

The factors which are being considered are derived from guidance issued by the Department for Education: Making significant changes (“prescribed alterations”) to maintained schools: Statutory guidance for proposers and decision-makers (October 2018)

Paragraphs highlighted in **Yellow** relate to factors that are relevant to these proposal(s). Factors that are greyed out are considered not to be relevant to these proposal(s). These have been identified as; “Not applicable to these proposals” and are greyed out, however, for clarity these are fully listed.

REPRESENTATION (FORMAL CONSULTATION) and DECISION

Decision-makers will need to be satisfied that the appropriate fair and open local consultation and/ or representation period has been carried out and that the proposer has given full consideration to all the responses received. Decision-makers 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 affected by a proposal – especially parents of children at the affected school(s).

Decision must be made within a period of two months of the end of the representation period or they must be referred to the Schools Adjudicator.

When issuing a decision, the decision-maker can:

- *Reject the proposal;*
- *Approve the proposal without modification;*
- *Approve the proposal with modifications, having consulted the LA and/or GB (as appropriate): or*
- *Approve the proposal with or without modification, - subject to certain conditions (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A proposal can be withdrawn by the proposer at any point before a decision is taken.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 doing so, the proposer must send written notice to the LA or the GB (as appropriate); or the Schools Adjudicator (if the proposal has been sent to them) A notice must also be places on the website where the original proposal was published.

Within one week of making a decision the LA must publish their decision and the reasons for it, on the website where the original proposal was published and send copies to:

- *The LA (where the Schools Adjudicator is the decision-maker)*
- *The Schools Adjudicator (where the LA is the decision-maker)*
- *The GB/ proposers (as appropriate);*
- *The trustees of the school (if any);*
- *The local Church of England diocese;*
- *The local Roman Catholic diocese;*
- *The parents of every registered pupil at the school- where the school is a special school:and*
- *Any other body that they think is appropriate (e.g. other relevant diocese or diocesan*

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board, faith organisation and any affected educational institutions in the area).

REPRESENTATIONS: None.

OFFICER COMMENT: None.

RATIONALE FOR THE PROPOSALS:

School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, require a statutory process set out by law be followed when making certain changes to a Local Authority Maintained school. The Department for Education (DfE) publish Guidance for such changes, 'Making significant changes ('prescribed alterations') to maintained schools: Statutory guidance for proposers and decision-makers - October 2018). The regulations state that because Netherhall St James CE (VC) I & N School is a Voluntary Controlled school, and both Netherhall Learning Campus Junior School and Netherhall Learning Campus High School are Community schools, Kirklees Council can propose these changes. As long as published proposals are determined within two months of the end of a statutory representation period, the LA is the decision-maker.

The DfE Guidance explains that, as the proposer, the LA must follow the four-stage statutory process set out below:

Stage	Description	Timescale	Comments
Stage 1	Publication (statutory proposal/notice)		
Stage 2	Representation (formal consultation)	Must be 4 weeks	As set out in the 'Prescribed Alterations' regulations
Stage 3	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator	Any appeal to the adjudicator must be made within 4 weeks of the decision
Stage 4	Implementation	No prescribed timescale	It must be as specified in the published statutory notice, subject to any modifications agreed by the decision- maker

The DfE Guidance states that 'Although there is no longer a statutory 'pre-publication' consultation period for prescribed alteration changes, there is a strong expectation that schools and LAs will consult interested parties in developing their proposal prior to publication, to take into account all relevant considerations.' (page 26)

A four-week non-statutory consultation took place between 24 June 2022 and 22 July 2022, to seek the views of parents/carers, school staff, professionals, ward members, wider community stakeholders and other interested parties.

On 23 September 2022, the non-statutory consultation outcomes report was published on the Council's external website. Key stakeholders were notified and sent a link to the report. On 20 October 2022 the Strategic Director for Children's Services, having been given delegated authority to do so by Kirklees Cabinet on 26 July 2022, agreed to proceed with the next stage

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of the statutory process and the publication of the related statutory notice and proposals. The publication of the statutory notice, proposals and representation period commenced on 31 October 2022 and ended on 28 November 2022, therefore lasting for a period of four weeks and meeting the requirements of School Organisation Regulations. No representations were received during representation period.

RELATED PROPOSALS

Where proposals appear to be related to other proposals, the decision-maker must consider the related proposals together. A proposal should be regarded as related if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal.

REPRESENTATIONS: Not applicable to these proposals

OFFICER COMMENT: Not applicable to these proposals

RATIONALE FOR THE PROPOSALS: Not applicable to these proposals

CONDITIONAL APPROVAL

For many types of proposal, decision-makers may make their approval conditional on certain prescribed kinds of events. The decision-maker must set a date by which the condition should be met but can modify the date if the proposer confirms, before the date expires, that the condition will be met later than originally thought.

The proposer should inform the decision-maker when a condition is met. If a condition is not met by the date specified, the proposal should be referred back to the decision-maker for fresh consideration.

REPRESENTATIONS: Not applicable to these proposals

OFFICER COMMENT: Not applicable to these proposals

RATIONALE FOR THE PROPOSALS: Not applicable to these proposals

EDUCATION STANDARDS AND DIVERSITY OF PROVISION

Decision-makers should consider 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.

REPRESENTATIONS: None.

OFFICER COMMENT: None.

RATIONALE FOR THE PROPOSALS:

The proposals to establish new Additionally Resourced Provision (ARP) at Netherhall St James CE (VC) I & N School, Netherhall Learning Campus Junior School and Netherhall Learning Campus High School form part of the first phase of proposals that are intended to increase the number and geographical spread of ARP provision across Kirklees. Creating more provision within Kirklees will ensure there is sufficient capacity to meet need locally wherever possible, reducing travelling times for pupils by enabling them to access suitable provision closer to home.

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Many children and young people with additional learning needs can make better, more sustained progress when they attend an ARP in a mainstream school. This gives children and young people the opportunity to work in a smaller, more nurturing environment as needed, with access to specialist teaching, support staff and resources. In addition, mainstream schools with ARPs on site can benefit across the school from the enhanced specialism in their staff teams, enabling the wider school to access more specialist training and resources.

The proposal to remove the ARP for five transitional places associated with Physical Impairment at Netherhall St James CE (VC) Infant and Nursery School and Netherhall Learning Campus Junior School has been made following careful needs analysis to consider what sort of provision there is current need and demand for across Kirklees. This is primarily in the areas of Social, Emotional and Mental Health (SEMH) and Complex Communication and Interaction (CCI) needs.

The existing ARP for Physical Impairment has not had any pupils attending or any new referrals for three years now. The original provision was set up for five pupils, on "transitional" places (short term) but was never full.

Children with a physical disability should be able to attend their local mainstream school, with their peers. In line with parental preference, Kirklees Council supports schools to make adaptations to their buildings and environments, where needed, to ensure they are fully inclusive.

Over the last three years a highly successful Outreach Service has been developed for pupils with Physical needs. The service works closely with children, families and schools across Kirklees to ensure mainstream schools are accessible and children and young people are able to be successful. With the success of this team, a separate provision for pupils with physical disabilities is no longer required, hence why it is no longer in use. Despite the removal of these five transitional places for Physical needs, overall the proposals for new ARP will result in more places for children with SEND on the Netherhall Learning Campus.

EQUAL OPPORTUNITY ISSUES

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

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;*
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and*
- foster good relations between people who share a relevant protected characteristic and people who do not share it.*

REPRESENTATIONS: None.

OFFICER COMMENT: None.

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RATIONALE FOR THE PROPOSALS:

An integrated impact assessment was undertaken in July 2022 and updated in November 2022.

It is considered that there are no adverse impacts arising from the proposals under this duty. These changes are necessary to continue to improve service delivery and outcomes for children and young people. The proposals will result in an increase in Additionally Resourced Provision.

The lack of take up of transitional places for children with physical needs in the existing ARP at Netherhall St James CE (VC) I & N School and Netherhall Learning Campus Junior School is because parents and carers have preferenced their local mainstream school. In line with parental preference, the LA supports schools to make adaptations to their buildings and environments, where needed, to ensure they are fully inclusive. The LA has developed a highly successful Outreach Service for pupils with physical needs. The service works closely with children, families and schools across Kirklees to ensure mainstream schools are accessible and children and young people are able to be successful. It is considered, therefore, that these proposals have no negative impact from an equalities perspective.

The proposals do not give rise to any sex, race or disability discrimination issues. The proposals for the Netherhall Learning Campus, which aim to increase the number of ARP places for children with Complex Communication and Interaction needs across all three schools, will ensure there is sufficient capacity to meet children's needs locally wherever possible and enable positive outcomes.

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. When considering a proposal, the decision-maker must consider its impact on community cohesion. This will need to be considered on a case-by-case basis, taking account of the community served by the school and the views of different groups within the community.

REPRESENTATIONS: None.

OFFICER COMMENT: None.

RATIONALE FOR THE PROPOSALS:

It is considered that there is no adverse impact upon community cohesion as a result of these proposals for the Netherhall Learning Campus. All three schools would continue to provide nursery, primary and secondary education to the communities that presently they serve.

TRAVEL AND ACCESSIBILITY

Decision-makers should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.

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The decision-maker should bear in mind that a proposal should not 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.

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.

REPRESENTATIONS: None.

OFFICER COMMENT: None.

RATIONALE FOR THE PROPOSALS:

The greatest proportion of Additionally Resourced Provision is currently located in the south of the borough, which has significant impact on some learners from other parts of Kirklees attending ARP; travelling time; and emotional regulatory status on arrival at, or on leaving, school. One of the cornerstones of the SEND transformation plan is creating more provision within Kirklees to ensure there is sufficient capacity to meet need locally wherever possible. These proposals will deliver primary through to secondary provision on one site in central Kirklees, thereby reducing travelling times for pupils by enabling them to access suitable provision closer to home.

The aspiration for our SEND strategy is that fewer young people will leave or travel outside of Kirklees. Having services more local and accessible to where people live can have a positive impact on their mode of travel and in doing so, we will contribute to the Council's net zero ambition.

FUNDING

*The decision-maker should be satisfied that any necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. Trustees of the school, diocese or relevant diocesan board) have given their agreement. A proposal **cannot** be approved conditionally upon funding being made available.*

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: nor can any allocation "in principle" be increased. In such circumstances the proposal should be rejected, or consideration deferred until it is clear that the capital necessary to implement the proposal will be provided.

REPRESENTATIONS: None.

OFFICER COMMENT: None.

RATIONALE FOR THE PROPOSALS:

Revenue to support the start-up and continued expenditure required to staff and operate the proposed new ARP at Netherhall Learning Campus will be provided by the High Needs Block of the Dedicated Schools Grant.

A capital budget has been allocated to the programme of establishing additional ARPs. It is expected that a portion of this budget will be used to ensure existing spaces which are available in each school are adapted, as needed, to ensure there is an environment suitable to support

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the specific needs of the children attending the provision. This will for instance include access to a safe outside area.

There are no costs associated with the proposal to remove the Additionally Resourced Provision for five transitional places associated with Physical Impairment at Netherhall St James CE (VC) Infant and Nursery School and Netherhall Learning Campus Junior School. Resources have already been reallocated to support a highly successful Outreach Service.

RIGHTS OF APPEAL AGAINST A DECISION

The following bodies may appeal to the Schools Adjudicator against a decision made by the LA decision-makers, within four weeks of the decision being made:

- *The local Church of England diocese;*
- *The local Roman Catholic diocese; and*
- *The governors and trustees of a foundation, foundation special or voluntary school that is subjected to the proposal.*

On receipt of any appeal, a LA decision-maker must then send the proposal, representations received and the reasons for their decision to the Schools Adjudicator within one week of receipt. There is no right of appeal on determinations made by the Schools Adjustor.

REPRESENTATIONS: None.

OFFICER COMMENT:

As Netherhall St James CE (VC) I & N School is a voluntary controlled school, the Church of England diocese or the school's governing body have a right of appeal to the Schools Adjudicator against a decision made by the decision-makers.

RATIONALE FOR THE PROPOSALS:

IMPLEMENTATION

The proposer must implement a proposal in the form that it was approved, taking into account any modification made by the decision-maker

REPRESENTATIONS: None.

OFFICER COMMENT: Implementation will take into account any modifications made by the decision-maker, if applicable.

RATIONALE FOR THE PROPOSALS:

MODIFICATION POST DETERMINATION

Proposers can seek modifications from 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 published.

Details of the modification must be published on the website where the original proposal were published.

REPRESENTATIONS: Not applicable to these proposals

OFFICER COMMENT: Not applicable to these proposals

RATIONALE FOR THE PROPOSALS: Not applicable to these proposals

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REVOCACTION OF PROPOSALS

If the proposer no longer wants to implement an approved proposal, they must publish a revocation proposal to be relieved of the duty to implement, as set out in the Prescribed Alterations Regulations.

REPRESENTATIONS: Not applicable to these proposals

OFFICER COMMENT: Not applicable to these proposals

RATIONALE FOR THE PROPOSALS: Not applicable to these proposals

LAND AND BUILDINGS

Where a LA is required to provide a site for a foundation, foundation special or voluntary controlled school, the LA must;

- Transfer their interest in the site and in any buildings in on the site which are to form part of the school's premises to the trustees of the school, to be held by them on trust for the purposes of the school: or*
- If the school has no trustees, to the GB, to be held by the body for the purposes of the school.*

In the case of a dispute as to the person to whom the LA is required to make the transfer, the adjudicator will make a decision.

REPRESENTATIONS: Not applicable to these proposals

OFFICER COMMENT: Not applicable to these proposals

RATIONALE FOR THE PROPOSALS: Not applicable to these proposals

VOLUNTARY AIDED SCHOOLS

Where a LA is required to provide a site for a voluntary aided school, they must transfer their interest in the land to the trustees of the school, and must pay the reasonable costs to the GB in connection with the transfer.

REPRESENTATIONS: Not applicable to these proposals

OFFICER COMMENT: Not applicable to these proposals

RATIONALE FOR THE PROPOSALS: Not applicable to these proposals

SCHOOL PREMISES AND PLAYING FIELDS

Under the School Premises (England) Regulations 2012, all schools maintained by local authorities 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.

REPRESENTATIONS: None.

OFFICER COMMENT: None.

RATIONALE FOR THE PROPOSALS:

The ARP proposals are for existing schools that already have access to outdoor space. The Council has a modest capital budget available to adapt and enhance school premises and outdoor spaces as required to ensure they are suitable and safe for all pupils.