

Cabinet

15 March 2023

**Providing a sustainable solution for
Wellfield School**

Ordinary Decision



Report of Corporate Management Team

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Services and**

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**Councillor Ted Henderson, Cabinet Portfolio Holder for Children
and Young People's Services**

Electoral division(s) affected:

Wingate, Blackhall, Trimdons and Thornley, Shotton and South Hetton,
Passfield, Sedgefield and others depending on pupil transportation from
beyond expected catchment.

Purpose of the Report

- 1 This report describes the current position of Wellfield school and details the steps taken since 2016 to prevent the school's significant deficit budget, increasing further. It sets out the challenges the school is facing and the difficulty of current curriculum planning, whilst still being impeded by its historic financial position.
- 2 To recommend to Cabinet that the Council writes off the accumulated deficit of the school at the point of conversion to academy with New College Durham Academies Trust (NCDAT) Multi Academy Trust. This would support the Trust and school to secure the current good standard of educational provision for the communities the school serves.

Executive Summary

- 3 Wellfield School is a 11-16 community school with a capacity for 1,154 pupils situated in Wingate, serving mainly deprived local wards and communities. It was modernised through the Building Schools for the Future programme in 2013/14.

- 4 The school was deemed 'good' by Ofsted 12 June 2018, with consistently positive KS4 progress and consistently strong attainment outcomes.
- 5 Its earlier failures in standards meant that its local catchment community lost faith in the school and first choice applications significantly declined to some of the lowest preferences for secondary schools in Durham.
- 6 Rising standards, and Ofsted recognition as a good school initially in 2014, came on the back of a successful headship appointment and leadership success within the school.
- 7 Despite this extremely successful period and turnaround, it accrued a substantial cumulative deficit and small year groups from the end of the decade, still had several years to work through the system.
- 8 Whilst the cumulative deficit is now being recovered, it is estimated it will be 2036 before it is cleared, and this will come at a cost to the school budget allocation provided for current pupils.
- 9 Closure of Wellfield was not an option because of pupil numbers within the planning area.
- 10 Cabinet agreed in 2018 to write off this deficit on the school's potential academisation in partnership with Tanfield School. This was not supported by the DfE and the Regional Schools Commissioner at the time.
- 11 The sum to be written off will be funded from the earmarked reserve previously established to meet such costs.
- 12 New College Durham Academies Trust is a Multi Academy Trust which has worked with the school and has gained the trust and support of the governing body in pursuing this conversion. It has academies in Consett and North Durham and wishes to expand within Durham and neighbouring schools.
- 13 Confirmation of DfE and Regional Schools Commissioner approval has been sought in advance of this request and was accepted by the Headteacher board on 19 January 2023, with an academy order now issued.

Recommendation

- 14 Cabinet is recommended to:
 - (a) agree to writing off the accumulated deficit of Wellfield Community School at the point of academy conversion with NCDAT. This solution is needed to secure the school's

sustainability, maintain its strong educational outcomes, and ensure the sufficiency of pupil places within its planning area.

Background

- 14 Wellfield School is a 11-16 community school, situated in Wingate, serving mainly deprived local wards and communities. It was modernised through the Building Schools for the Future programme in 2013/14, with capital expenditure amounting to £8.8 million. It has a capacity of 1,154, with 932 on roll (October 2022 School Census). The school was deemed 'good' by Ofsted in 2014 and 2018, with consistently positive KS4 progress and attainment outcomes.
- 15 The school started to see a decline in pupil numbers from September 2005. This reduction was driven predominantly by transfers to other schools and lower intake in Y7. This worsened after September 2012, when an Ofsted Inspection deemed the school to be inadequate. Schools in this category are normally required to become sponsored academies, but in this case a sponsoring trust could not be found. During this time, successful schools in the locality absorbed the majority of pupils leaving Wellfield.
- 16 Closure of Wellfield was not an option because of pupil numbers within the planning area, however, the number of pupils funded through the pupil-based funding formula, fell significantly from 1,147 in 2005/06 to 487 in 2015/16.
- 17 A new headteacher was appointed shortly after the school was judged inadequate and a re-inspection of the school in March 2014 assessed it by that time as a good school. From this point onwards there were no concerns about educational standards, but the time required for pupil numbers to start to rise was prolonged.
- 18 The reducing numbers of pupils affected funding, and the school's cumulative balance fell steadily after the 2007/08 financial year. The school had a cumulative surplus balance of £0.500 million on 31 March 2008 but by 31 March 2013 the school had a deficit of £0.160 million. The deficit continued to grow, reaching £3.4 million on 31 March 2020. Whilst pupil numbers were increasing, the legacy impact of small year groups still making their way through the school was still affecting it.
- 19 The Council cannot write-off a deficit balance unless a school closes or converts to an academy. The school has been given a licensed deficit for a number of years, meaning that the Council's Corporate Director of Resources, in his role as Section 151 officer, agrees that a school can set a budget that will result in a specified level of deficit at the end of the financial year. Consequently, the school's position was monitored closely to resolve these key issues and the deficit has reduced and was £2.9 million on 31 March 2022, a reduction of £0.5 million from its peak.
- 20 The school had explored the option of creating a multi-academy trust (MAT) with another school. This action would have enabled the Council

to pay off the cumulative deficit on transfer. This possibility was initially linked with an opportunity to improve educational standards in a Durham secondary school, Tanfield School, and plans were considered that would pose no risk to standards at Wellfield.

- 21 At the time, Cabinet agreed to write off the deficit on the school's potential academisation in partnership with Tanfield School. This was not supported by the DfE and the Regional Schools Commissioner at the time. However, this proposal was not agreed by the Department for Education and Tanfield School has subsequently joined another MAT.
- 22 When schools convert to academies, cumulative balances are usually transferred to MATs, which reimburse local authorities for any deficit balance at the point of conversion. This does not apply where a school converts as a sponsored academy; local authorities are required to write-off any deficits for these schools. Local authorities do have the discretion to write-off the deficits of other schools that are converting where this is a barrier to conversion. Wellfield's good Ofsted assessment means that it would not convert as a sponsored academy, and it would be at the Council's discretion whether to write-off the deficit balance.
- 23 The Council has done this for a number of previous conversions in order to preserve education for its communities and has previously created an earmarked reserve to set aside money for this purpose.
- 24 The balance on this reserve on 31 March 2022 was £5.2 million. It is estimated the balance on the reserve will reduce to £4.4 million by 31 March 2023, mainly as a result of funding the deficit for the former Durham Community Business College (DCBC), which converted to an academy on 1 January 2023.
- 25 Wellfield had a cumulative deficit of £2.9 million on 31 March 2022. Current forecasts are for this to reduce to £2.841 million by 31 March 2023, and £2.0 million by 31 March 2026 and at the current rate it would take a further ten years for the deficit to clear. This position could worsen, depending on decisions about future funding of schools, pay awards and inflation. Regardless of the size of the deficit, it would certainly be a barrier to the conversion of Wellfield and no MAT would consider accepting the school as a convertor academy unless the Council agreed to write-off the deficit.
- 26 For the coming financial year, the school will be funded on the basis of the 932 pupils recorded on the October 2022 School Census. Current financial projections confirm that the school will continue to pay off its agreed contribution to the cumulative deficit. It is, however, important to consider the effect of reducing the deficit on the resources available to the school for the education of the current cohort of pupils, particularly given the financial pressures that schools are likely to face over the next few years.

- 27 These reductions in the deficit have been achieved by planning for an in-year surplus, which means that over £0.200 million each year has been used to repay a historic deficit, savings coming from the current curriculum and staffing budget.
- 28 It is usual to expect schools to recover deficits by making in year savings in this way, however, the history and timescale of this deficit is significantly different. Consequently, there is a risk that this situation could lead to a decline in standards, as other pupils receive more advantaged funding opportunities in other schools.
- 29 In addition to the cost of writing-off the cumulative deficit in any school, it is likely that the Council would have to agree to meet other costs prior to conversion. These costs could include:
- (a) backlog of building and grounds repairs and maintenance, including capital works;
 - (b) remedies for health and safety issues;
 - (c) redundancy costs;
- 30 In respect of redundancy, most staff would transfer to the employment of the MAT under TUPE. However, where a trust's due diligence identifies that the school is overstaffed, compared to the staffing structure that the MAT considers appropriate, a MAT is likely to expect the Council to meet the costs of redundancy for affected staff. Wellfield is not currently overstaffed and is still expanding in terms of pupil numbers. The school has an anticipated full roll for 2023 in year 7 and a settled curriculum structure.
- 31 The actual balance to be written-off would depend on when the school converted and what proportion of income and funding had already been spent. Some expenditure is incurred earlier in the year, but some of this, such as service level agreements, would be adjusted.
- 32 There are no immediate condition costs that would need to be addressed by the Council prior to a conversion date in 2023, as the building has been well maintained and is in good condition.

Conclusion

- 33 In 2012, when Ofsted judged Wellfield School to be inadequate, there was immediately a range of issues impacting on the school's sustainability. These all had a significant detrimental impact upon the popularity of the school and created inevitable significant financial challenges. These were inherited by the new headteacher and governing body who in turn made the school prosper. The cumulative

legacy deficit has been addressed but is impacting upon the educational investment in the current children attending the school.

- 34 The decision of the Council to write off the deficit of the school would replicate previous deficit write-offs for schools that incurred financial difficulties, whilst being maintained schools. In meeting its statutory pupil place-planning duties, the Council has supported similar schools in this way, as part of the conversation process.
- 35 In getting this potential academisation to this stage, there has been significant work across a wide range of related stakeholders who have all worked effectively, making significant compromises and commitments, in the best interests of children and the community.

Background papers

“Review of School Provision in County Durham: Ensuring Financial Sustainability of Schools” – Report to Cabinet: 15 November 2017

Other useful documents

- None

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Appendix 1: Implications

Legal Implications

The actions described in this report are intended to comply with the Council's duty to exercise its education functions with a view to promoting high standards and the fulfilment of each pupil's learning potential in accordance with S 13 A of the Education Act 1996.

The Corporate Director Resources is responsible by virtue of Section 151 of the Local Government Act 1972 for the administration of the authority's financial affairs. The Corporate Director Resources also has a duty to report certain matters to the authority by virtue of Section 114 of the Local Government Finance Act 1988.

Schools have delegated budgets, but if a school closes or converts as a sponsored academy then any deficit balance remains with the Council, which must meet the cost of writing-off the deficit from its general funds. Surplus balances of closing schools are credited to the Council, but it does not retain any surplus balance for a school becoming a sponsored academy: the academy receives the balance upon conversion.

Local authorities have the discretion to write-off the deficit balance of a school that is converting but not as a sponsored academy. If a local authority chooses not to do so, then the deficit transfers to the academy trust.

The funding framework governing schools finance, which replaced Local Management of Schools, is based on the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998. Under this legislation the Council is required to publish a Scheme of Financing for Schools. The scheme sets out the financial relationship between the authority and the maintained schools which it funds, including the respective roles and responsibilities of the authority and the schools. The scheme does not limit unreasonably the flexibility of schools to control and deploy their budgets, recognising the need for public monies involved to be properly accounted for and recorded. The scheme includes provisions which are binding on both parties. Under the scheme, any deficits of expenditure against budget share (formula funding and other income due to the school) in any financial year will be charged against the school and will be deducted from the following year's budget share to establish the funding available to the school for the coming year.

Schools cannot set a deficit budget without the prior agreement in writing of the authority. For clarity, a deficit budget is one where the gross expenditure in the budget plan exceeds the total of funding, income and the balance

(surplus or deficit) brought forward from the previous year. This consent is given by the Section 151 officer - Corporate Director, Resources.

Finance

Maintained schools are funded through Dedicated Schools Grant and operate to delegated budgets, which are the responsibility of individual school governing bodies. Where a school wishes to set a deficit budget (where its spending exceeds its resources in-year) it can only do so in accordance with EFA guidance and the Scheme of Financing for Schools, and with the permission of the Council's S151 Officer. In accordance with legal obligations, the S151 Officer may not continue to allow a school to set a deficit budget without a robust business plan that indicates the removal of any deficit over time.

The National Funding Formula puts more funding into pupil-led factors than school-led factors, which could create long-term challenges for smaller schools, because the increase in pupil-led funding will be of less benefit to schools with smaller numbers of pupils.

Should a school close, the additional cost of providing home to school transport to pupils nearest schools can be significant. There would also need to be significant capital investment to expand other secondary schools to accommodate additional pupils should a secondary school close for financial reasons.

At 31 March 2022, Wellfield had accumulated a deficit balance of £2.905 million.

An earmarked reserve has previously been established with the purpose of funding deficit costs when schools convert to academy. The balance on the reserve at 31 March 2022 was £5.2 million.

Consultation

The proposals in this report have will be shared with The Regional Schools Commissioner's Head Teacher Board on 19 January 2023, Schools Forum, on 30 March 2023 and DASH (Durham Association of Secondary Heads) 29 January 2023.

Equality and Diversity / Public Sector Equality Duty

A decision to close a school can only be taken after consultation, but this action may prevent or inhibit choices of families to send their children to a local school.

Any review or change to educational provision in an area has the potential to adversely impact on protected characteristics, both in terms of pupils, their families, local communities, and employees working in the schools. The

options described in this, and previous reports could involve pupils being required to attend different schools or not being able to access a local school and being required to travel further.

The potential equality impacts of the recommendation of this report are negligible as the school will remain in operation, but should closure of the school be required, a full Equality Impact Assessment will be undertaken.

Climate Change

Increased transport of pupils that would result from the possible closure of Wellfield School would have a negative impact on climate change factors through increased carbon emissions. The extension of more than one secondary school that would also be required in the event of closure will result in impact from increased emissions and other environmental consequences during the building process, although some mitigation will occur on condition any new-build project required to accommodate additional pupil numbers in another school includes specific energy-efficiency factors. The net impact of closure on climate change, however, will be significantly negative.

Human Rights

None.

Crime and Disorder

None.

Staffing

There are not likely to be restructuring and potential redundancies in Wellfield School prior to conversion. The curriculum and staffing structures are well matched for pupil numbers and general curriculum planning.

Accommodation

If school closures are proposed as part of the review of provision, additional accommodation in other secondary schools will be required. Transfer of maintained schools to become academies may have implications in terms of accommodation where school premises are used by the community under arrangements set up with a maintained school.

Risk

A key risk is that, as a consequence of actions taken by the County Council (including the failure to make timely interventions), pupils and students do not receive an adequate education. There is an additional risk of reputational damage if the Council does not appear to be able resolve the problem of schools operating with significant and sometimes increasing budgetary difficulties and allows some schools to continue to set deficit budgets whilst requiring other schools to balance their budgets.

The s.151 officer must sign-off the budget for schools with a deficit budget plan and needs to be able to justify doing so in terms of each school having a robust plan to recover from its deficit. The scheme of delegation allows for deficit budgets, but only for three years, and no more than 20% of the school's budget share, up to a maximum of £750,000. There is a risk of legal challenge from the Department for Education if this statutory function is neglected. There is a risk of external auditors calling into question the actions of the s.151 officer if no credible plans are agreed to resolve the issues described in this report.

Procurement

None.