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Sheena Devlin
Executive Director of Education and Children's Services
Perth and Kinross Council
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16 July 2019

Dear Ms Devlin,

**CALL-IN NOTICE UNDER SECTION 15(3) OF THE
SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010
PERTH AND KINROSS COUNCIL – DECISION TO ABERNYTE PRIMARY SCHOOL**

I refer to Karen Robertson's email of 27 May 2019 notifying Scottish Ministers of Perth and Kinross Council's decision of 22 May 2019 to implement its proposal to close Abernyte Primary School.

As required under section 15(2) of Schools (Consultation) (Scotland) Act 2010 ("the 2010 Act"), a three week period began on 22 May 2019 for any person to make a representation to the Scottish Ministers requesting that the decision should (or should not) be called in by them for further investigation. That period expired on 11 June 2019 and 52 representations were received in total, which almost all requested that Scottish Ministers call in this decision.

Under section 17(2) of the 2010 Act, the Scottish Ministers may only issue a call-in notice if it appears to them 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.

After consideration of the information provided by the representations received, together with Perth and Kinross Council's consultation report and Education Scotland's report, the Scottish Ministers have concluded that there are grounds on which to call-in the decision to implement the closure proposal with reference to sections 17(2)(a) of the 2010 Act.

community and, in the case of ownership of the playing field, a lack of knowledge on the part of the Council of the local position. This casts significant doubt as to whether the Council has had "special regard" to the likely effects of the proposed closure on the local community, as they are required to under section 12(2) and (3)(b) of the 2010 Act.

The Scottish Ministers consider that the Council appears to have underestimated the level of community use currently and restricted its interpretation of that to non-school related groups. The Council also relies on the use of the local Church as an alternative venue, which based on the information provided by respondents appears a doubtful alternative.

After careful consideration, the Scottish Ministers have concluded that further investigation is merited into the Council's assessment of the impact of the proposal (if implemented) on the local community. There may be a failure with reference to section 17(2)(a) of the 2010 Act, that is, that Perth and Kinross Council failed *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*, in that they may have failed to have special regard to the factors for proposals for rural school closures in terms of section 12(2) and (3) of the 2010 Act. It appears that the potential failure would be a failure in a significant regard, as the enhanced protections for rural schools provided for in the 2010 Act requires the Council to have "special regard" to the rural factors.

Conclusion

Therefore, in line with the powers available to them under section 15(3) of the 2010 Act, the Scottish Ministers are calling in the proposal under section 17(2)(a) of the 2010 Act for the reasons set out above.

As required, under section 17A(2) of the 2010 Act following call in, the Scottish Ministers are referring the proposal to the Convener of the School Closure Review Panel. The Convener is required to constitute a School Closure Review Panel which will review the proposal and reach a decision in terms of sections 17B and 17C of the 2010 Act.

Perth and Kinross Council may not implement the proposal (either in whole or in part) unless the School Closure Review Panel grants consent to the proposal (either with conditions or unconditionally) and either the period for making an appeal to the Sheriff has expired without any appeal being made, or, if an appeal is made, it is abandoned or the Sheriff has confirmed the Panel's decision (in terms of section 17A(4) of the 2010 Act).

Yours sincerely,



Jerry O'Connell

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