

PERTH AND KINROSS COUNCIL

Lifelong Learning Committee

26 August 2020

Scrutiny Committee

9 September 2020

ABERNYTE PRIMARY SCHOOL

Report by Executive Director (Education and Children's Services) (Report No. 20/161)

PURPOSE OF REPORT

This report provides Lifelong Learning Committee with an overview of the decisions taken relating to the proposal to close Abernyte Primary School, the rationale for the Judicial Review actions and the outcome from the School Closure Review Panel.

1. CHRONOLOGY OF DECISIONS

- 1.1 **30 June 2010** - The Council approved the report 'Securing the Future – Towards 2015 and Beyond' (Report No. 10/357 refers). Education and Children's Services Service Review Programme within this report contained a re-design project to "review the school estate".
- 1.2 **20 June 2011** - The Cabinet Secretary for Education and Lifelong Learning announced the setting up of a Commission for the Delivery of Rural Education and requested a moratorium on rural school closures for one year. The moratorium was proposed to run from 20 June 2011 until 20 June 2012.
- 1.3 **30 August 2012** - The Council's Lifelong Learning School Estate Sub-Committee approved the School Estate Strategy ([Report 12/370 refers](#)). The aim of this Strategy was to ensure that the school estate was developed and managed in an efficient and effective way.
- 1.4 **30 March 2015** - As a result of the recommendations made by the Commission, the Schools (Consultation) (Scotland) Act 2010 was amended by the Children and Young People (Scotland) Act 2014. By 30 March 2015, those amendments had all been brought into force. New statutory guidance was introduced in May 2015. At this point, the moratorium on rural school closures was lifted.
- 1.5 **1 July 2015** - The Council's Transformation Strategy 2015-2020 'Building Ambition' and Organisational Development Framework were approved by Council ([Report No. 15/292 refers](#)). Together, they detail how Perth and Kinross Council will deliver transformation over the five year period. Accompanying the strategy was a programme of major reviews which are

considered to be key drivers and enablers of transformation across the organisation.

The programme of transformation reviews included “Securing the Future of the School Estate – Modernising the school estate by making efficiencies and more effective use of all existing resources.”

This was agreed against a backdrop of anticipated challenges in managing the school estate, in the context of the corporate estate, over the coming years. Some of the main challenges identified, and which still exist, are changing demographics, including population growth and movement, parental choice meaning that children do not attend their catchment schools, housebuilding in certain locations, deterioration in infrastructure, pressure on planned maintenance budgets, increasing running costs and extension to early years provision through changes in law and policy. The school estate is a significant and valuable asset for the communities of Perth and Kinross. The school estate therefore has to be managed in an efficient and effective way.

1.6 **24 August 2016** - Lifelong Learning Committee ([Report No. 16/347 refers](#)) approved the principles to be used as a basis for the transformation review, ‘Securing the Future of the School Estate’. This report detailed that the purpose of the review was “to support the delivery of better outcomes for all of our young people through more effective use and management of the school estate”. The principles approved by Lifelong Learning Committee, as a basis for the transformation review, were as follows:

- (i) Schools should have an occupancy rate, where possible, greater than 60% of the capacity and ideally should be operating at over 80% capacity;
- (ii) Every school should be rated as A or B, ie at least satisfactory for condition and suitability; and
- (iii) Life expired buildings¹ within the school estate should be prioritised for replacement.

It was proposed that each school in Perth and Kinross be assessed against the principles above and proposals put forward as follows:

- If the occupancy of a school is currently less than 60%, based on the school census 2015/16, or is projected to drop below 60% during the next 7 years, other than ‘very remote rural’ schools; or
- If the occupancy of a school is projected to exceed 95% during the next 7 years; or
- If the current condition or suitability of the school is ‘C’ or ‘D’, or there are life expired buildings.

For the transformation review of the school estate, an analysis of schools on a geographical basis, by Local Management Group, was to be developed based on the principles put forward in this paper. This high level analysis would highlight schools where a more detailed appraisal would be of benefit.

¹ Life expired buildings are defined as buildings which are uneconomical to maintain.

The detailed appraisals may recommend:

- Capital Investment;
- Reconfiguration of accommodation;
- New schools;
- Shared Headships;
- Catchment reviews; and
- Rationalisation through closure.

- 1.7 **2 November 2016** - Lifelong Learning Committee approved ([Report No. 16/485 refers](#)) by the Executive Director (Education and Children's Services). This report detailed the outcome of the high level review undertaken in respect of the school estate and proposed to proceed with further detailed work. Abernyte Primary School was included in the schools to be considered by an options appraisal as a result of being under-occupied at Census 2015. The school had 8 pupils and an occupancy level of 18% at that time. In November 2016, the overall suitability of the building was rated "A" (performing well and operating efficiently). The overall condition of the building was rated as "B" (Performing adequately but showing minor deterioration). A survey of the building was carried out in January 2017 in accordance with the Scottish Government Core Facts, to assess the current condition of the building. Condition, is an assessment of the physical condition of the school and its grounds. The overall condition of the building was rated "B" (Performing adequately but showing minor deterioration).

This review identified that Abernyte Primary School was operating under capacity and the pupil roll was very low. Abernyte Primary School had the lowest occupancy rate of any operational school in Perth and Kinross at that time. This report approved the development of an options appraisal in relation to the future of Abernyte Primary School due to under-occupancy.

- 1.8 **21 March 2018** - Lifelong Learning Committee ([Report No. 18/86 refers](#)) approved further assessment of the option to increase the catchment area for Abernyte Primary School to include the area of Inchtute Primary School catchment, which lies to the north of the A90. This took account of feedback from the Abernyte community and the outcome of the online survey of the parents/carers in the Inchtute Primary School catchment to the north of the A90. This assessment would seek to clarify whether a proposal to change the catchment area would provide an increased and sustainable school roll for Abernyte Primary School.
- 1.9 **22 August 2018** - Lifelong Learning Committee considered the Options Appraisal and agreed to commence formal consultation on a proposal to close Abernyte Primary School ([Report No. 18/243 refers](#)) in accordance with the Schools (Consultation) (Scotland) Act 2010.

The [Options Appraisal](#) considered the under-occupancy of Abernyte Primary School, which had 8 pupils and an occupancy level of 18% at Census 2015. The roll had decreased further and there were 5 pupils at the school at Census 2017 giving an occupancy level of 11%. The roll had fallen due to parents choosing to send pupils to attend other primary schools in the area.

The school roll in August 2018 was anticipated to be 6 pupils, giving an occupancy level of 14%.

The Options Appraisal considered the proposal to extend the catchment of Abernyte Primary School to include the area to the north of the A90 within the Inchtute Primary School catchment area, to create an increased and sustainable school roll. Meetings were held with parents/carers of children living within this area and in the Abernyte Primary School catchment area to determine whether this option would be likely to create an increased and sustainable school roll. The outcome of this assessment was that if the catchment was extended, the parents/carers of Inchtute Primary School children, living in the extended catchment area to the north of the A90, would not choose to send their children to Abernyte Primary School.

On the basis of the evidence gathered from the further assessment, including the very low number of children under the age of 5 years living within the catchment area, it was determined that a catchment change would not lead to sufficient pupil numbers to increase the roll and make it sustainable in future years.

1.10 **22 May 2019** - Lifelong Learning Committee considered the [Consultation Report](#), including the report from Education Scotland, detailing the outcome of the statutory consultation on the proposal to close Abernyte Primary School ([Report 19/153 refers](#)). The Committee approved the implementation of the following proposal that:

- Provision of a school at Abernyte Primary School be permanently discontinued with effect from 1 July 2020, or as soon as possible thereafter;
- The pupils of Abernyte Primary School catchment area permanently receive their education at Inchtute Primary School, from 2 July 2020 or as soon as possible thereafter; and
- The delineated catchment area of Inchtute Primary School be permanently extended to subsume the whole delineated catchment area of Abernyte Primary School from 2 July 2020.

2. INTERNAL GOVERNANCE AND SCRUTINY PROCESS

2.1 Since the enactment of the Schools (Consultation) (Scotland) Act 2010, the Council has undertaken 16 separate school proposal consultations which have included 8 school closure proposals. The Council has developed a high degree of internal and external scrutiny processes, including quality assurance and benchmarking with other local authorities. The Council has sought to continuously review and improve its own processes through learning and sharing of good practice from consultations being undertaken across the country. Perth and Kinross Council has been approached to support other local authorities with their consultation processes and was approached by the School Closure Review Panel on 7 December 2018 to provide a case study for inclusion in their 4th annual report for 2018.

2.2 Section 9 (1) of the Schools (Consultation) (Scotland) Act 2010 states that:

After the Education Authority has received Education Scotland's report, the Authority is to review the relevant proposal having regard (in particular) to:

- (i) Written representations received by the Authority (from any person) during the consultation period;
- (ii) Oral representations made to it (by any person) at the public Meeting; and
- (iii) Education Scotland's report.

The Education Authority has a statutory duty to review the proposal, having regard to the Education Scotland Report, written representations that it has received, and oral representations made to it by any person at the public meetings before preparing its Consultation Report and making its final decision on the proposal.

- 2.3 The Council took the opportunity to engage an external consultant with significant experience within education in local government, HMIE and in school consultations in Scotland. The rationale for this decision was to provide an additional layer of scrutiny and support and challenge in relation to the anticipated educational benefits of the Abernyte Primary School proposal, and in relation to the other issues raised during the consultation. The consultant had also been involved in the writing of the Schools (Consultation) (Scotland) Act 2010 Guidance. This was helpful, as part of the process of reviewing the proposal in light of the representations made during the consultation period. This service was commissioned to support the work of the Council by providing an independent assessment of the Council's proposal and the Council's steps in reviewing the proposal before recommending a final decision.

The advice and scrutiny of the Council's proposal included a thorough assessment of the legal tests which were required to be met in respect of a rural school closure proposal to test compliance. A summary of the feedback provided to the Council included:

- If the Council made no changes to its draft Consultation Report, there was not anything that would not meet the legal tests required.
- The Council should ensure the Educational Benefits Statement was strategic and focussed on the curriculum, learning and teaching and how the proposal would improve children's learning experiences.
- The Consultation Report would benefit from a structured summary introduction cross referencing each step in the legal process to the relevant sections and pages within the document.

- 2.4 The Council has reviewed school closure proposals undertaken by other local authorities including the content and detail of published consultation documentation. The Council has paid particular attention to Scottish Ministers' decisions on these proposals including advisory notes provided where local authorities have been notified of concerns that, in other circumstances, would have been considered material and resulted in a call-in notice being issued by Scottish Ministers.

The Council has also paid particular attention to the 3 previous call-in notices issued by Scottish Ministers in 2015 and 2019, the grounds for call-in and the determination made by the School Closure Review Panel in each of these cases.

- 2.5 Having gone through these processes, and having these independently reviewed, this provided a reassurance that the Council's processes were not out of line with other Councils. The Council's practices, when measured and compared to other Councils, identified that the evidence, arguments and the content of the Council's Proposal Paper provided, in some instances, more depth and more analysis compared against closure decisions which had been called-in by Scottish Ministers. In comparing the Council's proposal to other closure proposals which were competent, the Council was confident that due process had been followed.

3. REFERRAL TO SCOTTISH MINISTERS AND CALL-IN NOTICE

- 3.1 **27 May 2019** - Notification of the decision to implement a closure proposal in respect of Abernyte Primary School, taken by Lifelong Learning Committee on 22 May 2019, was sent to the Scottish Ministers within 6 days of that decision, in accordance with section 15 of the 2010 Act. Copies of the proposal paper, consultation report and relevant committee reports were attached, along with a link to the Council's website where all published documentation relating to the review of Abernyte Primary School was located.
- 3.2 **16 July 2019** - A call-in notice was received from the Scottish Government. This set out 3 areas which Scottish Ministers concluded that further investigation was merited that indicated that it may be that Perth and Kinross Council had failed in a significant regard to comply with the requirements imposed on it under the 2010 Act. The notice also advised that Scottish Ministers were referring the proposal to the Convener of the School Closure Review Panel. The call-in notice is attached as Appendix 1.
- 3.3 **23 July 2019** - A letter was received from the Convener of the School Closure Review Panel advising of the constitution of a School Closure Review Panel in relation to Abernyte Primary School.
- 3.4 The process followed by the Council in undertaking the statutory consultation, and the options appraisal that came before it, was rigorous. It is a process that has been used a number of times by the Council and no adverse comment had been made in relation to other decisions notified to Scottish Ministers. When carrying out a statutory consultation and options appraisal where a school has pupils in attendance, the Council proceeded, being mindful of the potential impact on pupils in attendance at that school. Additional work had been carried out in relation to the possibility of a catchment review for the school. As with all proposals relating to a school closure, the work undertaken and recommendations made had also been subject to rigorous challenge by Councillors when reports were submitted for their consideration at Lifelong Learning Committee.

The call-in notice prompted a number of questions about the reasons provided for the call-in and of the decision made by Lifelong Learning

Committee to close the school. There was concern about whether the reasons given evidenced failure in a significant regard to comply with the requirements of the Act, as was suggested in the call-in notice. This was discussed in detail with the Council's Legal Services.

In addition, there was a concern that there did not appear to be a consistent approach to the process followed by Scottish Ministers, based on previous school closure proposals, where Scottish Ministers had sought to clarify facts and asked for additional information prior to making a decision on whether or not to consent to or call-in previous school closure proposals.

The inconsistency in approach and the reasons provided for the call-in, warranted further investigation and legal advice was sought from external solicitors on 16 July 2019.

- 3.5 **26 July 2019** - Solicitors acting for the Council wrote to the Scottish Ministers in relation to the call-in notice. In that letter, a request was also made to have sight of the representations made to the Scottish Ministers. It was considered that it was important to have sight of these, as the call-in notice made several references to the representations.
- 3.6 **2 August 2019** - The Council received the representations through its solicitors, the content of these was reviewed and further legal advice taken in relation to the call-in notice from external solicitors and a Queen's Counsel (QC).

4. REASONS FOR PROCEEDING WITH JUDICIAL REVIEW

- 4.1 The Council, as Education Authority, has responsibility for managing the school estate under the Education (Scotland) Act 1980, and must do so in a way which ensures that adequate and efficient education is provided in the area, and in a way which represents best value. Therefore, the Council as Education Authority, is charged with making decisions about the school estate such as making or changing school catchments, establishing new schools and closing schools.

In terms of the Schools Consultation (Scotland) Act 2010, Scottish Ministers may call in an education authority decision to implement a school closure proposal in limited circumstances. The Act states that this may happen if it appears to the Scottish Ministers that the education authority may have failed:

- (a) In a significant regard to comply with the requirements imposed on it by (or under) this Act so far as they are relevant in relation to the closure proposal, or
- (b) To take proper account of a material consideration relevant to its decision to implement the proposal.

- 4.2 The [Schools \(Consultation\) \(Scotland\) Act 2010 Statutory Guidance](#) specifically makes the provision that "Ministers may follow up issues with the education authority, which has a duty (under section 17(3) to the 2010 Act) to provide any information in connection with the closure proposal which Ministers may reasonably require for their consideration at this stage.

The purpose of Ministers' consideration at this stage is to seek maximum clarity so that cases need not be called in unnecessarily." This did not occur on this occasion in respect of Abernyte Primary School and this approach was not consistent with other school closure proposals notified by Perth and Kinross Council.

4.3 The call-in notice was considered having regard to the important principle that decisions relating to the school estate are primarily the responsibility of the Council, and are made by Lifelong Learning Committee. Alongside this, the statutory grounds for call-in were considered. Internal legal advice was sought on 16 July 2019 which indicated some concern about the reasons set out in the call-in notice regarding the following areas:

- The adequacy of the reasons set out in the call-in notice;
- Whether Scottish Ministers had made an error in law in some aspects of the notice; and
- Whether Scottish Ministers had acted unreasonably in some aspects of the process.

On the same date, external legal advice was sought and, thereafter, an opinion was also sought from a QC in relation to the adequacy of the call-in notice. The advice given by external legal advisers was consistent with the advice given by Legal and Governance Services.

4.4 The purpose of the challenge by way of judicial review was to provide clarity on the responsibilities, powers and duties in respect of the roles of both Scottish Ministers and Perth and Kinross Council in relation to decisions about school closures. Consideration was given to whether the concerns about the call-in could adequately be addressed or canvassed through the School Closure Review Panel process, without the need to embark on separate legal proceedings through judicial review. However, it was considered that the issues raised could not be raised or addressed through that process, as they fundamentally related to the interplay between the Council's decision making powers, and the role of Scottish Ministers in calling in decisions to implement closure. The role of the School Closure Review Panel is to review the Council's process and decisions in relation to the closure decision, not those of the Scottish Ministers.

On **7 August 2019**, having considered legal advice, the decision was made to lodge a petition for judicial review of the Scottish Ministers' decision to call-in the decision of Lifelong Learning Committee to implement the school closure proposal for Abernyte. The legal advice and options were discussed by the Council's Chief Officers prior to a final decision being made, and in line with the Scheme of Administration, Legal and Governance Services instructed external solicitors to engage a QC to raise the petition in the Court of Session in Edinburgh. The competence of legal action is an operational matter determined by Council Officers but non routine court action is not instigated without discussion with the Council Leader and relevant Convener.

4.5 The grounds for judicial review are narrow and judicial review is not a remedy which can be used simply because there is disagreement with a decision.

Judicial review is a remedy which relates to the legality and reasonableness of the decision.

In this particular case, the decision in question was the Scottish Ministers' decision to call-in the Council's proposal to close Abernyte Primary School, but the reasons for seeking judicial review of this decision were wider than Abernyte Primary School, as these reasons were also relevant for all future closure decisions.

From the legal advice received by the Council, both internally and externally and from the QC engaged to deal with the case, there were a number of grounds for seeking judicial review which were set out in the petition. These were:

- The adequacy of the reasons set out in the call-in notice;
- That Scottish Ministers had made an error in law in some aspects of the notice;
- That Scottish Ministers had acted unreasonably in some aspects of the process; and
- That Scottish Ministers had acted unlawfully or ultra vires in some aspects of the process and notice.

4.6 **27 August 2019** - The Court of Session granted permission for the Council to proceed with the petition and granted an order suspending the School Closure Review Panel process for the duration of the judicial review proceedings.

4.7 **18/19 February 2020** - Court of Session case heard by Lady Wise.

4.8 **7 May 2020** - The [Court of Session Judgement](#) was published which dismissed the Council's petition. The court did find that the Scottish Ministers had erred in law in one aspect of the call-in notice, although did not find that this impacted on the validity of the notice in this case.

5. SCHOOL CLOSURE REVIEW PANEL

5.1 **21 May 2020** - The Council committed to postpone the proposed closure date for Abernyte Primary School to 1 July 2021, regardless of the outcome from the School Closure Review Panel and advised Abernyte Parent Council accordingly.

5.2 **29 May 2020** - The School Closure Review Panel reconvened to consider the proposal in respect of the closure of Abernyte Primary School.

5.3 The Council provided all additional information as requested by the School Closure Review Panel.

5.4 **28 July 2020** - The School Closure Review Panel published its [decision](#) on Abernyte Primary School and refused consent to Perth and Kinross Council's proposal in respect of the closure of Abernyte Primary School. In line with the Scheme of Administration, advice was sought and Legal and Governance

Services confirmed that there was no grounds for appeal, as any appeal is restricted to a point of law, and the Council accepted the decision of the School Closure Review Panel.

6. IMPLICATIONS OF THE JUDICIAL REVIEW

- 6.1 The outcome of the Judicial Review is not just relevant to Perth and Kinross Council, but to all local authorities undertaking school closure proposals.
- 6.2 The court clarified that the role of Scottish Ministers is to make a procedural decision and they act as “gatekeeper” in relation to closure decisions. This means that where Scottish Ministers do not seek information from the Council to clarify points raised in representations, then there is no procedural unfairness in the process. So, although the Scottish Ministers have power to seek further information or clarification from the education authority, they are not required to, and a failure to do this is not procedurally unfair, even where they have done so in other cases and there is inconsistency in approach.
- 6.3 The bar for Scottish Ministers to call-in an education authority decision to close a school is very low and all that is required is a tentative view that one of the grounds for call-in is met, based on the material before them. That the bar is so low does impact on local decision making and significantly impinges on the ability of Councils to make local decisions about how best to manage the school estate.
- 6.4 Reviewing a catchment area may not be considered a step to address a falling roll under the legislation. There should be clarity in proposal papers about any historical steps taken to address a falling roll, and if steps have not been taken, the reasons why not.

7. POINTS ARISING FROM THE SCHOOL CLOSURE REVIEW PANEL DECISION

- 7.1 Similarly, the outcome of the School Closure Review Panel is not only relevant to Perth and Kinross Council, but has implications for all local authorities in undertaking school closure proposals.
- 7.2 The way in which any Proposal Papers are drafted in future should include references to all evidence gathered at options appraisal stage and pre-consultation stage, as it may not be sufficient to include these evidence documents in their entirety as links within a Proposal Paper. This is a matter which all education authorities will need to reflect on, to ensure the correct level of detail is replicated in Proposal Papers from other published documents. Issues about the extent of the information contained in Proposal Papers do not appear to have been raised by the Panel or Scottish Ministers in relation to previous closure decisions made by education authorities.
- 7.3 Consideration should be given to the transparency of all financial information for school closure proposals. The error discovered late on in relation to the descriptor (but not the cost) of one of the items in the financial information for Abernaye Primary School, raised questions about other items on the list with a

similar description which the Panel felt that those with an interest had not had an opportunity to ask. From this, it can be concluded that it is not sufficient to rely upon and use the financial template provided by the Scottish Government to provide this information in the depth required.

It is important to provide not just information about the costs, but detailed explanations for each item beyond the headline description provided within the financial template.

The template provided by the Scottish Government does not necessarily support or suggest that this is needed as it is in the form of an excel spreadsheet. It may be helpful if the Scottish Government enhances the guidance on this when they review the Statutory Guidance.

7.4 In relation to previous steps taken to address the falling school roll, the School Closure Review Panel agreed with Lady Wise that what this is referring to is steps taken before the school was subject to review. The Panel noted the correspondence between 2012 and 2014 where the Parent Council raised the issue of the school roll, but because the Council did not explain in the Proposal Paper why no steps were taken to address this issue, there was a failure under the Act.

7.5 The Panel's view was that the proposal paper did not evidence the case for the conclusion regarding use of the school/impact of loss of school. Having considered other proposal papers as part of the internal governance and scrutiny process set out in 2.1 above, it was considered that the level of evidence described in the Proposal Paper was similar to that set out by other education authorities. However, the Panel's view was that it was not evident from the Council's Proposal Paper that the conclusion about community impact was correct as the evidence gathered for the Options Appraisal was not contained within the Proposal Paper. It will be necessary to include all evidence in the Proposal Paper for any future consultations.

In addition, the Panel felt there was insufficient information about the future plan for the building. It will be necessary to provide more information about this in future statutory consultations which may include examples of other buildings in similar circumstances.

As set out above in paragraph 2.1, internal governance and scrutiny processes gave assurance that the level of detail and evidence contained within the Proposal Paper for Abernyste was at least as detailed, and in some cases more so, than other Proposal Papers issued by other education authorities. The Panel has taken a different view on this and the main thrust of the decision is about the Council not evidencing that it had special regard to the requirements. This will be used to guide the content of future Proposal Papers.

8. FINANCIAL IMPLICATIONS

8.1 The total costs incurred for the Judicial Review are set out below:

External legal fees	£44,180.60
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Counsel fees and Court outlays	£38,361.80
Scottish Government legal costs	£27,258.00
Total	£109,800.40

It has been agreed that these costs are to be met from the central Corporate budget.

- 8.2 The annual recurring net savings of the proposal to close Abernyte Primary School was made up of staff costs and building running costs. The financial implications of the proposal were that there would have been a saving of approximately £108,213 per annum to be made if the proposal had been implemented. This saving will not materialise.
- 8.3 Any savings which would have arisen from the proposal to close Abernyte Primary School would have been allocated against Education and Children's Services budget savings targets, which have currently been set for the period 2020/21 - 2022/23. This would have mitigated against making alternative budget reductions within other areas of Education and Children's Services, with a corresponding reduction in service delivery.

9. NEXT STEPS

- 9.1 Within the Securing the Future of the School Estate, approved on 2 November 2016, it was recommended that the options appraisals were phased, and these were subsequently segmented into 3 phases. The conclusion of Abernyte Primary School completes Phase 1. Phase 2 is underway and is partially completed. The timescale for Phase 2 has slipped as a result of COVID-19 and lockdown, and how we undertake future work will be impacted by restrictions in respect of how we engage with communities and undertake pre-consultation and public meetings. In light of the outcome of the school closure proposal for Abernyte Primary School, the Council will review the remaining schools within Phase 2 to establish if any alternative actions are now required in order to conclude Phase 2.
- 9.2 In light of the outcome of the school closure proposal for Abernyte Primary School, the Council will consider and review the schools identified within Phase 3 to establish what, if any, impact the decision relating to Abernyte Primary School would have on the schools identified in Phase 3.
- 9.3 A representation for another catchment review for Abernyte Primary School has been received in light of the School Closure Review Panel's decision. It is proposed that this will be considered as part of the review of Phase 3 of Securing the Future of the School Estate.

10. CONCLUSION AND RECOMMENDATIONS

- 10.1 This report sets out an overview of the decisions taken relating to the proposal to close Abernyte Primary School, the rationale for the Judicial Review, action and cost of this action, and the outcome from the School Closure Review Panel. The report also provides Committee with details of the next steps in relation to the Securing the Future of the School Estate Review.

10.2 It is recommended that the Committee:

- (i) Notes and comments on the content of the report;
- (ii) Approves the next steps in relation to the review of Phase 2 and Phase 3 of the Securing the Future of the School Estate Review; and
- (iii) Notes that the matter will be considered by the Scrutiny Committee.
- (iv) Requests the Executive Director to bring back a scoping report for approval to November Lifelong Learning Committee which will outline all possible options for a catchment review to build a sustainable roll at the earliest opportunity, including looking at the possibility of a nursery.

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Approved

Name	Designation	Date
Sheena Devlin	Executive Director (Education and Children's Services)	28 August 2020

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan/Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	
Financial	Yes
Workforce	No
Asset Management (land, property, IST)	No
Assessments	
Equality Impact Assessment	No
Strategic Environmental Assessment	No
Sustainability (community, economic, environmental)	No
Legal and Governance	Yes
Risk	No
Consultation	
Internal	No
External	No
Communication	
Communications Plan	No

1. Strategic Implications

Community Plan/Single Outcome Agreement

1.1 This section sets out how the proposals relate to the delivery of the Perth and Kinross Community Plan/Single Outcome Agreement in terms of the following priorities:

- (i) Giving every child the best start in life
- (ii) Developing educated, responsible and informed citizens
- (iii) Promoting a prosperous, inclusive and sustainable economy
- (iv) Supporting people to lead independent, healthy and active lives
- (v) Creating a safe and sustainable place for future generations

This report relates to Objective No (ii) Developing educated, responsible and informed citizens.

Corporate Plan

1.2 This section sets out how the proposals relate to the achievement of the Council's Corporate Plan Objectives.

- (i) Giving every child the best start in life;
- (ii) Developing educated, responsible and informed citizens;
- (iii) Promoting a prosperous, inclusive and sustainable economy;
- (iv) Supporting people to lead independent, healthy and active lives; and
- (v) Creating a safe and sustainable place for future generations.

This report relates to Objective No (ii) Developing educated, responsible and informed citizens.

- 1.3 The report also links to the Education & Children's Services Policy Framework in respect of the following key policy area:

- Maximising Resources

2. Resource Implications

Financial

- 2.1 The financial implications are contained within the body of the main report in Section 8.

Workforce

- 2.2 N/A

Asset Management (land, property, IT)

- 2.3 N/A

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.

The information presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:

- (i) Assessed as **not relevant** for the purposes of EqIA.

Strategic Environmental Assessment

- 3.2 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.

However, no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

Sustainability

- 3.3 N/A

Legal and Governance

- 3.4 The Head of Legal and Governance has been consulted in relation to the preparation of this report.

Risk

- 3.5 N/A

4. Consultation

Internal

- 4.1 N/A

External

- 4.2 N/A

5. Communication

- 5.1 N/A

2. BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

3. APPENDICES

Appendix 1 - Scottish Ministers Call-in Notice