

## Factors to be considered in decision making

### **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 (January 2023)**

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*A proposal can be withdrawn by the proposer at any point before a decision is taken.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*

## Factors to be considered in decision making

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

### REPRESENTATIONS:

Three representations were received during the statutory four-week representation period following the publication of the original proposal on 13 November 2023, all of which were from governors at Woodley School and College. The local authority contacted the governors who submitted these representations following publication of the new statutory proposal on 12 January 2024 to ask if they would like the representations they had previously submitted to be considered as part of the new statutory process. All three governors confirmed that they would.

These three representations were all very supportive of the proposal. They acknowledged the demand for additional specialist places in Kirklees. They highlighted that increasing the number of places available at Woodley School and College would reduce the need for out of authority placements for pupils with complex needs, noting that this would be of benefit to pupils and their families as well as providing long term value for money.

**OFFICER COMMENT:** We recognise the need for additional specialist places across Kirklees. A key strand of the SEND Transformation Plan is 'Commissioning and Sufficiency', which includes improving local sufficiency of places. Satellite opportunities, Additionally Resourced Provisions and special school rebuild projects, are intended to increase provision for some areas of need and improve the geographical spread of specialist places across Kirklees, ensuring we can meet the needs of more children and young people with SEND across the whole of Kirklees.

### 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 – January 2023. The regulations state that because Woodley School and College is a Community school, 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 five-stage statutory process set out below:

Stage	Description	Timescale	Comments
Stage 1	Publication (statutory proposal/notice)		Where the proposed implementation timescale is longer than 3 years, the proposer should demonstrate good reason
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	

## Factors to be considered in decision making

		months otherwise it will fall to the Schools Adjudicator	
Stage 4	Referral (if applicable)	If a decision has been made, any referral to the adjudicator must be made within 4 weeks of the decision. If the local authority has not decided a proposal within 2 months, it must refer the proposal to the Schools Adjudicator	
Stage 5	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 36)

A four-week non-statutory consultation took place between 29 September 2023 and 27 October 2023, to seek the views of parents/carers, school staff, professionals, ward members, wider community stakeholders and other interested parties.

On 13 November 2023, 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 13 November 2023 the Strategic Director for Children's Services, having been given delegated authority to do so by Kirklees Cabinet on 17 October 2023, agreed to proceed with the next stage of the statutory process and the publication of the related statutory notice and proposal.

The publication of the statutory notice, proposals and representation period commenced on 12 January 2024 and ended on 8 February 2024, therefore lasting for a period of four weeks and meeting the requirements of School Organisation Regulations.

Three 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

## Factors to be considered in decision making

### **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:**

The representations received cited the following:

- The Head, Leadership, Governors and staff have the skills, capacity, aspiration, and determination to take the proposal forward, in collaboration with Kirklees LA.
- Woodley School and College has the proven expertise to meet the needs of children and young people with complex autism.
- Woodley School and College is the recognised Autism Education Training hub for the district, influencing practice in schools and colleges across Kirklees. A satellite provision will allow further dissemination of "autism friendly" practice across Kirklees.

#### **OFFICER COMMENT:**

Woodley is an aspirational, inclusive and outward looking special school. The school is rated as 'Good' by Ofsted (March 2023), holds Advanced Autism Accreditation and is the Autism Education Trust licensed training provider for Kirklees schools and Post-16. This recognises the highest standards of autism expertise and practice and underpins the school's important role as a schools training hub. This supports the reasoning to expand provision, initially via a satellite site, and, in future, at the new school site.

#### **RATIONALE FOR THE PROPOSALS:**

The proposal to expand the number of places at Woodley School and College will enable more children and young people with complex autism to secure places and thrive in a local educational setting. In October 2021, Kirklees Cabinet agreed an ambitious plan to rebuild two existing special schools, one of which is Woodley School and College. Not only will the plan provide modern facilities for existing pupils, but the school will also be built to accommodate more pupils to address growing demand. The agreed plan is to build a 180-place new school building on Fernside Avenue, Almondbury. It takes time to design and build a new school, so

## Factors to be considered in decision making

it is not expected to be complete until around Autumn 2026. Ahead of, and leading up to, the completion of a new, larger school building for Woodley School and College, the local authority, working with the Governing Body of Woodley School and College, believe there are opportunities to establish a further satellite site (in addition to the recently opened post-16 satellite provision in Huddersfield town centre) to enable a gradual increase in the number of pupil places. 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.

Many children and young people with SEND can make better, more sustained progress when they attend an appropriate specialist setting with access to specialist teaching and support staff and resources. Satellite opportunities, like the one proposed, in addition to Additionally Resourced Provisions and special school rebuild projects, are intended to increase provision for some areas of need and improve the geographical spread of specialist places across Kirklees, ensuring the needs of more children and young people with SEND across the whole of Kirklees can be met. Building on existing good quality provision helps ensure a broad and balanced curriculum, within a learning environment where children can be healthy and stay safe.

### **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.

### **RATIONALE FOR THE PROPOSALS:**

An integrated impact assessment was undertaken in September 2023, updated in December 2023 and will continue to be reviewed in the lead up to Cabinet being asked to make a final decision.

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 special school places.

The proposals do not give rise to any sex, race or disability discrimination issues. The proposals for Woodley School and College, which aim to increase the number of special school places for children with complex autism, will ensure there is sufficient capacity to meet children's needs locally wherever possible and enable positive outcomes.

## Factors to be considered in decision making

### 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 this proposal for Woodley School and College. The school would continue to provide primary, secondary and post-16 education to children and young people living across Kirklees.

### 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.*

*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:**

The representations received noted introducing additional specialist places within Kirklees will reduce the need for out of authority placements for pupils with complex needs and that places will be nearer to where pupils live.

**OFFICER COMMENT:** None.

#### **RATIONALE FOR THE PROPOSALS:**

The need for additional specialist places across Kirklees is recognised. Not being able to attend an appropriate school locally has significant impact on some learners in terms of travelling time and emotional regulatory status on arrival at, or on leaving, school. The aspiration for the SEND Transformation Plan 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, will contribute to the Council's net zero ambition. Providing suitable school places nearer to where families live not only supports place-based working and outcomes for children, but it can also save families' time and money because they can travel shorter distances to school events such as parents' evenings.

## Factors to be considered in decision making

### **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:**

The ongoing revenue funding for additional places will be under the same formula used for the commissioning of other places at Woodley School and College from the High Needs Block of the Dedicated Schools Grant. Start-up costs will be supported from existing School Re-Organisation budgets. The cost of providing places at Woodley School and College is significantly lower than the average cost of places in independent special schools.

From a capital funding perspective, in October 2021, Kirklees Cabinet approved £21m for the development, design, tendering and construction of a new of Woodley School and College. Minor capital works may be required to establish satellite provision ahead of, and leading up to, the rebuild. The High Needs Provision Capital Allocation is available for purposes such as this.

### **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 Adjudicator.*

**REPRESENTATIONS:** Not applicable to these proposals

**OFFICER COMMENT:** Not applicable to these proposals

**RATIONALE FOR THE PROPOSALS:** Not applicable to these proposals

## Factors to be considered in decision making

### **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

### **REVOCATION 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.*

## Factors to be considered in decision making

**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:**

Safe outside facilities for play and learning will be an important factor in the design of the new site for Woodley School and College. A landscape architect is part of the specialist design team to facilitate this. The feedback from consultation exercises with pupils and staff from the school are informing this work. A key factor in selecting an appropriate site for the proposed satellite would be access to safe and appropriate outdoor space.