

**Report to the Cabinet
Meeting to be held on Thursday, 6 August 2020**

Report submitted by: Director of Education and Skills

Part I

Electoral Division affected:
Lancaster Rural East

Withdrawal of the Proposal to Discontinue the Local Authority's Maintenance of Wennington Hall School

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Executive Summary

This report informs Cabinet about the plan to withdraw the proposal to discontinue the Local Authority's maintenance of Wennington Hall School and sets out the recommendations for consideration.

Between 3 February and 16 March 2020, the county council consulted on a proposal to discontinue the local authority's maintenance of Wennington Hall School, Lancaster.

As part of the statutory process, responses to the stage one consultation were considered and a decision taken on 9 April 2020, to publish a Statutory Notice. The Statutory Notice was published on 23 April 2020.

All interested parties were invited to share their views between 23 April and 21 May. Following the closure of the representation period on 21 May 2020, it is recommended that a decision is made to withdraw this proposal

Recommendation

Cabinet is asked to:

- i. note the process undertaken to date in relation to Wennington Hall School.
- ii. agree to the withdrawal of the proposal to discontinue the local authority's maintenance of the school until the procurement process is implemented and the market has been tested.
- iii. agree that the Schools' Adjudicator be informed of the decision to withdraw the proposal.

Background

The statutory process as set out in the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 must be followed before making a decision on the discontinuance of a maintained school. This is supplemented by further guidance on the process published by the Department for Education.

The Department for Education's statutory guidance, 'Opening and Closing Maintained Schools' includes the following reasons for the discontinuance of a maintained school:

It has been judged inadequate by Ofsted and there is no sponsored academy solution. This applies to Wennington Hall School where, for more than two years, an academy solution has not been secured. In September 2019, the Regional Schools' Commissioner, on behalf of the Department for Education, wrote to advise that approval had been given to revoke the academy order, subject to the council sourcing an appropriate independent provider to take over the running of educational provision at Wennington Hall.

It is no longer considered viable. The reduction in number on roll at Wennington Hall School has reduced the school's income to a level which increasingly threatens its viability.

In this context, on 16 January 2020, Cabinet approved a stage one consultation be undertaken regarding the future of Wennington Hall School, due to poor educational standards at the school and the failure to secure a sponsor to convert the school to an academy.

During the period 3 February to 16 March 2020, an initial consultation was undertaken, including a consultation event at the school held on 27 February 2020.

On 9 April 2020, approval was given by the Leader of the Council and the Cabinet Member for Children, Young People and Schools, on behalf of Cabinet in accordance with the provisions of Standing Order C16(1), to:

- i. note the consultation arrangements that were undertaken and the responses that were received in response to the authority's proposal.
- ii. approve that the authority publishes a Statutory Notice of its proposal for the discontinuance of local authority maintenance of Wennington Hall School.
- iii. confirm approval of the procurement process to identify an independent provider to take over the premises.

The publication of a Statutory Notice would lead to a further statutory consultation (Stage 3) in order to determine the proposal.

The Statutory Notice was subsequently published on 23 April 2020, in accordance with section 15(1) of the Education and Inspections Act 2006, stating that Lancashire

County Council intended to discontinue its formal maintenance of Wennington Hall School.

All interested parties were invited to share their views on this proposal between 23 April and 21 May 2020.

A timetable for the overall process to discontinue the maintenance of Wennington Hall School was set out in the 9 April report, with the intention of reporting to Cabinet on the outcomes from both the publication of the Statutory Notice and the representation period in June or July 2020.

Following the closure of the representation period on 21 May 2020, and given the challenges presented by the current pandemic and the potential impact this may have had on the market, it was recognised that the authority would be unable to run a satisfactory procurement process, prior to the implementation of the discontinuance proposal, which is subject to a statutory timetable. Therefore, the current proposal needs to be withdrawn until such time as the procurement process could be progressed.

A proposal can be withdrawn by the proposer at any point before a decision is taken. The proposer must send written notice to the Schools Adjudicator and a notice must also be placed on the website where the original proposals were published.

Implications:

If the proposal to discontinue the school was not withdrawn, the implications are included in the risks highlighted below;

Risk management

The authority has a statutory duty to secure high-quality school places for its residents. School places would be secured for all current pupils affected by the proposed discontinuance, and potential future placements implemented through the local authority's commissioning arrangements.

Human Resources

There are implications for staff employed at the school who may be subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006, depending on the nature of any successor service. Any incoming provider would wish to ensure its position is protected under any arrangement entered into with the county council.

Financial

Wennington Hall School was judged to require special measures in 2017 and the county council intervened in relation to safeguarding issues at the school. As a result of the required intervention and continued reduction in numbers on roll, the school has a cumulative deficit of over £1million. This deficit is expected to rise substantially by March 2021.

When a local authority discontinues its maintenance of a school, any balance remaining including a deficit reverts to the authority.

An alternative sustainable solution for the school is to secure an external provider for the school through a transparent procurement process.

Procurement Process

The county council intends to conduct a formal procurement process commencing in September 2020, with suitably experienced providers in the field of special educational needs, who meet specified eligibility criteria and who may be in a position to deliver education to pupils currently on roll at Wennington Hall.

Property Transfer or Sale

There is the potential for a substantial capital receipt for the school premises. However, a capital receipt will only be realised if approval from the Department of Education is given to the disposal under S77 School Standard and Framework Act 1998. In addition, the approval of the Secretary of State would be required under Schedule 1 to the Academies Act 2010.

The county council must also give consideration to Section 123 of the Local Government Act 1972. This provides that a council cannot dispose of its land for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State or via the 2003 General Disposal Consent order, permitting councils to dispose of land at an undervalue without Secretary of State consent, provided that:

- (a) the authority considers the disposal will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area; and
- (b) the undervalue of the disposal does not exceed £2,000,000.

Equality and Cohesion

A full Equality Impact Analysis will be completed and reported at the determination stage of the proposal.

List of Background Papers

None

Reason for inclusion in Part II, if appropriate

N/A