

Thomas Whitham Sixth Form

Factors to be considered by decision-makers when deciding prescribed alteration, establishment and discontinuance proposals

The Department for Education's (DfE) statutory guidance, 'Opening and closing maintained schools: Statutory guidance for proposers and decision-makers' (November 2019), published in November 2019, sets out a number of factors which must be taken into consideration for all types of proposal. These factors are set out below, along with a supporting comment.

Issuing a decision

DfE guidance: Where the LA is the decision maker, within one week of making a determination they must publish their decision and the reasons for such as decision being made on their website. They must arrange for notification of the decision and reasons for it to be sent to the Secretary of State; the governing body/proposers (as appropriate); the Schools Adjudicator; the Diocesan Board of Education of any Church of England Diocese in the relevant area; the Bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant local authority; the trustees of the school (if any); and any other body considered appropriate.

Comment: Arrangements are in place to ensure that the decision will be communicated to interested parties within one week of the decision being made. This will be done via the school organisation website, where the original proposal was published, and also by sending a letter to specific individuals or organisations, such as those stated in the guidance, local councillors and OfSTED.

Demand and need

DfE guidance: when considering proposals to establish new provision, the decision maker should be satisfied that the proposer has demonstrated demand for the provision being proposed.

When determining a proposal to discontinue (close) provision, the decision maker should be satisfied that there are sufficient surplus places elsewhere in the local area to accommodate displaced pupils, and the likely supply and future demand for places in the medium and long term.

The decision maker should take into account the overall quality of alternative places in the local area, balanced with the need to reduce excessive surplus capacity in the system. The decision maker should have regard for the local context in which proposals are being made, taking into account the nature of the area, the age of the children involved and, where applicable, alternative options considered for reducing excess surplus capacity.

Comment: this proposal is related to removing post 16 places and is not linked to the creation of new places.

The school saw an increase in its student numbers in 2018/19, with 139 students accessing its provision, compared to 104 in 2017/18. Whilst this increase of 35 students resulted in an increase in the funding the school receives from the Education and Skills Funding Agency (ESFA), this is insufficient to address the financial deficit facing the school.

As at September 2019, there were 101 students at the school, with 34 in Year 12.

In terms of where young people from Burnley and Pendle accessed provision in 2018/19, Thomas Whitham Sixth Form is the 3rd most popular choice. The breakdown of most popular providers is as follows: 42.0% chose to go to Nelson and Colne College; 38.2% chose Burnley College; 3.1% chose Thomas Whitham Sixth Form; 2.8% chose Blackburn College; and 2.6% chose Accrington St Christopher's C of E High School. The remaining 11.3% of young people chose to study at 46 other providers. This shows that, whilst the provision in the district may reduce, there is a range of provision available for young people to access as an alternative to Thomas Whitham Sixth Form.

Suitability

DfE guidance: when considering any proposal for a new maintained school, the decision maker should consider the proposal on its merits and take into account all matters relevant to the proposal.

Comment: it is not proposed that new provision is to be established.

Proposed admission arrangements

DfE guidance: before approving a proposal, the decision maker should confirm that they admission arrangements of the school are compliant with the school admissions code. Although, decision makers cannot modify proposed admission arrangements, the decision maker should inform the proposer where arrangements seem unsatisfactory and the admission authority should be given the opportunity to revise them.

Comment: Should this proposal be approved, the school will close and no further students will be admitted. The admissions team within Lancashire County Council will be made aware of this outcome to ensure that the correct information is available on our website.

In the 2018/19 academic year, the school had six students from Blackburn with Darwen and Calderdale local authority areas. The Chief Executives and Leaders of these authorities have been included in the consultation process and will be made aware of the final decision.

National Curriculum

DfE guidance: all maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils of the school community.

Comment: As this proposal relates to a sixth form school, there is no link to the national curriculum. The national curriculum does not apply to key stage 5/post 16 provision.

School size

DfE guidance: decision makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. The decision maker should also consider the impact on the LA's budget of the need to provide additional funding to a small school to compensate for its size.

Comment: The small size of the school is the cause for concern regarding its future and the resulting impact on both educational and financial viability. Whilst the local authority recognises the benefits of the smaller setting provided by the school, and that the school has never been judged to provide anything other than a good standard of provision, this remains financially unviable. This has also been the case in other school sixth forms across the county, with six schools closing their sixth forms, for similar reasons in recent years.

The school's facilities and staffing were originally based on a cohort of 600 students. Due to the fact that student numbers have been well below this level, the school has recently reduced the amount of space it occupies on the Burnley Campus and, as a result, has reduced the number of places it has available to 450 students. As at September 2019, there were 101 students on roll at the school.

The table below shows the student number and funding allocations the school has received from the ESFA in recent years:

	2015/16	2016/17	2017/18	2018/19	2019/20
Student Numbers	359	244	157	104	139
Funding	£1,652,663	£1,134,632	£719,297	£508,357	£645,439

The average ESFA student number allocation for the school sixth forms and academies in Lancashire was 209 in 2017/18, 206 in 2018/19 and 220 in 2019/20. This shows that the school's student numbers have been below average in the last three years and, with 101 students on roll at present, they remain below average. As a further point of comparison, if a maintained school wished to open a new sixth form, the DfE states that a minimum of 200 places must be provided.

Despite the best efforts of the school, and with the support of the local authority, Thomas Whitham Sixth Form has not been able to increase its student numbers sufficiently and the funding they receive has reduced as a result of this. The school's financial position has been in decline for a number of years and this means that the school has been unable to cover its operating costs for more than five years.

Equal opportunity issues

DfE guidance: The decision-maker must have regard to the Public Sector Equality Duty (PSED), which requires them to have 'due regard' to the need to: eliminate discrimination; advance equality of opportunity; and foster good relations between people with a protected characteristic and those without that characteristic.

The decision-maker must consider the impact of the proposals on the relevant protected characteristics and any issues that may arise from the proposals (e.g. where there is a proposal to establish new single sex provision in the area, there is equal access to single sex provision for the other sex to meet parental demand). Decision makers should be satisfied that the proposer has shown a commitment to providing access to a range of opportunities which reflect the ethnic and cultural mix of the area in which the school is located, whilst ensuring that such opportunities are open to all.

Comment: Please refer to the Equality Impact Assessment at Appendix 'D'.

During the representation period, no comments were made in relation to equality issues.

Integration and community cohesion

DfE guidance: the decision maker should consider the impact of any proposal on local integration and community cohesion objectives and have regard to the Integrated Communities Action Plan.

When considering publishing or deciding a proposal, the proposers and the decision maker should take account of the community to be served by the school and the views of different sections within the community. They should consider the following points: whether the school will be welcoming to pupils of any faith and none and show how the school will address the needs of all pupils and parents; whether the curriculum will be broad and balanced and prepare children for life in modern Britain including through the teaching of spiritual, moral, social and cultural (SMSC) education; whether the school will promote fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs and none; and whether the school will encourage pupils from different communities, faiths and backgrounds to work together, learn about each other's customs, beliefs and ideas and respect each other's views.

Comment: Please refer to the Equality Impact Assessment at Appendix 'D'.

The local authority recognises that the closure of a school can impact on the wider community and the comments received during the initial consultation stage about how the school has a positive impact in the local community have been noted.

The local authority recognises that there is a wide range of community access to the various facilities provided at the campus, including those within Thomas Whitham Sixth Form. As part of the process to determine the future use of the accommodation, should the decision be taken to close the school, the local authority will look at what arrangements are possible to ensure that as wide a range of community access as is reasonably practicable can be facilitated in the future.

In terms of education and young people, the Integrated Communities Action Plan states that educational settings should be inclusive environments which enable students to build positive relationships with those from different backgrounds and help to build strong communities. The most popular providers for young people in Burnley and Pendle are Nelson and Colne College and Burnley College. Both providers offer inclusive environments, with students from a wide range of backgrounds.

The one response received during the consultation period did not make any reference to an adverse impact on the community or on community cohesion.

Travel and accessibility

DfE guidance: the decision maker should satisfy themselves that the proposers have taken into account accessibility planning and that the proposal will not adversely impact on disadvantaged groups.

The decision maker should consider whether the proposal will unreasonably extend journey times or increase transport costs or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes. The decision maker will need to consider the local context, for example in areas with excessive surplus places, the decision maker should consider whether the travel implications of the proposal are reasonable compared to those for alternative options for reducing excessive surplus capacity.

A proposal should also be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.

Comment: Please refer to the Equality Impact Assessment at Appendix 'D'.

Based on where young people from Burnley and Pendle are accessing post 16 providers, the distances to the most popular providers, by a car journey from Thomas Whitham Sixth Form are:

Burnley College	1.6 miles
Nelson and Colne College	4.6 miles
Clitheroe Royal Grammar School	10.6 miles
Craven College	18 miles

Whilst the information above makes reference to car journeys, it is acknowledged that young people accessing post 16 provision are more likely to travel by bus. Therefore, the table below shows the length of time it would take to travel by bus to these providers from Thomas Whitham Sixth form:

Burnley College	15 minutes
Nelson and Colne College	40 minutes
Clitheroe Royal Grammar School	1 hour 15 minutes
Craven College	1 hour 29 minutes

Whilst it is possible that this proposal will lead to an increased use of transport, this is difficult to determine as it depends on where the young people live and which alternative provider they may choose to access.

During the representation period, no comments were made in relation to travel and transport.

Funding

DfE guidance: The decision maker should be satisfied that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement to the funding agreements.

Where proposers are relying on the department as the source of capital funding, there can be no assumption that the approval of a proposal will trigger the release of capital funds from the department, unless the department has previously confirmed in writing that such resources will be available. Where a proposer is proposing a new voluntary aided school under section 11 and has applied for capital funding from the department, the decision maker may, if satisfied that the department has given written 'in principle' agreement to provide capital funding, approve the proposals conditionally upon the proposer entering into an agreement with the Department for Education for any necessary building works.

Comment: No land, premises or funding are required to implement this proposal.

Funding for 16-18 year olds comes from the ESFA. If the decision is taken to close the school, there will be no such students at the school in the future, therefore the impact will be that the school will no longer receive a funding allocation from the ESFA.

The school's financial position has been in steady decline for a number of years but there has been a rapid increase in the cumulative deficit since 2017/18.

As at 31 March 2019, the school held a cumulative deficit balance of £3.2m, which is forecast to increase by £1.0m in the current 2019-20 financial year, taking the overall cumulative deficit to £4.2m. The current three year forecast for the school indicates that this cumulative deficit is likely to exceed £6.3m by March 2022.

By law, schools must set a balanced budget. Unfortunately, the school is not able to do this, meaning that it is no longer financially viable.

If it is decided that a school is to be closed by a local authority, any balance (whether surplus or deficit) reverts to the authority. The local authority cannot transfer a closing balance to an individual school, even when that school is a successor to the closing school, except that a surplus or deficit transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010.

Schools causing concern

DfE guidance: in determining proposals, decision makers must ensure that the guidance on schools causing concern (intervening in failing or underperforming schools) has been considered where necessary.

Comment: The DfE's guidance document, Schools causing concern: Guidance for local authorities and Regional Schools Commissioners on how to work with schools to support improvements to educational performance, and on using their intervention powers (September 2019), describes the processes local authorities may take in schools that are eligible for intervention. This includes schools that have failed to comply with a warning notice and schools that have been judged inadequate by Ofsted. As neither of these factors are applicable for this proposal, consideration of this guidance is not required.

The school has had concerns about its future viability for a number of years and has had support from the local authority to implement a number of actions, such as commissioning an independent external review of future options in 2013 and staffing support for the leadership team. The independent external review of future options concluded that there did not seem to be a way in which Thomas Whitham Sixth Form could secure a long term future as an independent institution. The governors accepted this conclusion.

In 2014, the school explored the option of converting to academy status and joining a Multi Academy Trust but these plans were abandoned in 2015, with the budget deficit being a barrier under the due diligence process. The school explored the possibility of a federation partnership with a local school in 2017 but again, this did not proceed. It is likely that the nature of the Private Finance Initiative funding of the school building has deterred potential sponsors/partners.

Rural schools and the presumption against closure

DfE Guidance: Decision makers should adopt a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure should be strong and the proposal clearly in the best interests of educational provision in the area. When producing a proposal to close a rural primary school, the proposer must consider:

- the likely effect of the closure of the school on the local community;
- the proportion of pupils attending the school from within the local community i.e. is the school being used by the local community;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- the availability, and likely cost to the LA, of transport to other schools;
- whether the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium or long term);
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase; and
- any alternatives to the closure of the school.

Rural schools are identified on the Get Information about Schools database.

Comment: The 'Get information about schools' register describes the school as 'urban city and town'. In addition, no comments were received during the representation period with regard to the school being considered as a rural school.

Nursery schools and the presumption against closure

DfE guidance: Decision makers should adopt a presumption against the closure of nursery schools. This does not mean that a nursery school will never close, but the case for closure should be strong.

Comment: The school does not include nursery provision, therefore this consideration is not applicable.

Balance of denominational provision

DfE guidance: In deciding a proposal to close a school that has been designated with a religious character, decision makers should consider the effect that this will have on the balance of denominational provision in the area, as well as taking account of the number of pupils currently on roll, the medium and long term need for places in the area, and whether standards at the school have been persistently low.

Comment: The 'Get information about schools' register shows that the school has not been designated with a religious character, therefore this consideration is not applicable.

Community Services

DfE guidance: Some schools may be a focal point for family and community activity, providing extended services for a range of users, and their closure may have wider social consequences. Where the school is providing access to extended services, provision should be made for pupils and their families to access similar services through their new schools or other means.

Comment: Thomas Whitham Sixth Form is located on the Burnley Campus, along with a range of other partners, and there is a wide range of community access to the various facilities provided at the campus, including those within Thomas Whitham Sixth form.

It must be noted that this proposal relates to the proposed closure of Thomas Whitham Sixth Form and not the Burnley Campus as a whole. The local authority recognises that the closure of a school can impact on the wider community and, should the decision be taken to close the school, will look at what arrangements are possible to ensure that as wide a range of community access as is reasonably practicable can be facilitated in the future.

The local authority is aware of the concerns being expressed by the other partners on the Campus and we will continue to work with them to understand their proposals for alternate use of the accommodation.

Conclusion

This report has demonstrated that, on the basis of the DfE criteria, the decision maker is recommended to approve the proposal to close Thomas Whitham Sixth Form, with effect from 31 August 2020.

It must be noted that the original issues and concerns held by the local authority in relation to the school remain valid. These are set out in the Cabinet report dated 5 September 2019 and are also in the consultation document. Despite the best efforts of the school and the support of the local authority, Thomas Whitham Sixth Form has been unable to improve its financial position over a number of years. Therefore, the local authority is taking action to address this, as a school cannot be allowed to set a deficit budget indefinitely. To date, Thomas Whitham Sixth Form has set a deficit budget for 11 years, including this current year. The school is also forecasting a deficit budget for 2020/21 and 2021/22. As the deficit continues to increase, this increases the liability to the local authority and the services it is able to provide to the wider community.

If, ultimately, the decision is taken to close Thomas Whitham Sixth Form, the local authority will work with the school to support young people in finding a place at an alternative provider and will aim to ensure a smooth and successful transition for those moving to a new setting. The local authority will also work with the school to create as much stability as possible in both provision and staffing for the remainder of the academic year to ensure that the disruption to students is minimised wherever possible.

Whilst it is noted that the respondents to the stage 1 consultation provided positive feedback about the school and its staff, this report shows that the status quo position is untenable given the low level of student numbers and the size of the financial deficit.

Only one response was received during the stage 3 representation period.