

Name of meeting: Cabinet

Date: 17th December 2015

Title of report: The future of the existing Whitcliffe Mount Sports Centre

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	Ruth Redfern Director of Communities, Transformation & Change – 9 th December 2015
Is it signed off by the Director of Resources?	David Smith – Director of Resources – 9 th December 2015
Is it signed off by the Assistant Director (Legal Governance and Monitoring)?	Julie Muscroft – Assistant Director (Legal, Governance and Monitoring) – 9 th December 2015
Cabinet member portfolio	Cllr Jean Calvert, Portfolio – Community Development Cllr Graham Turner, Portfolio – Resources and Community Safety

Electoral [wards](#) affected: Cleckheaton

Ward councillors consulted: None but see paragraph 5.5 below

Public or private: Public

1. Purpose of report

- 1.1 A decision was taken by Cabinet on 17th December 2013 to rebuild Whitcliffe Mount School and to close the existing Whitcliffe Mount Sports Centre (WMSC). The purpose of this report is to give further consideration to the decision to close WMSC as a result of the outcome of an Ombudsman investigation.

2. Summary

- 2.1 On 17th December 2013, Cabinet considered a private report to rebuild Whitcliffe Mount School and to close Whitcliffe Mount Sports Centre (WMSC).
- 2.2 Two separate complaints have been submitted to the Ombudsman about this decision. Both raise the issue that consultation was not undertaken until after the decision was taken and that a full Equalities Impact Assessment was not undertaken.
- 2.3 The Ombudsman has recommended that Cabinet should give further consideration to the decision to close WMSC at a public meeting to resolve the lack of public consultation as

“it is not possible to go back and re-run the decision making process in its entirety” (Local Government Ombudsman). This report is being considered by the Cabinet in response to this recommendation. A copy of the Ombudsman’s final decision on the two complaints is attached at Appendix 1. The Agreed Remedy as set out in both of her reports is that Council Members will make a final decision after members of the public have put forward their views on the leisure centre closure at a well publicised Council meeting. The appropriate meeting is Cabinet which was discussed with the investigating officer. The meeting will be publicised widely and will be held in the Whitcliffe Mount Sports Centre to encourage as many members of the public to attend the meeting and give their views.

- 2.4 Members should note that the Ombudsman did not issue a formal report which is their ultimate sanction. Such a report would have resulted in a formal publication on their website. This report will not be publicised in the same way. It will show on the Ombudsman’s annual report that there was a finding of fault but no injustice.
- 2.5 From discussion with the investigator, her concern was with process rather than outcomes
- 2.6 This report therefore considers the implications of two options:
- Option 1 – to uphold the decision to close WMSC
 - Option 2 – to overturn the decision and ask Kirklees Active Leisure to keep operating the venue as a sports centre.

3. Information required to take a decision

- 3.1 WMSC is a sports centre owned by Kirklees Council and managed on its behalf by Kirklees Active Leisure (KAL). It shares a campus, car park and all utilities with Whitcliffe Mount School in Cleckheaton and use of the Sports Centre is shared with the school.
- 3.2 The school building has been assessed as one of the 261 worst school buildings in England and is beyond repair. On 11th October 2011, Cabinet considered a report to bid for capital funding from Government for schools in Kirklees including Whitcliffe Mount School. Rebuild costs for the school were estimated to be around £15 million and so Government funding was sought and successfully obtained.
- 3.3 A private report was presented to Cabinet on 17th December 2013. This outlined the Education Funding Agency’s (EFA) conditions in relation to Whitcliffe Mount School and its proposals for demolishing the school and rebuilding it. The report was deemed to be a private report because it contained exempt information under Part 1 of Schedule 12A of the Local Government Act 1972 including information about financial and business affairs. Disclosure of some of these details could have adversely affected value for money; compromised commercial confidentiality of the bidding organisations and KAL; and disclosed contractual terms. It is now accepted by the council that part of this report could have been a public report with only the commercially sensitive information contained within a private report or appendices. The Council will continue to consider whether private matters can be separated out in reports.
- 3.4 Further information about decisions made in relation to the new build school can be found in Appendix 6.
- 3.5 The EFA noted that the location of WMSC at the centre of the campus would have a significant impact on the redevelopment of the site and so offered to demolish WMSC

free of charge to the Council should the Council decide to close the facility. It would not though replace the community aspects of the facility as its funding can only be used on costs directly related to the new build school such as the provision of a smaller sports facility, essentially comprising a single 4 court sports hall, a multi-purpose room and necessary ancillary facilities e.g. changing rooms, storage.

- 3.6 Should the Council wish to retain WMSC, the EFA agreed to demolish all the buildings around it and make good the points at which the demolished buildings connected to WMSC (i.e. rebuild walls to close holes in the external envelope) free of charge to the council. It would not however re-provide severed utility connections or a new boiler which is presently housed in the school. This is because the EFA will only use its budget on costs directly related to the new build school. With this option, WMSC would have to close until the utilities had been re-connected.
- 3.7 The EFA's first proposal did not intend to build on the footprint of WMSC as the EFA's control option assumed that bidders would locate the new school on the existing redgra. The report recommended the closure of WMSC for financial reasons. The cost to reinstate utilities to WMSC after the connection to the school is severed in order to demolish it was assessed to be £0.5 million. WMSC also requires significant investment of approximately £1.5 million (2013 estimates) to repair the fabric of the building, improve antiquated changing rooms and the reception area and make it fully DDA (Disability Discrimination Act) compliant. This means that WMSC required a total investment of £2 million.
- 3.8 Cabinet decided to accept the EFA's conditions and in light of the substantial investment required to keep WMSC open, decided to close the centre in 2016. Cabinet also asked officers to review the availability and sustainability of sports facilities in Spen and the North Kirklees area and to propose options for future provision.
- 3.9 Unfortunately, the report was prepared without prior public consultation largely due to the demands of the EFA's timetable for a response and the risk of losing the opportunity to develop a new school facility at Whitcliffe Mount. In making the decision, the Council was required to consider the public sector equality duty imposed by section 149 of the Equality Act 2010. The Council has to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and those who do not share it. The Equality Impact Assessment (EIA) screening tool was used and it determined that a full assessment was not required as the majority of services were not being withdrawn but relocated and thus there would be minimal impact on persons with a protected characteristic. The validity of the decision has therefore been questioned by two complainants who contacted the Local Government Ombudsman with their concerns. Since the report, a full impact assessment has been undertaken and is attached to this report as Appendices 2 and 3. A similar assessment has also been carried out in relation to the school which is also included as part of this report (Appendices 4 and 5). In reconsidering the decision in light of this report, members must have due regard to the equality factors. In considering any adverse impact identified in the EIA, members are of course entitled to take account of the countervailing factors in favour of each particular option.
- 3.10 The Cabinet meeting arranged to consider this report will provide opportunities for the public to express their views so that members can take these in to account when reaching their decision. These actions address the Ombudsman's concerns.

- 3.11 The EIA for WMSC concludes that the closure of the centre will impact on the present users but that the majority of these users will be able to access similar facilities within Kirklees and neighbouring authorities. For people with disabilities, they will be able to access better facilities elsewhere as WMSC is not fully Disability Discrimination Act (DDA) compliant. The protected characteristics group most affected will be older people who use the indoor bowling arena as there is not another facility in Kirklees and so they will have to travel further distances to access competition standard bowling facilities.
- 3.12 The EIA for Whitcliffe Mount School provides an assessment that if the new school is not built, pupils with physical disabilities will be most affected as the existing school building is unable to meet their needs as there is no lift to the first floor. Young people will be affected as they do not have a modern learning environment able to deliver a 21st century curriculum.
- 3.13 In autumn 2014, all three bidders invited to tender by the EFA for the 7 schools Yorkshire Batch PFI contract concluded that the EFA's Control Option of placing the new build school and sports centre on the existing redgra area would not be the best solution for the site. This was because of increased noise from the motorway which would lead to increased costs in noise attenuation. All bidders opted instead to site the replacement buildings on or around the existing tennis courts and WMSC. The EFA approached the Council to consider the possibility of bringing forward the closure date from late 2016 to May/June 2016 in order to make best use of the site and to limit the impact on the green belt and residents.
- 3.14 The future of WMSC has been strategically assessed in relation to other sports and fitness provision in the area and priorities for the council's limited ability to invest. 1.8 miles from WMSC is Spenborough Pool and Fitness Complex. It was decided that this site was more of a priority for investment than WMSC due to the need to replace the pool and its more central location. In February 2015, Council at its budget meeting approved capital investment in Spenborough Pool and fitness facilities of up to £15 million. The new facility is expected to open in 2019.
- 3.15 There is a programme in place to ensure that the needs of users of WMSC can be met moving forwards and within the reasonable means of the Council and its available funding. The decision to invest in Spenborough Pool and Fitness Complex in July 2013 helps to meet this. In addition, KAL has been supporting users of WMSC to relocate to other facilities with better access for people with disabilities e.g. some netball teams have relocated to Huddersfield Leisure Centre and are being charged the same rates as at WMSC for better facilities. A programme of works to improve and extend the fitness suite at Spenborough Pool will be completed by Christmas 2015 so that WMSC fitness members, the largest percentage of WMSC users, can transfer to that site in early 2016. Council members and officers are advising a partnership of voluntary groups which is wishing to build a new indoor bowling facility. New Council run facilities will also open in the Bradford area which is a short distance (less than 4 miles) away from WMSC and which will be available to Kirklees residents (see paragraph 4.1 below).
- 3.16 One of the planning conditions for the new school is that the school enables community access to its facilities including the four court sports hall. This means that some of the relocated users may have the opportunity to move back to Whitcliffe Mount School once it has been rebuilt. This will be the decision of the school which will be responsible for managing the new sports facilities on the Whitcliffe Mount site.

- 3.17 A complaint from a disabled user of the centre has been received by the council and a petition from more than 3,000 people was discussed at a council meeting on 7th October 2015.
- 3.18 Cabinet is requested to give further consideration to the original decision to close WMSC. In considering these options, the Ombudsman has advised that Cabinet should consider whether breaking the EFA contract and keeping the sports centre open will be a good use of public money. There are two options for the Cabinet to consider.
- 3.19 Option 1 is to uphold the decision to close WMSC.
- 3.20 Option 2 is to overturn the decision to close, ask Kirklees Active Leisure to keep operating the venue as a sports centre and ask the Education Funding Agency to re-design and re-programme the project at Whitcliffe Mount School.

4. Implications for the Council

- 4.1 **Option 1** means that the development of the new school can proceed and the EFA funding is not put at risk. The recently published Built Sport and Leisure Facilities Strategic Assessment Framework (developed with local partners and Sport England), approved by Cabinet in October 2015, has identified that the existing facilities at WMSC are surplus to requirement once the new facilities have been developed at the school, Spensborough Pool and Fitness Complex and Sedburgh playing fields in Bradford which is less than 4 miles from WMSC.
- 4.2 The rebuild of the school on the footprint of WMSC will minimise impact on residents and the surrounding greenbelt.
- 4.3 The present school building has significant condition needs and is no longer suitable for the delivery of a modern curriculum. It is outdated and was not designed with the needs of disabled people in mind. For example there are no lifts to the first floor. A modern facility would enable disabled students and teachers to more easily access excellent educational facilities.
- 4.4 The provision of full new build accommodation will have a range of positive impacts on teaching and learning by:
- providing efficient learning environments that maximise the resources used for learning rather than running and maintaining the premises
 - providing an effective learning environment that gives the best conditions for learning and makes young people feel safe and secure at all times
 - treating young people with trust and respect which encourages responsibility
 - providing a modern environment that stimulates their interest and is relevant to them
 - giving flexibility of group organisation with “lecture”, large group and small group spaces and free break out space
 - providing internal and external environmental opportunities for exploration
 - providing cutting edge ICT capacity, capable of continuous updating to support extended learning and social interaction.
- 4.5 Under the terms of the Council’s formal Funding Agreement with KAL, if the Council closes WMSC, it will be liable for any outstanding costs associated with such a closure. KAL is trying to mitigate such costs as far as possible but this is likely to include redundancy and associated employment costs and a range of associated costs which will include: removal/de-cant costs; early termination of service contracts; stock write-offs; KC

finance charge write off for bar conversion work in 2008/09 of £66,068; Council CWI loan write-off; and the scrapping of any KAL assets. Redundancy costs have still to be calculated but the other associated costs listed are likely to be around £100k.

- 4.6 **Option 2** means that community sports provision can remain on the Whitcliffe Mount site although there will be disruption to provision during the reinstatement of utilities. No customers will have to relocate to other facilities and there will be indoor bowling facilities available in Kirklees until a new facility is built in Huddersfield.
- 4.7 The Spen Valley has been assessed to have the lowest levels of activity in Kirklees and so access to sports and fitness facilities is important for the health and well-being of the area. WMSC does not provide the only ways though by which residents can be more active.
- 4.8 It is estimated that the council will need to invest £2 million in the sports centre to ensure that it is safe, DDA compliant and fit for purpose. This capital investment is presently not included in the council's capital plans.
- 4.9 The EFA has stated that if the Cabinet chooses option 2, there is a high likelihood that Whitcliffe Mount School will be withdrawn from their programme: *"The PF contract is structured around a seven school deal... The contract cannot be delayed without incurring significant inflation and disruption costs. To change the design of the school will have notable cost implications, with the costs of redesigning and relocating the school building being far in excess of any savings with the omission of the demolition of the existing Sports Centre. These costs would exceed the current budget for the programme resulting in the need to remove the school from the programme."*
- 4.10 A redesign of the school elsewhere will involve additional ground investigation surveys, contamination risk and many other site specific risks being reintroduced in to the project, along with the additional associated costs. Further, it will also be necessary to reconsider issues such as noise attenuation, lighting, solar gain - in broad terms the solution would need to be completely redesigned. It will also be necessary to replace the all-weather pitch (a Sport England requirement) at an additional cost of £0.5m.
- 4.11 If the school has to be redesigned there are risks of objection from the Highways Authority should an alternative access be required. The EFA does not fund off-site works, Section 106 and Section 278 works, so any such costs would need to be met by the council. To move the location of the buildings from the previous planning approval will require a revised planning application. Should this be necessary there would be an additional delay to the programme as obtaining planning consent for the design is one of the prerequisite criteria to reaching financial close.
- 4.12 If Whitcliffe Mount School is withdrawn at this stage, the EFA has estimated that the cost impact would be in the order of £7.75m as there are significant sums associated with breakage costs aligned to funding a private finance deal and also abortive expenditure already incurred in developing a complete design. In addition, a further cost of around £4.2m would be incurred if the new school was included in a future capital programme. This cost includes the redesign, increased capital costs and construction inflation (2 years assumed). The total cost of omitting Whitcliffe Mount at this juncture would therefore be circa £11.95m. The EFA has indicated that it may seek to recover these costs from the council.

- 4.13 The government has not allocated finances for future school building programmes and so it is not known how far in to the future (or if at all) it will be before the council and/or Whitcliffe Mount School could reapply for funding if withdrawn from the present programme.

5. Consultees and their opinions

- 5.1 Kirklees Active Leisure has discussed closure plans with users of the sports centre and relocated many of the regular bookers to other KAL premises or they have made their own arrangements.
- 5.2 Staff and governors at Whitcliffe Mount School have been consulted in relation to the development of the new school.
- 5.3 KAL's senior managers have been consulted and commented that "*the financial viability of continuing to operate the site at WMSC would be limited given the current and future investment proposals at the Spensborough Pool and Fitness Complex site, as well as the planned development by Bradford MDC for a major new sports facility at Sedbergh Playing Fields, less than 4 miles from the WMSC site, due to open in 2018.*" It is worth noting also that there would be potential competition for users on the existing site as the new school sports hall facilities would be subject to a community access agreement as a result of a Sport England imposed planning condition. This could impact on the viability of the current sports centre if it remained open.
- 5.4 The Cabinet meeting on 17th December 2015 will enable the public to express their views about the closure of WMSC.
- 5.5 The comments of Ward members have been requested and will be shared with Cabinet in order to inform their decision making at Cabinet on 17th December.

6. Next steps

- 6.1 If Option 1 is chosen, the sports centre will be closed in May 2016 in order for it to be demolished to make way for the building of the new school.
- 6.2 If Option 2 is chosen, the sports centre will remain open and the council will negotiate with Kirklees Active Leisure to continue operating it. If KAL do not agree, the council will have to consider another operator. The council will make a request to the EFA to delay progress so that the school can be redesigned and plans resubmitted for Planning approval if the EFA does not withdraw the school from the scheme. If the EFA withdraws its funding, the existing school will remain and there will be no new premises in the short to medium term.

7. Officer recommendations and reasons

- 7.1 There is a significantly high risk that the EFA will withdraw its funding for the new school if there are any delays caused by the redesign of the school and planning approval having to be resubmitted. The Council may also be held liable for abortive and additional costs incurred by the EFA.
- 7.2 Improved fitness facilities are being built at Spensborough Pool and will open in January 2016 so many of WMSC's users will be catered for 1.8 miles from WMSC. Users of the sports hall facilities have been relocated to other facilities and a condition of the planning

approval for the new school is that the school ensures community access to its new sports hall when completed. The closure of the centre is only leading to a partial withdrawal of services as most services are being provided elsewhere by the operator KAL.

7.3 Therefore officers recommend that Cabinet chooses option 1.

7.4 Members should make the decision having regard to all of the information on the report as well as taking into account the views of members of the public and Ward members as well as other relevant stakeholders who may attend the meeting of Cabinet or have otherwise made representations on this matter.

8. Cabinet portfolio holder's recommendations

8.1 The Portfolio Holders' recommendation is that Cabinet choose option 1 to close Whitcliffe Mount Sports Centre. This is so that a new school can be built on its site. WMSC's customers can access provision at other KAL sites in Kirklees or at other sports centres in neighbouring authorities and so there is no loss of service for residents.

To overturn the decision made by Cabinet in 2013 would not be a good use of public money because the council will incur financial penalties through Whitcliffe Mount School being withdrawn from the EFA programme. The loss of EFA funding, with no guarantee that funding will be replaced, means that a new school will not be built in the near future unless the plans remain the same.

9. Contact officer and relevant papers

Adele Poppleton 01484 221000 adele.poppleton@kirkees.gov.uk

Appendix 1 Ombudsman's report

Appendix 2 Stage 1 Equality Impact Assessment re the closure of Whitcliffe Mount Sports Centre

Appendix 3 Stages 2 and 3 Equality Impact Assessment re the closure of Whitcliffe Mount Sports Centre

Appendix 4 Stage 1 Equality Impact Assessment re not building the new Whitcliffe Mount School

Appendix 5 Stages 2 and 3 Equality Impact Assessment re not building the new Whitcliffe Mount School

Appendix 6 Information Sheet

10. Assistant director responsible

Kimiyo Rickett, Assistant Director, Communities and Leisure

Complaint reference:
14 016 740

Complaint against:
Kirklees Metropolitan Borough Council

The Ombudsman's final decision

Summary: The Council failed to carry out public consultation and an Equalities Impact Assessment when deciding to close a public leisure centre. This complaint is upheld. Mr B objects to the closure of the leisure centre but the decision affects many people as it is linked to construction of a new school. It is not possible to rerun the entire decision making process, but an acceptable remedy would be for the Council to reconsider the issue publicly at a Council meeting.

The complaint

1. The complainant, whom I shall refer to as Mr B, complains about the Council's decision to close a sports centre. He wants the centre to remain open as he prefers the facilities there.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints of injustice caused by maladministration and service failure. I have used the word fault to refer to these. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
3. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

How I considered this complaint

4. I read the papers sent by Mr B and discussed the complaint with him.
5. I considered the Council's comments about the complaint and the supporting documents it provided.
6. I sent my draft decision to Mr B and the Council, and considered their comments.

What I found

Key facts

7. Mr B and his son are users of a sports centre. The Council decided this sports centre will close in May 2016. The sports centre shares a site with a school. The Council will demolish the school and sports centre and the school will be rebuilt elsewhere on the site using private funding.

-
8. The Cabinet of the Council met for a private session on 17 December 2013. Officers prepared a report seeking a decision from Cabinet to demolish the school and sports centre and rebuild the school on the site.
 9. The Council has said the report should to be considered in private because the information is exempt information under part 1 of schedule 12A of the Local government Act 1972, as it contained information about financial or business affairs.
 10. The report is not available for the public to read. However, I have read it and it clearly explains that a significant investment was needed to the sports centre. This included general upgrading and a new boiler if the school was demolished, as these services were shared.
 11. The report outlines the closure of the sports centre would have an impact on the local community. It also explains the Council should carry out an Equalities Impact Assessment (EIA) to assess the impact on current users. This would be users including specific groups e.g. indoor bowls, basketball.
 12. The report also explained the new school would have a new four court sports hall which could be available for public use. The report also considered that the Council should consider the closure as part of the wider picture of sports facilities in the area.
 13. The decision to close the sports centre in 2016 became public on 18 December 2013.
 14. In January 2015 Cabinet approved the date for the closure of the sports hall to change from late 2016 until the end of May 2016. This was a decision made after a public report. The report noted that extending another site would accommodate the current fitness users at the sports centre. The report said that other users of the sports hall use other sports halls or the new school sports hall that would replace the sports centre. The reports noted there was currently no other provision for roller hockey and indoor bowls, but the Council wanted to find an alternative for the indoor bowling.
 15. The Council carried out a screening assessment in November 2014 which showed there was a low risk of impact and so the Council did not need a full Equalities Impact Assessment.
 16. The notes of the screening assessment say that ‘the current service includes providing a range of sport and physical activity opportunities which will stop on the existing site. The new school facility should provide the opportunity for some of the opportunities to continue except for bowls and roller sports. There will be a removal of service from the current site i.e. the Sports Centre, but some of this capacity will/can be absorbed into the new school facility. In addition there will be an extension to the fitness provision at another site, this will accommodate at least the capacity from the closure of the sports centre. Fitness classes and gym use is by far the largest percentage of use at the current site. Other services will have alternative options where possible. For example the regional bookings like Netball will be offered space at a new Sports Centre. Work to identify alternative indoor bowling opportunities has begun and will continue. The Council will continue to work with current users to provide for their needs where possible.’
 17. The Council has said that after the decision was made by Cabinet to close the sports centre, it carried out a few consultations to mitigate the loss of the facilities. People were also able to put forward their objections to the planning application to demolish and replace the school.

-
18. The Council has said the alternative gym facilities, at a local swimming pool complex, will comply with disability access requirements. The Council has said the facilities available at the sports centre which are due to close are no different to those available at other leisure centres.

My analysis

19. Mr B has complained the Council failed to consult users when deciding to close a sports centre.
20. Under Section 100(A) (4) of the Local Government Act 1972 a council may exclude the public from a meeting during an item of business whenever it is likely that if members of the public were present during that item there would be disclosure to them of exempt information. Exempt information is defined in the legislation as:
- Information about any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
21. Cabinet decided to close the centre in a private meeting. I asked the Council to explain why it decided to take the decision on closing the leisure centre in private.
22. The Council has said that disclosure of the details could have adversely affected value for money, compromise commercial confidentiality of the bidding organisation and disclose contractual terms. The Council has said that it has no written record of why the decision was taken in a private meeting.
23. I asked why the Council could not separate any confidential aspects from the general decision to close the leisure centre. As the decision to close the leisure centre became public in the newspapers the next day, it seems to me that it would have been possible to consider most of the decision publicly, keeping back those details which were confidential.
24. Because the Council decided to close the school privately it carried out no public consultation. I consider the consultation on the leisure centre closure could have been separated from the private finance aspects which the Council felt should be private. I can see no reason the Council could not consult the public solely on the leisure centre closure. The Council has said that it will consider whether private matters can be separated out in future.
25. The Ombudsman's view is that Council's should consult the public before withdrawing a service it has provided to the public. In this case the Council consulted after making the decision to close the leisure centre and so the Council pre-determined the outcome of the consultation. The failure to consult before making the decision to close the leisure centre was fault.
26. The Council did not carry out an equalities impact assessment. It carried out a screening assessment to see whether an EIA should be carried out. I asked the Council to explain why the closure of the leisure centre had such low scores on the screening that it did not require a full equalities impact assessment.
27. The Council said that it shared some of my concerns on the assessment scoring, in terms of impact. But it felt that any errors might appear low in view of the fact that local sports provision is not being withdrawn, but simply reconfigured and relocated elsewhere.

-
28. The Council's view is the new provision for disabled sports users will be much improved and it could not hope to offer such disabled facilities if the leisure centre was refurbished.
29. The Equalities and Human Rights Commission (EHRC) has also issued advice to public authorities on this subject. This advice says that, 'A key requirement of the public sector duties is for public authorities to carry out equality impact assessment for all relevant policies and decisions.'
30. I consider that the Council's failure to carry out a full equality impact assessment on the closure of the leisure centre is fault. I can find nothing in the legislation that suggests a screening assessment is adequate, especially when there are a number of disabled user groups who would clearly be adversely affected.
31. In response to my concerns about the lack of public consultation and the equalities impact assessment the Council has said that it is willing to carry out the consultation process and to undertake a full equalities impact assessment on the closure of the physical sports centre now. However, the Council has said that as the contract to redevelop the site has been signed (this was to be late October/early November), there would be a large financial penalty if it did not go ahead with the closure of the leisure centre.
32. Given that the situation has moved on, I do not consider it is reasonable to expect the Council to rerun the consultation process and equalities impact assessment. This is because the Council has clearly already made its decision and so it is unlikely to change this after consultation.
33. However, I do think it reasonable for Council Members to make a final decision on the leisure centre closure at a well publicised Council meeting. I think that the Council should write a public Committee report explaining:
- The errors the Council made during the process to close the leisure centre.
 - The benefits of closing the leisure centre for sports centre users and for users of the new school.
 - The drawbacks of closing the leisure centre for sports centre users and for users of the new school.
 - The cost to the tax-payer of breaking the contract and keeping the leisure centre open.
34. I understand that Mr B wants the leisure centre to remain open and that is his preferred result. However, I have to take account that there may be many other local residents who would prefer the new school and leisure centre. So, in this situation I consider it reasonable for Council Members to make a final decision after members of the public have put forward their views. This would include consideration on whether the cost of breaking the contract and keeping the leisure centre was a good use of public money.
35. In response to my draft decision Mr B has said the Council did not carry out public consultation and the Council should have carried out a full EIA.
36. Mr B said he wants the Council to hold the meeting quickly and he does not think that financial penalties should stop the Council making the right decision. Mr B says he has questions about the decision to demolish the sports centre, including a land swap agreement.

-
37. I consider the Council will consider these points at the public meeting the Council has agreed to organise. The Council can then make a final decision on the leisure centre aware of Mr B concerns and the views of other residents.

Agreed Remedy

38. The Council has agreed that Council Members will make a final decision after members of the public have put forward their views on the leisure centre closure at a well publicised Council meeting.

Final decision

39. I have completed my investigation and uphold this complaint. The Council failed to carry out public consultation and an equalities impact assessment on the closure of a leisure centre. The Council's reconsideration of the decision to close the leisure centre at a public meeting is an adequate remedy to this complaint as it is not possible to go back and re-run the decision making process in its entirety.

Investigator's decision on behalf of the Ombudsman

Complaint reference:
14 006 462

Complaint against:
Kirklees Metropolitan Borough Council

The Ombudsman's final decision

Summary: The Council failed to carry out public consultation and an Equalities Impact Assessment when deciding to close a public leisure centre. This complaint is upheld. Mr B objects to the closure of the leisure centre but the decision affects many people as it is linked to construction of a new school. It is not possible to rerun the entire decision making process, but an acceptable remedy would be for the Council to reconsider the issue publically at a Council meeting.

The complaint

1. The complainant, whom I shall refer to as Mr B, complains the Council has failed to consult disabled users of a sports centre when deciding to close it. He wants the centre to remain open as he prefers the facilities there.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints of injustice caused by maladministration and service failure. I have used the word fault to refer to these. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
3. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

How I considered this complaint

4. I read the papers sent by Mr B and discussed the complaint with him.
5. I considered the Council's comments about the complaint and the supporting documents it provided.
6. I sent my draft decision to Mr B and the Council, and considered their comments.

What I found

Key facts

7. Mr B is a user of a sports centre. The Council decided this sports centre will close in May 2016. The sports centre shares a site with a school. The Council will demolish the school and sports centre and the school will be rebuilt elsewhere on the site using private funding.

-
8. The Cabinet of the Council met for a private session on 17 December 2013. Officers prepared a report seeking a decision from Cabinet to demolish the school and sports centre and rebuild the school on the site.
 9. The Council has said the report should to be considered in private because the information is exempt information under part 1 of schedule 12A of the Local government Act 1972, as it contained information about financial or business affairs.
 10. The report is not available for the public to read. However, I have read it and it clearly explains that a significant investment was needed to the sports centre. This included general upgrading and a new boiler if the school was demolished, as these services were shared.
 11. The report outlines the closure of the sports centre would have an impact on the local community. It also explains the Council should carry out an Equalities Impact Assessment (EIA) to assess the impact on current users. This would be users including specific groups e.g. indoor bowls, basketball.
 12. The report also explained the new school would have a new four court sports hall which could be available for public use. The report also considered that the Council should consider the closure as part of the wider picture of sports facilities in the area.
 13. The decision to close the sports centre in 2016 became public on 18 December 2013.
 14. In January 2015 Cabinet approved the date for the closure of the sports hall to change from late 2016 until the end of May 2016. This was a decision made after a public report. The report noted that extending another site would accommodate the current fitness users at the sports centre. The report said that other users of the sports hall use other sports halls or the new school sports hall that would replace the sports centre. The reports noted there was currently no other provision for roller hockey and indoor bowls, but the Council wanted to find an alternative for the indoor bowling.
 15. The Council carried out a screening assessment in November 2014 which showed there was a low risk of impact and so the Council did not need a full Equalities Impact Assessment.
 16. The notes of the screening assessment say that ‘the current service includes providing a range of sport and physical activity opportunities which will stop on the existing site. The new school facility should provide the opportunity for some of the opportunities to continue except for bowls and roller sports. There will be a removal of service from the current site i.e. the Sports Centre, but some of this capacity will/can be absorbed into the new school facility. In addition there will be an extension to the fitness provision at another site, this will accommodate at least the capacity from the closure of the sports centre. Fitness classes and gym use is by far the largest percentage of use at the current site. Other services will have alternative options where possible. For example the regional bookings like Netball will be offered space at a new Sports Centre. Work to identify alternative indoor bowling opportunities has begun and will continue. The Council will continue to work with current users to provide for their needs where possible.’
 17. The Council has said that after the decision was made by Cabinet to close the sports centre, it carried out a few consultations to mitigate the loss of the facilities. People were also able to put forward their objections to the planning application to demolish and replace the school.

-
18. The Council has said the alternative gym facilities, at a local swimming pool complex, will comply with disability access requirements. The Council has said the facilities available at the sports centre which are due to close are no different to those available at other leisure centres.

My analysis

19. Mr B has complained the Council failed to consult disabled users when deciding to close a sports centre.
20. Under Section 100(A) (4) of the Local Government Act 1972 a council may exclude the public from a meeting during an item of business whenever it is likely that if members of the public were present during that item there would be disclosure to them of exempt information. Exempt information is defined in the legislation as:
- Information about any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
21. Cabinet made the decision to close the centre in a private meeting. I asked the Council to explain why it decided to take the decision on closing the leisure centre in private.
22. The Council has said that disclosure of the details could have adversely affected value for money, compromise commercial confidentiality of the bidding organisation and disclose contractual terms. The Council has said that it has no written record of why the decision was taken in a private meeting.
23. I asked why the Council could not separate any confidential aspects from the general decision to close the leisure centre. As the decision to close the leisure centre became public in the newspapers the next day, it seems to me that it would have been possible to consider most of the decision publicly, keeping back those details which were confidential.
24. Because the Council decided to close the school privately it carried out no public consultation. I consider the consultation on the leisure centre closure could have been separated from the private finance aspects which the Council felt should be private. I can see no reason the Council could not consult the public solely on the leisure centre closure. The Council has said that it will consider whether private matters can be separated out in future.
25. The Ombudsman's view is that Council's should consult the public before withdrawing a service it has provided to the public. In this case the Council consulted after making the decision to close the leisure centre and so the Council pre-determined the outcome of the consultation. The failure to consult before making the decision to close the leisure centre was fault.
26. The Council did not carry out an equalities impact assessment. It carried out a screening assessment to see whether an EIA should be carried out. I asked the Council to explain why the closure of the leisure centre had such low scores on the screening that it did not require a full equalities impact assessment.
27. The Council said that it shared some of my concerns on the assessment scoring, in terms of impact. But it felt that any errors might appear low in view of the fact that local sports provision is not being withdrawn, but simply reconfigured and relocated elsewhere.

-
28. The Council's view is the new provision for disabled sports users will be much improved and it could not hope to offer such disabled facilities if the leisure centre was refurbished.
29. The Equalities and Human Rights Commission (EHRC) has also issued advice to public authorities on this subject. This advice says that, 'A key requirement of the public sector duties is for public authorities to carry out equality impact assessment for all relevant policies and decisions.'
30. I consider the Council's failure to carry out a full equality impact assessment on the closure of the leisure centre is fault. I can find nothing in the legislation that suggests a screening assessment is adequate, especially when there are a number of disabled user groups who the decision would adversely affect.
31. In response to my concerns about the lack of public consultation and the equalities impact assessment the Council has said that it is willing to carry out the consultation process and to undertake a full equalities impact assessment on the closure of the physical sports centre now. However, the Council has said that as the contract to redevelop the site has been signed (this was scheduled to be late October/early November), there would be a large financial penalty if it did not go ahead with the closure of the leisure centre.
32. Given the situation has moved on, I do not consider it is reasonable to expect the Council to rerun the consultation process and equalities impact assessment. This is because the Council has clearly already made its decision and so it is unlikely to change this after consultation.
33. However, I do think it reasonable for Council Members to make a final decision on the leisure centre closure at a well publicised Council meeting. I think that the Council should write a public Committee report explaining:
- The errors that the Council made during the process to close the leisure centre.
 - The benefits of closing the leisure centre for sports centre users and for users of the new school.
 - The drawbacks of closing the leisure centre for sports centre users and for users of the new school.
 - The cost to the tax-payer of breaking the contract and keeping the leisure centre open.
34. I understand that Mr B wants the leisure centre to remain open and that is his preferred result. However, I have to take account that there may be many other local residents who would prefer the new school and leisure centre facilities. So, in this situation I consider it reasonable for Council Members to make a final decision after members of the public have put forward their views. This would include consideration on whether the cost of breaking the contract and keeping the leisure centre was a good use of public money.
35. In response to my draft decision Mr B has said that he thinks the rebuild of the school can go ahead without demolishing the sports centre. He wants to take action against the individual Councillors involved. Mr B said that he has questions about the land ownership and the contract.
36. I consider the Council will consider these points at the public meeting the Council has agreed to organise. The Council can then make a final decision on the leisure centre aware of Mr B concerns and the views of other residents.

Agreed Remedy

37. The Council has agreed that Council Members will make a final decision after members of the public have put forward their views on the leisure centre closure at a well publicised Council meeting.

Final decision

38. I have completed my investigation and uphold this complaint. The Council failed to carry out public consultation and an equalities impact assessment on the closure of a leisure centre. The Council's reconsideration of the decision to close the leisure centre at a public meeting is an adequate remedy to this complaint as it is not possible to go back and re-run the decision making process in its entirety.

Investigator's decision on behalf of the Ombudsman

APPENDIX 2 EQUALITY SCREENING TOOL FOR THE CLOSURE OF WHITCLIFFE MOUNT SPORTS CENTRE

This screening tool has been developed to assist you to make an initial assessment on the priority you may give to a proposal about, or review of a service, function, or policy in your area. It acts to indicate the likely impact this proposal could have on groups of people. Multiple proposals, or alternate options, can be run individually through this tool. It should be completed by someone who has knowledge of both the issue and the employees who will be carrying out the work. **[If you feel that there is likely to be a high impact then you can go straight to Stage 2 Document (Ensuring Legal Compliance)]**

LEVEL OF IMPACT Is an indication of the likely impact your proposal could have upon communities &/or employees.

GREEN = low; YELLOW = medium rising to - AMBER = high medium; RED = High;

RISK This is an indication of the chance of not being able to mount a successful defence if challenged.

GREEN = low; YELLOW = medium; AMBER = high medium; RED = High;

NB There is always a risk of challenge. A lack of evidence leads to a high score.

Directorate:
Communities, Transformation and Change
Lead Officer:
Adele Poppleton
Officers responsible for Assessment:
Martin Gonzalez, Alison Morby

Service:
Communities and Leisure
Service Area:
Sports and Physical Activity
Date of Review:
30th November 2015

Impact Scores (max = 100)

30 and below - your proposal is likely to have little if any impact.

31 - 40 An EIA could be considered

41 - 54 your proposal is likely to have a **wide impact**. An EIA is advised

55 and above An EIA is **STRONGLY** advised

RISK (see above)

Irrespective of the impact score; **IF risk background is GREEN less than 30%** then there is **likely to be sufficient evidence** demonstrate that **DUE REGARD** has been taken.

LEVEL OF IMPACT	RISK (%)
57	43

QUESTION No.	WHAT IS YOUR PROPOSAL?	type y or n	Comments (please explain your answer)
1	To withdraw a service, activity or presence	Y	<p>On 11th October 2011, Cabinet considered a report to bid for capital funding from Government for three schools in Kirklees including Whitcliffe Mount School. Rebuild costs for the school were estimated to be around £15 million and so Government funding was successfully sought and successfully obtained. A private report was presented to Cabinet on 17th December 2013. This outlined the Education Funding Agency's (EFA) conditions in relation to Whitcliffe Mount School and its proposals for demolishing the school and rebuilding it. The report recommended the closure of Whitcliffe Mount Sports Centre (WMSC) for financial reasons. The EFA agreed to demolish all the buildings around it and make good the points at which the demolished buildings connected to WMSC (i.e. rebuild walls to close holes in the external envelope.) The cost to reinstate utilities to WMSC after the connection to the school is severed in order to demolish it was assessed to be £0.5 million. WMSC also requires significant investment of approximately £1.5 million to repair the fabric of the building and make it fully DDA (Disability Discrimination Act) compliant. The EFA would not provide utility connections or a new boiler which is presently housed in the school. This is because the EFA will only use its budget on costs directly related to the new build school. The withdrawal is of an activity rather than full service. A competition indoor bowling rink will not be replaced at other sites and this represents the withdrawal of part of the service. There will be an overall reduction in sports hall capacity as a result of this decision, although the recent Built Leisure and Sports Facilities Strategic Framework suggests that there is adequate sports hall capacity factoring in the replacement of one of the sports hall at the school and assuming that the planning requirement for community use is achieved.</p>
2	To reduce a a service, activity or presence	Y	
3	To introduce or increase a charge for Service	N	
4	To change to a commissioned service	N	
5	To introduce, review or change a policy or procedure	N	
6	To introduce a new service or activity	N	
7	Is this about improving access to, or delivery of a service.	N	
8	Will you require supporting evidence on this issue	Y	
WHO WILL IT AFFECT?			
9	Does this affect Employees? If YES please list	Y	<p>Employees are employed by Kirklees Active Leisure, who manage the site on behalf of Kirklees Council. KAL will endeavour to re-deploy as many of these staff as possible, although it may not be possible to re-deploy all staff. As a sports centre which provides a universal offer, as part of a larger network of facilities across the Borough, there will be users of the centre who fall into a number of the Protected Characteristic Groups. This decision does not specifically impact on the majority of those groups in isolation and the impacts and mitigations also apply on a universal basis.</p>
10	Does this affect a <u>Single Ward or Locality ONLY</u>	Y	
11	Does this affect most of Kirklees or its Residents	N	
12	Does this issue concern ANY Protected Characteristic Group.	Y	

and mitigations also apply on a universal basis.

13	Can you foresee a negative impact on any Protected Characteristic Group(s)? If YES please state what these could be.	Y	
14	If IMPACT at this stage is less than 15 answer Y to this question	N	IF YOU CAN ANSWER YES HERE THEN DO NOT ANSWER ANY FURTHER QUESTIONS
	TAKING DUE REGARD		
<i>Where consultation was needed:</i>			
15	Have you got any general intelligence (research, consultation, etc.)? If YES please list any related documents.	Y	<p>General and specific intelligence has been provided by the Built Sport and Leisure Facilities Strategic Framework which included a full assessment of facilities and needs in the district. Consultation is presently being undertaken with users of WMSC. WMSC was strategically assessed in relation to other sports and fitness provision in the area and priorities for the council's limited investment. Just 1.8 miles from WMSC is Spenborough Pool and Fitness Complex. It was decided that this site was more of a priority for investment than WMSC due to the need to replace the pool and because of its more central location. This decision is supported by the Built Leisure and Sports Facilities Strategic Framework, which highlights the strategic importance of Spenborough Pool, and also concludes that only a single sports hall is required at Whitcliffe Mount. In February 2015, Cabinet approved capital investment in Spenborough Pool of up to £15 million. The new facility is expected to open in 2019. KAL and council officers are working with users of the centre to find them facilities which better meet their needs as we have considered our Public Sector Equality Duty. WMSC is not fully DDA compliant and is not in an accessible location for many users of public transport. KAL has been supporting users of WMSC to relocate to other facilities with better access for people with disabilities e.g. some netball teams have relocated to Huddersfield Leisure Centre and are being charged the same rates as at WMSC for better facilities. A programme of works to improve and extend the fitness suite at Spenborough Pool will be completed by Christmas 2015 so that WMSC gym members, the largest percentage of WMSC users, can transfer to that site in early 2016. The wider network of KAL facilities continues to provide a range of universal sports and leisure opportunities, whilst the replacement sports hall will allow users who wish to return to Whitcliffe Mount to play sport to do so once it is completed in Autumn 2017. Current user groups of WMSC have been relocated or are being supported with relocation. The indoor bowlers are receiving ongoing officer support to help them identify options for the development of a new facility as there is no alternative competition indoor rink in Kirklees. These bowlers have also been signposted to alternative competitive facilities in the region, whilst social roll out mat bowling is available at a number of KAL sites.</p>
16	Have you got any specific intelligence (research, consultation, etc.)? If YES please list any related documents.	Y	
17	Have you taken specialist advice? (Legal, E&D Team, etc). If YES please state.	N	
18	Have You considered your Public Sector Equality Duty? Please provide a rationale	Y	
19	Can the Public access a "Decision Report"? If YES state where and how it can be accessed.	N	
20	Can you mitigate any negative effect? Please state how	Y	
21	Do you have any supporting evidence? If YES please list the documents	Y	
22	Have you published your information? If YES state where.	N	



ONLY IF your proposal is likely to have **little or no impact** upon groups and you are confident that you have evidence to support your proposal and this document. (RISK less than 30% [GREEN])

- 1) Save this scoresheet;
- 2) Complete and save a 'Front Sheet';
- 3) Make sure you have gathered any supporting evidence documents and they are listed above
- 4) SEND Electronic copies of this tool and a front sheet to equalityanddiversity@kirklees.gov.uk



IF your proposal is likely to have **medium or above impact upon groups AND you are not confident that you have evidence to support your proposal and this document. (RISK greater than 30% [yellow, amber, red])**

- 1) Save this scoresheet;
- 2) Proceed to Stage 2 document (Ensuring Legal Compliance)

EQUALITY IMPACT ASSESSMENT STAGE 2 – ENSURING LEGAL COMPLIANCE

In what way does your current service delivery help to:	How might your proposal affect your capacity to:	How will you mitigate any adverse effects? <small>(You will need to review how effective these measures have been)</small>
End Unlawful Discrimination?	End Unlawful Discrimination?	
There is no direct evidence of unlawful discrimination	There is no suggestion of unlawful discrimination within the proposal	There are no foreseeable adverse effects
Promote Equality of Opportunity?	Promote Equality of Opportunity?	
<p>WMSC currently operates as a public sports and leisure facility, offering a variety of opportunities for people of all ages and backgrounds to be active in the sports halls, squash courts, gym and indoor bowling rink.</p> <p>It has limitations though as the building is not fully DDA compliant and so it is unable to fully promote equality of opportunity.</p>	<p>The closure of WMSC, and replacement with a single sports hall would mean that the site no longer caters for squash, indoor bowling or offers gym facilities. Use of the replacement sports hall is subject to a community use agreement being put in place, which is part of the planning provision. The proposal may impact on users unable to travel to facilities elsewhere and thus reduce their opportunities but we are so far unaware of anyone affected in this way although on-going consultation with users may highlight some present customers.</p> <p>The proposal to close the centre has been assessed in relation to the Built Sport and</p>	<p>KAL has been supporting users of WMSC to relocate to other facilities with better access for people with disabilities e.g. netball teams have relocated to Huddersfield Leisure Centre and are being charged the same rates as at WMSC for better facilities. A programme of works to improve and extend the fitness suite at Spensborough Pool will be completed by Christmas 2015 so that WMSC gym members, the largest percentage of WMSC users, can transfer to that site in early 2016. Cabinet approved capital investment in Spensborough Pool of up to £15 million, which is a more centrally located site, preserving opportunities for more local residents. The Built Leisure and Sports</p>

APPENDIX 3 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT FOR THE CLOSURE OF WHITCLIFFE MOUNT SPORTS CENTRE

	<p>Leisure Facilities Strategic Assessment Framework which was endorsed by Cabinet on 15th October 2015. This assessment looked at present and future demand of sports and fitness facilities in Kirklees and also took into account facilities in neighbouring authorities. The assessment was that with a four court sports hall in the new Whitcliffe Mount School and a new facility being built by Bradford Council 4 miles away, any additional sports hall facility will be surplus to requirement.</p> <p>The proposal will affect equality of opportunity for older users, particularly those who use the indoor bowling arena as there are no other competitive bowling facilities in the Borough.</p>	<p>Facilities Strategic Framework indicates that a single sports hall is sufficient to meet local needs, as there is notable capacity in other sports halls across the Borough. Squash users have been directed to the nearby Batley Sports and Tennis Centre, where significant court capacity is available. Indoor bowlers are receiving ongoing officer support to help them identify options for the development of a new facility in Huddersfield and alternative ways to bowl. These bowlers have also been signposted to alternative competitive facilities in the region, whilst social roll out mat bowling is available at a number of KAL sites so if they change the form of bowling which they practice, they will be well catered for at other venues.</p>
<p>Foster Good Relations Between People</p>	<p>Foster Good Relations Between People</p>	
<p>The sports centre caters for all the community, allowing good relations to develop.</p>	<p>The alternative sports facilities also cater for all the community, allowing new and more extensive relations to develop.</p>	<p>There is no foreseeable adverse effect</p>

EQUALITY IMPACT ASSESSMENT STAGE 3 – CUSTOMER FOCUS ASSESSMENT

Before you start make you may want to refer to the [background thinking](#) and the [stage 3 guidance](#) document for help with this section.

BACKGROUND INFORMATION

(set the context of what you want to do and why. Provide evidence of appropriate research and evidence to support your rationale)

APPENDIX 3 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT FOR THE CLOSURE OF WHITCLIFFE MOUNT SPORTS CENTRE

WMSC is a sports centre owned by Kirklees Council and managed on its behalf by Kirklees Active Leisure (KAL). It shares a campus, car park and all utilities with Whitcliffe Mount Business and Enterprise College in Cleckheaton. The College building is not fit for purpose for 21st century learning. Rebuild costs for the college were estimated to be around £15 million and so Government funding was successfully sought. A private report was presented to Cabinet on 17th December 2013. This outlined the Education Funding Agency's (EFA) conditions in relation to Whitcliffe Mount College and its proposals for demolishing the college and rebuilding it. The report recommended the closure of WMSC for financial reasons. The EFA agreed to demolish all the buildings around it and make good the points at which the demolished buildings connected to WMSC (i.e. rebuild walls to close holes in the external envelope. The cost to reinstate utilities to WMSC after the connection to the college is severed in order to demolish it was assessed to be between £0.5 million to £1.5 million depending on various options. WMSC also requires significant investment of approximately £1.5 million to repair the fabric of the building and make it fully DDA (Disability Discrimination Act) compliant.) should the Council wish to keep WMSC open, or demolish the buildings free of charge if WMSC is closed. It would not provide utility connections or a new boiler which is presently housed in the College. This is because the EFA will only use its budget on costs directly related to the new build college.

The future of WMSC was strategically assessed in relation to other sports and fitness provision in the area and priorities for the council's limited investment. 1.8 miles from WMSC is Spenborough Pool and Fitness Complex. It was decided that this site was more of a priority for investment than WMSC due to the need to replace the pool. In February 2015, Cabinet approved capital investment in Spenborough Pool of up to £15 million. The new facility is expected to open in 2019. KAL has been supporting users of WMSC to relocate to other facilities with better access for people with disabilities e.g. netball teams have relocated to Huddersfield Leisure Centre and are being charged the same rates as at WMSC for better facilities. A programme of works to improve and extend the fitness suite at Spenborough Pool will be completed by Christmas 2015 so that WMSC gym members, the largest percentage of WMSC users, can transfer to that site in early 2016.

If the planned closure does not go ahead, there is a high risk that the EFA will withdraw the college from its scheme and thus its capital investment of £15 million will be lost due to delays caused by the need to redesign the site and resubmit the planning application for amendments. As the council is presently facing significant financial challenges due to reducing government funding, it will not be able to finance the rebuilding of the college.

APPENDIX 3 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT FOR THE CLOSURE OF WHITCLIFFE MOUNT SPORTS CENTRE

WHO IS LIKELY TO BE AFFECTED BY THE PROPOSAL AND HOW (think about barriers, access, effects, outcomes etc)			
Equality Group (protected characteristic)	Direct or Secondary Impact (state)	Positive, negative or neutral effect (state)	Please explain Address each group individually.
Age	Direct	Neutral (other than for specific activities)	Most activities are provided in other facilities in the KAL network. Some user groups have already been relocated and the remainder are being supported with finding alternative facilities.
Older People	Direct	Negative	Only the indoor bowlers, the majority of which are older people, do not have an alternative indoor facility for competition in the Borough.
Young People	Direct	Positive	An improved physical learning environment will impact positively on young people at the college and enable more flexibility to cater for different learning styles leading to increased attainment.
Disability	Direct	Positive	The current site struggles to be compliant under DDA legislation. Alternative sites where activity is

APPENDIX 3 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT FOR THE CLOSURE OF WHITCLIFFE MOUNT SPORTS CENTRE

			being directed offer a significantly improved level of disability access
Marriage & civil partnership	Direct	Neutral	The site offers universal access, and so do the alternative sites where activity is being signposted.
Pregnancy & maternity	Direct	Neutral	The site offers universal access, and so do the alternative sites where activity is being signposted.
Race	Direct	Neutral	The site offers universal access, and so do the alternative sites where activity is being signposted.
Religion and belief	Direct	Neutral	The site offers universal access, and so do the alternative sites where activity is being signposted.
Sex	Direct	Neutral	The site offers universal access, and so do the alternative sites where activity is being signposted.
Sexual Orientation	Direct	Neutral	The site offers universal access, and so do the alternative sites where activity is being signposted.
Other groups (e.g. carers (socioeconomic, travellers etc)	Direct	Neutral	The site offers universal access, and so do the alternative sites where activity is being signposted.
Geographical Impact and/or community cohesion.	Direct	Negative – there may be some travel implications	Alternative provision exists in a relatively close radius of this site. The majority of users (53%) are gym users who will be able to access improved facilities at Spenborough Pool and Fitness Complex

APPENDIX 3 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT FOR THE CLOSURE OF WHITCLIFFE MOUNT SPORTS CENTRE

			<p>which is 1.8 miles away. There will ultimately be a replacement sports hall for users who wish to return to the site to take part in sports hall activities although some aspects of provision will no longer be on offer at this site but will be on offer at other sites.</p> <p>88% of KAL Fitness Members and 68% of KAL Card holders live in Kirklees and so will live near other facilities in Kirklees.</p>
--	--	--	---

WHAT NEXT ?
<p>What has happened as a result of the consultation?</p>
<p>The consultation will take place at a public meeting on 17th December 2015. On-going conversations will be held with users to support them to relocate elsewhere if the centre closes.</p>
<p>What action will you now be taking? Detail any mitigation actions where necessary?</p>
<p>The action will be as a result of the meeting on 17th December 2015.</p>
<p>How will any outcomes be monitored, reviewed, evaluated and promoted where necessary?</p>
<p>This depends on the decision made by the Cabinet on 17th December 2015.</p>

APPENDIX 3 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT FOR THE CLOSURE OF WHITCLIFFE MOUNT SPORTS CENTRE

Any Additional Information

APPENDIX 4 EQUALITY SCREENING TOOL FOR NOT BUILDING WHITCLIFFE MOUNT SCHOOL

This screening tool has been developed to assist you to make an initial assessment on the priority you may give to a proposal about, or review of a service, function, or policy in your area. It acts to indicate the likely impact this proposal could have on groups of people. Multiple proposals, or alternate options, can be run individually through this tool. It should be completed by someone who has knowledge of both the issue and the employees who will be carrying out the work. **[If you feel that there is likely to be a high impact then you can go straight to Stage 2 Document (Ensuring Legal Compliance)]**

LEVEL OF IMPACT Is an indication of the likely impact your proposal could have upon communities &/or employees.

GREEN = low; YELLOW = medium rising to - AMBER = high medium; RED = High;

RISK This is an indication of the chance of not being able to mount a successful defence if challenged.

GREEN =low; YELLOW = medium; AMBER = high medium; RED = High;

NB There is always a risk of challenge. A lack of evidence leads to a high score.

Directorate:
Children and Young People
Lead Officer:
Jo-Anne Sanders
Officers responsible for Assessment:
Rajesh Singh & Andy Vaughan

Service:
Learning and Skills
Service Area:
School Organisation & Planning
Date of Review:
6th December 2015

Impact Scores (max = 100)

30 and below - your proposal is likely to have little if any impact.

31 - 40 An EIA could be considered

41 - 54 your proposal is likely to have a **wide impact**. An EIA is advised

55 and above An EIA is **STRONGLY** advised

RISK (see above)

Irrespective of the impact score; **IF risk background is GREEN less than 30%** then there is **likely to be sufficient evidence** demonstrate that **DUE REGARD** has been taken.

LEVEL OF IMPACT	RISK (%)
44	36

QUESTION No.	WHAT IS YOUR PROPOSAL?	type y or n	Comments (please explain your answer)
1	To withdraw a service, activity or presence	Y	This Equalities Impact Assessment (EIA) is being undertaken on the basis that a reversal of the decision to close Whitcliffe Mount Sports Centre (WMSC) would lead to a withdrawal by the Education Funding Agency (EFA) of their planned activity to demolish the existing Whitcliffe Mount School and replace it with a new build school building.
2	To reduce a service, activity or presence	N	No, see above
3	To introduce or increase a charge for Service	N	No, see above
4	To change to a commissioned service	N	No, see above
5	To introduce, review or change a policy or procedure	N	No, see above
6	To introduce a new service or activity	N	No, see above.
7	Is this about improving access to, or delivery of a service.	N	No, see above.
8	Will you require supporting evidence on this issue	Y	Yes, this is a matter of public interest and supporting evidence will be required to demonstrate the negative / detrimental impact that the loss of a new school building would have on the school, parents and the community. Evidence could include the existing condition and suitability evidence that the Council holds about the existing school buildings and the approved plans for the new build school.
WHO WILL IT AFFECT?			
9	Does this affect Employees? If YES please list	Y	Yes, staff at the school as well as students and other end users.
10	Does this affect a <u>Single Ward or Locality ONLY</u>	N	Although the school is in the Cleckheaton Ward, its pupils travel from various wards and from outside the Borough. Staff are also not necessarily resident in the Ward.
11	Does this affect most of Kirklees or its Residents	N	Not directly unless the financial impact of this change is taken into consideration. For example, should the Council need to fund the rebuild of Whitcliffe Mount School following the withdrawal of Government funding, this would have an impact on all Kirklees residents as other schools may suffer from less capital investment due to funding being diverted to meet the needs of Whitcliffe Mount School.

12	Does this issue concern ANY Protected Characteristic Group.	Y	Two groups would be impacted - 1) Age - this school caters for pupils aged 11-16. The withdrawal of the new school building would mean the loss of a modern, state of the art self contained building with all the facilities required to deliver the curriculum and would leave the school with its existing outdated, deteriorating and disjointed buildings 2) Disability - the existing school has no lifts and poor levels of overall disability provision. The new build would be fully DDA compliant.
13	Can you foresee a negative impact on any Protected Characteristic Group(s)? If YES please state what these could be.	Y	The impact is outlined under the previous answer.
14	If IMPACT at this stage is less than 15 answer Y to this question	N	IF YOU CAN ANSWER YES HERE THEN DO NOT ANSWER ANY FURTHER QUESTIONS
	TAKING DUE REGARD		
<i>Where consultation was needed:</i>			
15	Have you got any general intelligence (research, consultation, etc.)? If YES please list any related documents.	Y	Bid application for entry into the Government's Priority Schools Building Programme 1 / Successful application letter from the DfE / various cabinet reports on PSBP and Whitcliffe Mount dated 2011 / 2013 / 2015 which confirm that the school is in a poor condition and is therefore eligible for renewal according to the DfE's criteria / Various condition reports by the Council and an external consultant (Aedas) / Suitability survey from mid 2000s.
16	Have you got any specific intelligence (research, consultation, etc.)? If YES please list any related documents.	Y	As above.
17	Have you taken specialist advice? (Legal, E&D Team, etc.). If YES please state.	N	No

18	Have You considered your Public Sector Equality Duty? Please provide a rationale	Y	The existing school has no lifts, has poor levels of overall provision and is generally outdated. Previous Cabinet decisions for both the BSF and PSBP proposals recommended reconstruction which would have been our PSED. A decision not to re-build the school will impact adversely on the need to advance equality of opportunity between persons who share a relevant protected characteristic (in this case disability) and persons who do not share it. This is because the new school building will enable disabled children and teachers to more easily access excellent education facilities. A new school which is DDA compliant removes or minimises the disadvantages suffered by disabled people attending or working at the current school building due to its outdated layout and facilities. Failure to proceed with the new building will additionally have an adverse impact on a group of people who share a protected characteristic (age) in that young people aged between 11-16 will be most directly affected.
19	Can the Public access a "Decision Report"? If YES state where and how it can be accessed.	N	No, as of 06/12/15 there is no decision to not build the new school. All previous Cabinet decisions have been to build a new school.
20	Can you mitigate any negative effect? Please state how	Y	In order to meet our responsibilities to the staff, students and local community, we would need to deliver the same outcome as either the PSBP or BSF proposals i.e. a full rebuild of the school (PSBP) or a partial rebuild / remodelling solution (BSF) - both of which were designed to provide modern, state of the art facilities. It may be possible to redesign the existing approved scheme to retain WMSC (note: this building requires around £2m investment) but the Council does not have access to funding of £15-20m should the EFA withdraw its funding (the original BSF proposal was estimated at £19.75m in 2010. The EFA does not disclose individual capital allocations for PSBP1 schools so we have estimated the cost internally). The existing approved scheme would need to be radically redesigned as the site plan as proposed could not readily accommodate both the current 'superblock' design and a retained WMSC. The EFA has stated that they would not consider redesigning the scheme but would instead look to remove Whitcliffe Mount School from the PFI programme with no guarantee of providing funding from other sources. This would leave the Council to either find £15-20m of capital to fund the replacement school or to find funding to tackle the most urgent condition needs over the course of a number of years in order to stop the further deterioration of the existing buildings.
21	Do you have any supporting evidence? If YES please list the documents	Y	Only the schemes submitted for Planning and confirmation from the EFA that the PSBP proposal offers value for money.
22	Have you published your information? If YES state where.	N	The PSBP scheme has Planning Permission with 'approval' from Sport England



ONLY IF your proposal is likely to have **little or no impact** upon groups and you are confident that you have evidence to support your proposal and this document. (RISK less than 30% [GREEN])

- 1) Save this scoresheet;
- 2) Complete and save a 'Front Sheet';
- 3) Make sure you have gathered any supporting evidence documents and they are listed above
- 4) SEND Electronic copies of this tool and a front sheet to equalityanddiversity@kirklees.gov.uk



IF your proposal is likely to have **medium or above impact upon groups AND you are not confident that you have evidence to support your proposal and this document. (RISK greater than 30% [yellow, amber, red])**

- 1) Save this scoresheet;
- 2) Proceed to Stage 2 document (Ensuring Legal Compliance)

EQUALITY IMPACT ASSESSMENT STAGE 2 – ENSURING LEGAL COMPLIANCE

<p>In what way does your current service delivery help to:</p>	<p>How might your proposal affect your capacity to:</p>	<p>How will you mitigate any adverse effects? <small>(You will need to review how effective these measures have been)</small></p>
<p>End Unlawful Discrimination?</p>	<p>End Unlawful Discrimination?</p>	
<p>The Council has a statutory duty to ensure that there are sufficient school places to meet the needs of its area. This proposal enables the Council to significantly improve the quality of existing school places via the Education Funding Agency’s (EFA) Priority Schools Building Programme (PSBP). PSBP provides a unique opportunity to secure a multi-million pound investment to completely transform the physical learning environment of Whitcliffe Mount School, through the development of a new school building. The PSBP’s primary aim is to tackle those schools in the country that are deemed to have the most acute condition issues and so the new school building will eradicate long standing suitability and condition challenges that the existing suite of buildings present the school. The access, suitability and condition issues have been exacerbated by the</p>	<p>Should the proposal be approved for implementation then it would continue to ensure that children and young people and their families have access to high quality, inclusive and sufficient local school places. The proposal provides a degree of continuity for local families as the proposed new school building would be established in the existing grounds of Whitcliffe Mount School.</p> <p>Should the proposal to develop a new school building not be approved then many long standing suitability and condition issues would remain. The disorganised layout of the existing buildings and provision of spaces highlight the fact that the original school building has been extended on an ad-hoc basis over its life as the student population has increased. Consequently, overall management and control of student movement is very difficult for the school’s</p>	<p>Should the proposal be approved for implementation the school would be rebuilt. Careful planning with children and young people and their families, led by the schools management team, would be implemented so that transition to the new school building is smooth and timely and minimises any adverse impact on learning outcomes for children and young people. Where necessary and appropriate, senior officers from the Council would continue to support the senior leadership of the school and its governing body and other key stakeholders including the EFA and the supplier of the new school building.</p> <p>Should the new school building not be built, many of the existing challenges highlighted in this EIA would need to be addressed. As previously stated, the school is in very poor condition with many suitability challenges</p>

APPENDIX 5 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT ON NOT BUILDING WHITCLIFFE MOUNT SCHOOL

<p>cancellation of the BSF programme in 2010 which means that the school has missed out on a decade of investment during which time it has also had to cope with the change of age of its students due to the move from a three tier to two tier pyramid.</p> <p>The existing school is a sprawling collection of buildings built over the last 100 years and is poorly served by wheelchair bound students as there is currently no floor to floor lift provision. This has meant that many rooms are unreachable which requires careful timetabling to ensure that a full curriculum is available to all students and can be delivered by all staff.</p> <p>Consequently, the replacement of the existing school with a new and fully accessible building will no doubt greatly improve overall accessibility and therefore significantly improve the quality of existing learning places for local children and families and provide a modern, fit for purpose physical learning environment that will provide the necessary requirements to contribute to raising of educational outcomes for children and young people.</p>	<p>management who on a daily basis are faced with managing a very challenging set of circumstances presented by the buildings (the proposed new school building will have a structured circulation network allowing for safe and simple student movement throughout the day). In addition, the school was operated as the top tier of a three tier system for much of its existence and a key component of the original BSF scheme was to reorder the school to better suit a younger cohort. The temporary measures taken pending the PSBP redevelopment, such as the relocation of the music department in to inferior accommodation, would also need addressing if the new school were not built.</p>	<p>such as the lack of fully accessible vertical circulation. In addition, reports prepared for the BSF bid highlighted that the existing Science Block is particularly unsound and is nearing the end of its service life. The original timber and steel windows are deteriorating, asbestos is present in much of the fabric and an electrical rewire is required.</p> <p>The Council does not have an alternative strategy with available funding that could be implemented to address these issues or re-build the school. However senior officers from the Council would continue to work in partnership with the school and the EFA to explore all other options, but it is not clear as to what these could include.</p>
--	--	---

APPENDIX 5 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT ON NOT BUILDING WHITCLIFFE MOUNT SCHOOL

Promote Equality of Opportunity?	Promote Equality of Opportunity?	Promote Equality of Opportunity?
<p>As described in the previous sections of this EIA, the proposal to re-build Whitcliffe Mount School ensures that children and young people, their families as well as all the staff will, for many years to come have access to school places that are of an overall higher quality as a direct result of a new school building.</p> <p>Should the proposal not be approved and the new school building not be provided then the school would continue to promote equality of opportunity as it currently does in all aspects of school life. The school has a wide range of existing policies and procedures that have embedded equality of opportunity in to all learning and teaching, for example the school has a specific Special Education Needs and Disability Policy that is compliant with the national SEN Code of Practice.</p>	<p>As described in the other sections of this EIA, a new school building would significantly improve accessibility for all children and young people but particularly for those children and young people with SEN and therefore promote equality of opportunity.</p> <p>Should the proposal not be approved and the new school building not be provided, the school would continue to face many challenges including those highlighted in this EIA including suitability and access. However, the school would continue to work positively with its existing policies and procedures to promote equality of opportunity across all aspects of school life although it needs to be acknowledged that much of the building is nearing the end of its useful life and will need to be replaced within a few years.</p>	<p>Please see above</p>
Foster Good Relations Between People	Foster Good Relations Between People	Foster Good Relations Between People
<p>Attached to the school is a sports centre that is owned by the Council and used by the</p>	<p>As stated opposite, the proposal for a new school building includes a new sports facility</p>	<p>Please see above response</p>

APPENDIX 5 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT ON NOT BUILDING WHITCLIFFE MOUNT SCHOOL

<p>school and members of the local community including local and regional sports clubs. The school also has a range of external facilities including football pitches that are let to local sports clubs.</p> <p>The proposal to develop a new school building includes the demolition of the attached sports centre but it will be replaced by a new four court sports hall with changing facilities which if the school provides community access to these facilities, some of the loss of the sports centre will be negated. In addition, the Council has made alternative provision in other venues across the Borough to mitigate against the loss of facilities that would not be replicated in the school's new provision. The school would consider making its new facilities available for appropriate community use.</p> <p>Should the proposal not be approved for implementation then the school would continue to make its dedicated facilities that include some of its sports pitches available for community use.</p>	<p>that could be used by the local community, although some services currently provided at the sports centre would need to be provided elsewhere. Please refer to the accompanying EIA for proposed closure of the sports centre that describes the impacts and mitigation in appropriate detail.</p>	
---	---	--

EQUALITY IMPACT ASSESSMENT STAGE 3 – CUSTOMER FOCUS ASSESSMENT

Before you start you may want to refer to the [background thinking](#) and the [stage 3 guidance](#) document for help with this section.

BACKGROUND INFORMATION

(set the context of what you want to do and why. Provide evidence of appropriate research and evidence to support your rationale)

Whitcliffe Mount School entered the government's Building Schools for the Future (BSF) programme in 2008 with the objective of being extensively re-built. Outline planning permission for this was in place in 2009. In 2010 the Council was in the process of submitting its Outline Business Case, which would approve this and other projects, when it was decided by the government that the project (along with others planned) could not proceed, as a decision was taken by the government to effectively stop the BSF programme and cancel projects that were not sufficiently advanced to a point where they could be financially closed.

The School entered the replacement of BSF, the Priority Schools Building Programme in 2011. Since this time, the Council has been working with the school and the Education Funding Agency in developing a project to provide a brand new school building on the existing site by September 2017 and demolish the existing school buildings including the attached Whitcliffe Mount Sports Centre.

It is widely acknowledged by the school, the Council and the Education Funding Agency (EFA) that the existing school buildings have many condition and layout issues that are the result of over one hundred years of ad-hoc additions and a decade of under investment as a result of pending redevelopment. The EFA have acknowledged that this is one of the bottom 260 schools in the country for condition works and surveys carried out as part of the bid process have highlighted unsound structural elements, full rewiring, leaking roofs and extensive asbestos. In addition, the sprawling nature of its numerous extensions has led to a warren of difficult to manage and poorly connected buildings on multiple levels with only limited wheelchair access. In addition, the existing accommodation is outdated in many areas with extensive suites of rooms that are cramped, irregularly shaped with the consequent difficulties of curriculum delivery that this brings.

The new provision developed by the EFA under their Priority Schools Building Programme dealt with these issues by providing a modern, state of the art' fully accessible building that met the needs of staff and students in a single building that has been designed to not only successfully

APPENDIX 5 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT ON NOT BUILDING WHITCLIFFE MOUNT SCHOOL

deliver the curriculum but to do so in a more environmentally sustainable way with greatly reduced energy consumption therefore providing the potential for enabling resources to be maximised for learning and teaching.

In December 2014, the Education Funding Agency submitted a planning application for the new school building. This provided the opportunity for members of the public to provide a comment to the Local Planning Authority before a decision on the application to build a new school on the site was taken.

In March 2015, the Local Planning Authority approved the planning application for the new school building which would result in the demolition of the sports centre.

Please see Appendix 1 of the attached cabinet report which provides further relevant background information.

WHO IS LIKELY TO BE AFFECTED BY THE PROPOSAL AND HOW (think about barriers, access, effects, outcomes etc)

Note* The lead officer responsible for completing this EIA has considered this stage of the EIA in the context of the proposal not being implemented and therefore the new school building not being provided.

Equality Group (protected characteristic)	Direct or Secondary Impact (state)	Positive, negative or neutral effect (state)	Please explain Address each group individually.
Age	Direct	negative	Although currently functional, due to the school's age, condition and sprawling layout, the ability for the existing infrastructure to meet the needs of children and young people in the next few years will become increasingly difficult. Stage 2 and 3 of this EIA highlight the opportunities to address long standing building issues and associated challenges that the school's management and its students face on a daily basis such as

APPENDIX 5 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT ON NOT BUILDING WHITCLIFFE MOUNT SCHOOL

			accessibility and the suitability and quality of many teaching spaces across the school. The school caters for pupils aged 11-16. The withdrawal of the new school building would mean the loss of a modern, state of the art self- contained building with all the facilities required to deliver the curriculum as well as a lost opportunity to promote the safety and wellbeing of children and young people in a new school building.
Disability	Direct	negative	There are children and young people currently on roll at the school with a wide range of special educational needs. Should a new school building not be provided then this would be a missed opportunity to greatly improve the physical learning environment and the experience that these children and young people would have in a new school building.
Marriage & civil partnership	No impact	neutral	No issues
Pregnancy & maternity	No impact	neutral	No issues
Race	No impact	neutral	No issues
Religion and belief	No impact	neutral	No issues
Sex	No impact	neutral	No issues
Sexual Orientation	No impact	neutral	No issues
Other groups (e.g. carers	No impact	neutral	No issues

APPENDIX 5 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT ON NOT BUILDING WHITCLIFFE MOUNT SCHOOL

(socioeconomic, travellers etc)			
Geographical Impact and/or community cohesion.	No impact	neutral	No issues

CONSULTATION, ENGAGEMENT & PARTNERSHIP

How do you plan to consult? With who? Why?

December 2014. Education Funding Agency submitted a planning application for the new school building. This provided the opportunity for members of the public to provide a comment to the Local Planning Authority before a decision on the application to build a new school on the existing school site was taken.

Whitcliffe Mount School’s senior leadership and governing body have been fully consulted.

The Education Funding Agency as client for the new school building has been fully engaged in order that senior officers from the Council understand their position should any local decision be made not to provide a new school building.

17th December 2015. The general consultation will take place at a public meeting where people can raise their views on the proposal to provide a new school building and demolish Whitcliffe Mount Sports Centre.

What were the results of the general consultation?

To be confirmed. As previously stated, the general consultation will take place at a public meeting where people can raise their views on the proposal to provide a new school building and demolish the existing school building including Whitcliffe Mount Sports Centre.

What were the results of specific consultation?

APPENDIX 5 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT ON NOT BUILDING WHITCLIFFE MOUNT SCHOOL

December 2014. Education Funding Agency submitted a planning application for the new school building. This provided the opportunity for members of the public to provide a comment to the Local Planning Authority before a decision on the application to build a new school on the existing school site was taken.

Where is the evidence of consultation that you have undertaken?

Please see above.

WHAT NEXT ?

What has happened as a result of the consultation?

The consultation will take place at a public meeting on the 17th December 2015.

What action will you now be taking? Detail any mitigation actions where necessary?

This will be determined following the outcome of the public meeting on the 17th December and following the full completion of the decision making process.

How will any outcomes be monitored, reviewed, evaluated and promoted where necessary?

This will be determined following the outcome of the public meeting on the 17th December and following the full completion of the decision making process.

Any Additional Information

None.

APPENDIX 5 – STAGES 2 AND 3 EQUALITY IMPACT ASSESSMENT ON NOT BUILDING WHITCLIFFE MOUNT SCHOOL

Appendix 6

WHITCLIFFE MOUNT SPORTS CENTRE AND WHITCLIFFE MOUNT SCHOOL

INFORMATION SHEET

DECISION TIMELINE

2008	Building Schools for the Future submission – the Government's plan to update deficient school buildings. Whitcliffe Mount School included in the submission.
December 2009	Outline planning permission for extensive works granted to Whitcliffe Mount School
July 2010	BSF programme cancelled by Coalition Government
2011	A report commissioned by the Council indicated a limited remaining life for Spenborough Pool.
11 th October 2011	Cabinet considers report to submit capital funding bid to Government for Whitcliffe Mount School
October 2011	Priority Schools Building Programme Bid submitted to Government including Whitcliffe Mount School
June 2012	Government confirms that the Priority Schools Bid for Whitcliffe Mount School has been successful
Autumn 2012	The replacement of Spenborough Pool included in the Council's Risks and Pressures which formed part of the Council's new approach to strategic capital investment.
10 th July 2013	£4.4 million borrowing identified in the Capital Plan for Spenborough Pool
17 th December 2013	Private report considered by Cabinet to accept Education Funding Agency's (EFA) conditions, close Whitcliffe Mount Sports Centre (WMSC) and accept the EFA's offer to demolish WMSC
May 2014	AHR commissioned to look at options on Spenborough Site and review other potential sites. Brief revised to look at a bigger facility on the existing Spenborough Pool site.
Autumn 2014	Education Funding Agency (EFA) approached the Council regarding the potential to bring forward the closure of

WMSC from late 2016 to May/June 2016 in order to make better use of the reconfigured school site and to reduce the impact of the new build on the green belt.

December 2014	AHR complete their report regarding Spenborough Pool
December 2014	EFA submit planning application for new school
27 th January 2015	Cabinet updated about the appointment of the contractor Laing O'Rourke and revised plans re the footprint of the school building including on part of the footprint of the existing WMSC
February 2015	Capital borrowing for Spenborough Pool increased to £15 million
24 th February 2015	Cabinet approves plans to extend the fitness facilities at Spenborough Pool
March 2015	Planning application for new build school approved
June 2015	Planning application submitted for modular build at Spenborough Pool to extend fitness facilities
7 th October 2015	Council debates petition submitted over closure of WMSC

1. INTRODUCTION

- 1.1 WMSC is a sports centre owned by Kirklees Council and managed on its behalf by Kirklees Active Leisure (KAL). It shares a campus, car park and all utilities with Whitcliffe Mount School in Cleckheaton.
- 1.2 Whitcliffe Mount School is a large and sprawling school with over 1,200 students and consists of multiple buildings built over the last 100 years. It reflects the changes in education over this time with many disparate extensions. Consequently, the school presents considerable management difficulties for the staff, a situation which has been compounded by a lack of investment in recent years following the cancellation of the Building Schools for the Future (BSF) programme in 2010. The school was originally one of the Council's Pathfinders and initially received Outline Planning for extensive works in December 2009.
- 1.3 The decision to rebuild the school led to a decision to close WMSC.

2. THE DECISIONS TAKEN

2008 to 2011

- 2.1 Kirklees entered the Government's Building Schools for the Future (BSF) programme in 2008 with the aim of fully or partially rebuilding all twelve High Schools in the north of the Borough. Whitcliffe Mount School was chosen by the Council as one of two pathfinder schools to be taken to outline planning permission, primarily due to its condition but also to respond to the then impending changes to the three tier pyramid system in place in Cleckheaton at the time. Outline planning permission by the Council to extensively rebuild Whitcliffe Mount was achieved in December 2009.
- 2.2 The Council was in the process of submitting its overall Outline Business Case Submission for all twelve schools to the Department for Education in the summer of 2010 when the BSF programme was cancelled by the incoming coalition government following a review of capital by the Department in July 2010.
- 2.3 Subsequently in 2011, the Government set up the Priority School Building Programme (PSBP) through a privately financed public private partnership (PPP) to invest in those school buildings nationally in the worst state of repair. Councils were invited in Autumn 2011 to submit proposals for schools that met nationally set criteria.

2011 Priority Schools Building Programme bid

- 2.4 In response to the Department for Education's PSBP invitation, the Council submitted a bid in 2011 to the Department for Education for Whitcliffe Mount and four other schools to be considered for the replacement Priority Schools Building Programme. The PSBP was set up primarily to deal with condition

issues and eligibility for funding was based on meeting the following criteria published:

- Its condition backlog of priority 1-3 needs should be at least 30% of the anticipated rebuild cost
- The project would need to cover the whole school and unless at least 70% (by floor area) of the school is replaced it is unlikely to be value for money
- If any of the school buildings are listed, these should be less than 30% of the floor area
- It should not have received major capital investment in the last 15 years.

2.5 As part of the bid process, the Authority commissioned a detailed condition survey for all of the schools being considered for the bid following a prior sifting process and subsequently, Whitcliffe Mount School (along with All Saints Catholic College and Mount Pleasant Primary School) were all deemed to be beyond reasonable repair and were selected for the programme with Whitcliffe and All Saints being part of the PPP programme and Mount Pleasant being determined by the EFA as being more suitable for a capital build programme.

11th October 2011 Cabinet Report

2.6 On 11th October 2011, Cabinet considered a report to bid for capital funding from Government for five schools in Kirklees including Whitcliffe Mount School. Rebuild costs for the school were estimated to be around £15 million. Cabinet approved the submission of a PSBP1 bid.

June 2012

2.7 In June 2012, the Government confirmed that Kirklees had been successful with three bids including the rebuild of Whitcliffe Mount. By being accepted on to the Priority School Building Programme, this acknowledged that the school is one of the 261 worst condition schools in the country.

17th December 2013 Cabinet Report

2.8 A private report was presented to Cabinet on 17th December 2013. This outlined the Education Funding Agency's (EFA) conditions in relation to Whitcliffe Mount School and its proposals for demolishing the school and rebuilding it. The report was deemed to be a private report because it contained exempt information under Part 1 of Schedule 12A of the Local Government Act 1972 including information about financial and business affairs. Disclosure of some of these details could have adversely affected value for money; compromised commercial confidentiality of the bidding organisation and KAL; and disclosed contractual terms.

2.9 The EFA proposed that it would provide the funding to rebuild the school and the school would contribute to the long term maintenance costs. The Council

would not be contributing financially to either the new build cost or the on-going cost of the long term maintenance contract.

- 2.10 The report recognised that the site had a complex ownership. As the school is a Voluntary Controlled School, ownership of the site is split between the Council (Deed packets 2055 and 2059) and the School's Charity Trustees (Trustees) (10413, 10411 and 10412). WMSC sits partially on Council land but mainly on Trustees land with the car park on a mixture of both.
- 2.11 The EFA originally proposed the complete demolition of the existing school campus including the prominent Edwardian building which faces onto Turnsteads Avenue. The school would be replaced with a complete new build with the most likely position being on the school's existing Redgra sports area. The new build would include a four court sports hall with appropriate changing facilities. A replacement playing field to Sports England standards would be provided to replace the Redgra. The EFA did not propose to relocate the existing school bus bay and was looking to use the existing shared WMSC/school car park for staff car parking as opposed to providing a dedicated school car park for staff. New visitors and disabled car parking would be provided.
- 2.12 This package of works was known as the EFA's "Control Option" and was necessary to enable the EFA to run a tender process to select a contractor to deliver the 7 school PFI package of works. The Yorkshire PFI batch contains two schools in Kirklees, four schools in Bradford and one school in Harrogate. No guarantee was given by the EFA that the final design solutions proposed by the successful bidder would match the proposed control option.
- 2.13 The new school will have a four court sports hall with changing facilities. The school also has extensive existing playing fields on the main school site and on a smaller site on the west of the M62 motorway which also includes a small changing pavilion. Steps have also been taken to secure funding for a 3G artificial pitch at various times but this would be dependent on external additional funding and the school currently no plans to progress this further. Whilst not at the level and range of sports provision presently provided by WMSC, if the school provides community access to these facilities, some of the loss of WMSC will be negated. The EFA has indicated that there will be no limits to community use in the PFI contract. There will be a gap in provision from when the school is demolished and the new one opened, approximately 18 months.

Autumn 2014

- 2.14 All three bidders invited to tender by the EFA for the 7 schools Yorkshire Batch PFI contract concluded that the EFA's Control Option of placing the new build school and sports centre on the existing Redgra area would not be the best solution for the site. All bidders opted instead to site the replacement buildings on or around the existing tennis courts and WMSC. The EFA approached the Council to consider the possibility of bringing forward the

closure date from late 2016 to May/June 2016 in order to make best use of the site and to limit the impact on the green belt and residents.

27th January 2015 Cabinet Report

- 2.15 On 27th January 2015, Cabinet was updated about the plans for the school. Laing O'Rourke had been appointed as the contractors for the new build. The company had identified the optimum location for the school and its stand-alone sports hall plus Multi-Use Games Area, main car park and delivery yard as an area which includes the footprint of WMSC.
- 2.16 This means that the decision to close the sports centre is no longer just a financial decision but one which is also about minimising the impact of the new school on local residents and the green belt.

February 2015

- 2.17 A topped up figure of £15m was agreed in the Capital Plan to invest in a new Spensborough Pool and Fitness Complex. Approval to borrow £4.4 million was originally secured in February 2014. Most of this spending will be from 2016 with an expected opening of the centre in Spring 2019.
- 2.18 It was decided that this site was more of a priority for investment than WMSC due to the need to replace the pool and its more central location.

24th February 2015 Cabinet report

- 2.19 At this Cabinet, Members approved an extension to the existing facilities on the Spensborough Pool site to provide additional fitness facilities and to improve the existing ones. Once completed around late 2015/early 2016, these new facilities would facilitate the transfer of fitness activities from WMSC.

20th October 2015 Cabinet Report

- 2.20 On 20th October 2015, Cabinet endorsed the Built Sport and Leisure Facilities Strategic Assessment Report. Once the new sports hall at Whitcliffe Mount School and the fitness facilities at the new Spensborough Pool are built, if WMSC was to remain open, there would be over provision in the area especially as Bradford Council are planning to build a major new sports facility at Sedbergh Playing Fields, less than 4 miles from the WMSC site, which is due to open in 2018.

3. OTHER INFORMATION

- 3.1 KAL has been supporting users of WMSC to relocate to other facilities with better access for people with disabilities e.g. some netball teams have relocated to Huddersfield Leisure Centre and are being charged the same rates as at WMSC for better facilities; the roller hockey team is using facilities in Bradford.

- 3.2 A programme of works to improve and extend the fitness suite at Spenborough Pool will be completed by Christmas 2015 so that WMSC gym members, the largest percentage of WMSC users (53%), can transfer to that site in early 2016. This is only 1.8 miles away from WMSC.
- 3.3 The only outstanding issue is provision for indoor bowlers. With the loss of indoor bowling facilities in Huddersfield since the development of Huddersfield Leisure Centre, there is now no similar provision in Kirklees. Council members and officers are advising a partnership of voluntary groups which is wishing to build a new indoor bowling facility at Huddersfield YMCA at Salendine Nook.
- 3.4 In December 2014, the EFA submitted a Planning Application for the new build school complete with standalone four-court Sports Hall. As part of the submission, detailed discussions were held with Sport England who needed to satisfy themselves that there was no substantial loss of provision with the new build. The subsequent approval in March 2015 included a Condition that required there to be a Community Use Agreement in place before the new school opened to ensure that a community benefit was maintained
- 3.5 If the decision is taken to close WMSC, the gym users will transfer to Spenborough Pool and Fitness centre in January 2016 and the remaining users will relocate elsewhere in Spring 2016. KAL intends to vacate the building by the beginning of May 2016.