Secondary provision and reduce Primary provision to 30 from 2020. No plans have been provided in relation to the primary pupils already at ACS other than plans for those in Years 5 and Year 6. How will the Council reduce those numbers to 30 per year group from existing pupils in primary provision at the School totalling 394, when there are 43 children currently in Year 3, 49 children in Year 4, 54 children in Year 5. Which school will those pupils be forced to attend?

King James School, an academy, lodged a planning application in September 2018 to expand the school by making provision for a further 30 pupils per year totalling 150 pupils by building 10 additional classrooms. This plan by the school has been borne out of a need to no longer fund two portakabin classrooms at a cost of £140,000 per annum in order to accommodate current pupils and teach them at the school, and also to be able to offer more places in the future. The school received 400 applications for places for September 2019 entry, but only has places for 186 pupils. It is a popular school.

The Council has not considered all the implications in its proposals in the event that the plans to extend King James's School do not go ahead.

King James's planning application was withdrawn on the 10th July 2019. The application was withdrawn prior to the Council making its decision on July 16th to proceed to close secondary provision at ACS, reduce primary PAN to 30 per year group and proceed with an academy. If Cabinet members did not know the planning application had been withdrawn, they should have known. Alternatively if they knew the application had been withdrawn before making their decision, this should have been disclosed prior to the decision being taken on the 16th July. It is therefore clear there will be insufficient places for pupils from ACS at King James School from 2020 as planned. – King James withdrawn plans have not been taken

into account.

List of supporting evidence:

Report to Cabinet dated 19th March 2019

Report to Cabinet dated 29th May 2019

Kirklees Planning Portal 2019/90665

Letter from Kirklees Planning dated 22nd July 2019

5. In the statutory proposal it is apparent that King James's school is no longer part of the consultation, only Newsome and Netherhall. Netherhall does not currently have any spare places and will have to be extended before admitting additional pupils.

Additionally, Newsome is about to become an academy, which places it outside the control of the Authority, therefore while it may be able to accept pupils in Primary currently at ACS from September 2019, post 2020 this may not be possible. This Council have now made a decision to proceed, without securing sufficient pupil places from September 2020.

List of supporting evidence:

Email dated 22nd July 2019 from Planning Contact Centre at Kirklees with attached letter dated 22nd July 2019 from the Head of Development and Master Planning at Kirklees Council

The Cabinet should have been aware that King James School had withdrawn its planning application 6 days previously prior to their decision being made, thereby seriously affecting the proposal to close Almondbury Secondary provision and admit pupils to King James School and local schools from 20/20. This information was not mentioned at the Cabinet meeting on the 16th July, notwithstanding the issue raised by Cllr McGuin that the involvement of King James School seemed to have gone from the statutory consultation as the emphasis was now placed on Newsome High School and Netherhall. Neither has it been mentioned in any correspondence. We do not believe the cabinet and Council have acted in an open manner

6. During the non- statutory consultation views from children were never obtained. This prejudices the children and should have been considered as their parents may have been too busy or too tied up to pass on their views.

List of supporting evidence:

16th July 2019 Kirklees webcast

The pattern of secondary school provision in South Kirklees means that currently there are larger sized secondary/high schools in the more rural areas e.g. Holmfirth/Honley/Shelley, the pupil population sizes in the more rural areas are broadly static and in some cases declining. There are less young people who live in these areas than there are school places. This statement was misleading giving the impression that parents were electing to send their children to such schools, but reality is as follows:

Shelley College is not a larger sized Secondary School. It has 360 places only, is an outstanding school, is full, oversubscribed and is already having new housing built within its paa. Pupils applying from outside the paa meet criteria 5, unless they are cared for children, or have siblings already at the College have no chance of securing a place at there. Moorend Academy, fills from its own catchment area, currently has 60 children on its waiting list and is an outstanding school and again due to its Ofsted rating, pupils from outside the paa will be less likely to gain a place there.

King James School, oversubscribed, 400 applications for a place September 2019 but only has 186 places per year group. Currently has a waiting list of 86.

Honley High School currently full and oversubscribed with a waiting list of 80 and had 26 appeals this year, but considers geographical distance to school for pupils out of area.

It is believed the statement about a pattern of pupils preferring schools in the rural areas was misleading and presented a false overall picture of pupil movement as the only school with capacity was Newsome High School currently rated inadequate by Ofsted.

The Ofsted Report dated 13th February 2019 heavily criticised Primary provision in being unable to provide the full breadth of curriculum, however in the report to Cabinet dated the 29th May, it is claimed that secondary provision were unable to provide the full breadth of curriculum. This is an example of misleading information.

2. Openness

The information provided to Councillors and parents was not clear.

On the 17th July 2019, the Cabinet aware of all the facts made a decision to proceed with the statutory proposals :

4) That approval be given to the statutory proposal to change the age range of Almondbury Community School from 3 to 16 years to age 3 to 11 years, with effect from September 2020.

5) That it be confirmed that the reasons for approving the statutory proposal are that the proposal would contribute to improving the secondary provision for all children in Almondbury.

6) *That officers be instructed to support and work proactively with Almondbury Community School, local secondary schools and with families of pupils to finalise arrangements in order to ensure that effective transition plans are put in place to implement the proposals from 1st September 2020 whilst ensuring a safe and well planned transition without compromising standards and quality of provision.*

The Consultation was flawed because parents, children and Councillors were denied access to information relating to the financial position of the school and were unable to calculate whether the school was viable, this was notwithstanding requests for information being sent to the Regional Schools Commissioner as well as officers. Councillors were asked to accept the word of officers who would not disclose information as it was claimed a decision had not been made. There was one route and officers and Cabinet adhered to that message.

The Cabinet failed to answer questions relating to viability.

The RSC failed to answer questions relating to viability.

A FOI request relating to costs on viability stated the information was in the report to Cabinet 19th March 2019?

List of supporting evidence:

Letter to RSC 28th March 2019

Letter to RSC 6th April 2019

Response from RSC 16th April 2019

Response from RSC 30th April 2019

FOI request Cllr A Munro 16th April 2019?

FOI response Cllr A Munro 23rd April 2019?

FOI request Cllr B McGuin 17th April 2019

Council webcast 16th April 2019

3. Lawfulness and Financial Propriety

On the 7th June 2019, the Council issued a statutory notice under Section 19 (1) of the Education and Inspections Act 2006 that Kirklees intends to make a prescribed alteration to Almondbury Community School.

In the report to Cabinet dated 16th July the Council state they are making one prescribed alteration to change the upper age range of ACS from 3-16 years to 3-11 years on 1st September 2020.

Paragraph 1.2 of the Report to Cabinet 16th July 2019 claims a prescribed alteration is NOT required to enable changes to the planned admission number PAN for the Primary phase.

The Council placed a notice in the Huddersfield Examiner on June 7th 2019 pursuant to Section 19(1) of the Education and Inspections Act 2006.

However, where the prescribed alteration is one that under subsection (2) is capable of being proposed by a Local Authority, the Authority must publish its proposals under this section ie 19 (2) a.

Council officers claimed they had published the notice under the appropriate section of the ACT. This is refuted.

List of supporting evidence:

DFEE Making significant changes (prescribed alterations) to maintained schools,

Emails from grandparent to Council Officers dated 27/6/2019,18/6/2019,10/7/2019, 10/7/2019, 11/7/2019, 2nd July 2019,1st July 2019

Emails from Council officer to grandparent dated 12/7/2019,11/7/2019,5/7/2019

This page is intentionally left blank

Call-In Review Meeting Timetable

7th August 2019

(Future Options for Almondbury Community School – Final Decision Report)

Meeting	Timetable ¹
<p>1. Introduction by Chair of Panel</p> <p>- explanation of conduct of the meeting and the areas of focus for the Panel.</p>	10.00 am*
<p>2. Lead Signatory's Statement</p> <p>Explanation of reasons identified in the validated call in request and any supporting evidence</p> <p>Clarification: Panel Members may seek clarification on anything that has been said.</p>	10.10 a.m. 20 minutes
<p>3. Public Participation (Councillors)</p> <p>- councillors who are not signatories may attend to give evidence relevant to the reasons set out in the validated Call-In request (up to 5 minutes each)</p> <p>Clarification: Panel Members may seek clarification on points raised by councillors</p>	10.30 a.m. 20 minutes
<p>4. Public Participation (Public)</p> <p>- members of the public may attend to give evidence on the reasons set out in the validated call-in request (up to 5 minutes each – it is recommended that interest groups are represented by 1 speaker)</p> <p>Clarification: Panel Members may seek clarification on points raised by members of the public</p>	10.50 a.m. 40 minutes
<p>5. Decision-Makers Statement</p> <p>The relevant decision-makers, with support from appropriate officers, will:</p> <ul style="list-style-type: none"> - respond to the reasons set out in the validated call in request - Have the opportunity to respond to any information that has been raised during the discussion at the meeting. <p>Clarification: Panel Members can ask for clarification on what decision makers / officers have said.</p>	11.30 30 minutes

Call-In Review Meeting Timetable

7th August 2019

(Future Options for Almondbury Community School – Final Decision Report)

6.	<p>Final Panel clarification</p> <p>- If required, Panel Members can ask any outstanding questions of any of those who have presented information at the meeting</p>	<p align="center">12.00</p> <p align="center">10 minutes</p>
BREAK – COMMITTEE WITHDRAW TO FORMULATE DECISION		
7.	<p>The Panel will reconvene to read out their decision and the reasons for this which will be in accordance with the options set out in the Council Procedure Rules:</p> <p>(1) take no further action and free the decision for implementation *</p> <p>(2) refer it back to the Cabinet with recommendation/s for amendment</p> <p>(3) in exceptional circumstances, refer to the next Council - only if the decision is not in line with the budget or any policy previously agreed by the Council**.</p> <p><i>* The Panel may identify areas of learning for Cabinet to consider which do not require the original decision to continue to be suspended from implementation.</i></p> <p><i>** This can only be done with advice from the relevant senior officers and the Service Director for Legal, Governance and Commissioning.</i></p>	

1. Please note that the timings are for guideline purposes only and are subject to change on the day at the discretion of the Chair of the meeting.