

## DETERMINATION

<b>Case reference:</b>	STP636
<b>Proposal:</b>	A statutory proposal to close Shelton Lower School, Central Bedfordshire.
<b>Proposer:</b>	The Director of Children's Services for Central Bedfordshire Council
<b>Initial decision-maker:</b>	Central Bedfordshire Council
<b>Referrer:</b>	Central Bedfordshire Council for The Vale of Marston Schools' Trust
<b>Date of decision:</b>	27 November 2018

### Determination

**Under the powers conferred on me by the Education and Inspections Act 2006 and the Regulations made thereunder, I reject the statutory proposal to discontinue Shelton Lower School.**

### The referral

1. On 5 September 2018 Central Bedfordshire Council wrote to the Office of the Schools Adjudicator (OSA) on behalf of the Trustees of the Vale of Marston Schools' Trust referring to the adjudicator the decision taken by the local authority on 7 August 2018 to discontinue (close) Shelton Lower School.
2. The very well set out and comprehensive document from the Trust runs to 173 pages and, in summary, it suggests that the local authority wishes to close the school for financial reasons because they believe that the school is financially unviable and therefore there was a presumption for closing the school from the beginning of the process. It quotes the statutory guidance which states that "*There is a presumption against the closure of rural schools*". The document suggests that because of this presumption the local authority did not look at the future of the school objectively and has made procedural mistakes including;
  - Not properly considering the five points required to close a rural school (community, educational standards, transport, motor vehicles, alternatives to closure)

- Providing inaccurate projections of numbers
- Producing poor financial projections which were *“littered with mistakes”*
- Incorrect use of the decision making process
- Not addressing the impact of the closure of the nursery
- Dismissal of the majority view of the local community including local parish councils.

## **Jurisdiction**

3. The local authority published a notice on 22 June 2018 of its proposal in accordance with section 15 of the Education and Inspections Act 2006 (the EIA) to close the school having carried out the consultation required by the EIA. The notice was in the form required by the legislation. Following the statutory representation period which ended on 23 July 2018, the local authority’s executive decided on 7 August that the school would close on 31 August 2019. The consultation carried out before the publication of proposals and the representation period and the timing of the decision by the local authority met the relevant requirements of the EIA and the School Organisation (Establishment and discontinuance of Schools) (England) Regulations 2013 (the Regulations) made thereunder.
4. Following the local authority’s decision to close the school, the trustees of the Vale of Marston Schools Trust exercised their right under paragraph 14(3) of schedule 2 to the EIA to request the local authority to refer the proposals to the adjudicator to consider them afresh under paragraph 17 of schedule 2. The local authority has forwarded the referral and its comments to the OSA in accordance with the provisions of the EIA and the Regulations.
5. I am satisfied that this request has been properly referred to me in accordance with the EIA and the Regulations and that I have jurisdiction to determine this matter. I am, therefore required to look at the proposals afresh and to decide whether or not the school should close.

## **Procedures**

6. In considering this matter I am bound by the EIA and the Regulations and must have regard to the relevant statutory guidance issued by the Secretary of State for Education. I have considered all the papers put before me including the following:
  - a) the referral against the closure of the school made by the Vale of Marston Schools’ Trust to the local authority and submitted to the OSA;
  - b) the statutory proposals and notice;
  - c) letters to parents from the local authority;
  - d) details of the informal consultation process and its outcomes;
  - e) details and outcomes of the formal consultation process;

- f) information provided by the local authority to parents and community members;
  - g) forecasts of numbers on roll from the local authority;
  - h) budget forecasts from the school and the local authority;
  - i) the local authority report to the school community on 26 March 2018;
  - j) the report of the meeting of the Overview and Scrutiny committee of 25 July 2018;
  - k) minutes of the executive board of the local authority's meeting of 7 August 2018; and
  - l) responses to the referral from the local authority, the Chair of the Governing Board and the Interim Headteacher.
7. In addition I held three meetings on 21 November 2018. The first meeting held at the local authority head office included the Director of Children's services, (DCS), the assistant director of education, the interim head of school improvement and the local authority's admission officer. The second meeting held at the school was a round table meeting with representation from the referrers (the Trust), the local authority, the school and the governing board. The third meeting was an open meeting also held in the school. Twenty two people attended the open meeting, most were parents and families of children at the school and some were interested members of the local community. In addition, a representative from the press joined the meeting. I have also received a number of written comments from members of the community following the open meeting I have considered all the information provided to me at and subsequent to these meetings.
8. I have also held telephone discussions with the DCS for the neighbouring local authority (Bedford Borough Council) and with the previous Chair of the Governing Board who has now moved out of the area. I have considered all the information provided to me in these telephone discussions.

### **Background and Context**

9. The school is a small rural village primary school in Shelton in Central Bedfordshire. It is designated as a rural primary school for the purposes of the EIA. It is a lower school catering for 2 to 9 year olds. In the academic year 2016-17, there were 60 pupils on roll and it has a capacity of 75. The school is a Foundation School and as such is funded in the same way as other maintained schools. Until October of this year the school supported a nursery for children aged two years and above. The published admission number (PAN) for intake into the reception year (YR) is 15.
10. At a meeting of the governing board of the school in January 2018 the budget was discussed and concern was expressed that the 2017-18 financial year would close with a deficit budget. The governing board requested a meeting with the local authority to discuss its concerns. A meeting was held on 28 February 2018, at which the local authority produced a report on pupil

numbers and financial projections, which indicated that the deficit was likely to grow in the next few years. The future financial viability of the school was discussed at this meeting.

11. A pre-consultation meeting on the future of the school on 26 March 2018 for parents and staff was addressed by the local authority. After this meeting the Chair of the Governing Board wrote to all parents to explain the situation and in this letter, dated 29 March 2018, she reports that there were 54 pupils on roll in the school and 11 children in the nursery. Parents were informed of the consultation about the future of the school on 20 April 2018 and the consultation which included the option of closing the school started on the 23 April 2018. The Headteacher was absent from the school on sickness leave from this point and resigned in the summer 2018. At the end of April the governing board, including the Chair, resigned. An open meeting was held as part of the consultation process on 24 April 2018. The local authority published the Statutory Notice of intent to close the school on 22 June 2018 and the statutory representation period commenced on 25 June 2018. The representation period ended on 23 July 2018. Outcomes of the consultation and the local authority's recommendations were shared with the council's overview and scrutiny committee on 25 July 2018 and the decision to close the school was taken by the council's executive board on 7 August 2018. A new Chair of the Governing Board was appointed in the summer term 2018 and more governors were appointed/elected in late summer 2018. An interim Headteacher was appointed in June 2018. The Governing Board and the interim Headteacher are responsible for this school and another lower school to which it is federated. The other school is thirty minutes drive from this school.
12. It is, I think, helpful to say a little about the consultation carried out by the local authority. This school is a rural primary school. Before proposals may be published to close such a school, the proposer (in this case the local authority) must by virtue of section 16 of the EIA consult certain groups. The local authority consulted in April to June and asked the question 'To what extent do you agree or disagree that the current situation at Shelton Lower School is increasingly unviable?' 118 responses were received mostly from local residents, parents and prospective parents. The majority of respondents (72 per cent) disagreed that the school was becoming increasingly unviable. Comments from these respondents included; waiting until building development in the area has completed; promote the school more; the consultation contains inaccurate information; merge with a multi-academy trust and invest in the school. Four respondents suggested changing the age range in the school to incorporate years five and six and three suggested changing the catchment areas of other local schools.

13. Other comments from the initial consultation included; *“the school was needed with the planned expansion locally”; “the school is part of the community”; “it’s a good/lovely school which supports pupils”*
14. The second consultation, which actually took place in part after the statutory notice had been published and so during the representation period which by law must last for four weeks asked the question “Do you support the proposal to close the school?”. 125 responses were received with 91 per cent not supporting closure. The local authority’s knowledge and insight team collated the responses from both consultations and provided some conclusions after the second consultation.
15. The outcomes of the consultation were presented in a report from the DCS to the children’s services overview and scrutiny committee on 25 July 2018 which recommended the closure of the school to the executive board. Three members of the public were invited to speak at the meeting and expressed views contained in the consultation outcomes. The committee acknowledged the report and recommended that a *“Comprehensive financial analysis and breakdown be provided to the executive based on the projected income and expenditure of the school including the specifics in relation to revenue per pupil”*.
16. At the local authority executive meeting on 7 August 2018 the board were presented with verbal presentations from five individuals who presented reasons why the school should not close; these were parents, the local ward councillor and a member of the Vale of Marston Schools’ trust. Letters from the local parish councils of Marston Moreteyne and Wootton were also provided for the executive both of which requested that the school should not close. A further letter from the newly appointed Chair of the Governing Board of the school concluded that *“we are not in a position to take a particular stance on the proposed closure”*. The reports from the consultations, the DCS’s report and a presentation from the interim head of school improvement were presented to the executive. The executive unanimously agreed the closure of the school at this meeting.
17. The current situation in the school was reported to me on 24 October 2018; the nursery has been closed with effect from 26 October 2018 and the current number on roll is 23 pupils.

### **My consideration of the Proposal**

18. I am bound by the EIA and the Regulation and must take into account Department for Education (DfE) Guidance on “closing a maintained school” published in April 2016 (the guidance) that apply to this case. The guidance sets out the matters that decision makers must take into account when making a decision about this school closure. I note that new guidance was published by the DfE in November 2018 while I was considering this matter.

However, in so far as it is relevant to the question I have to decide, it is in all material aspects the same as the earlier guidance. I have considered the statutory process and the proposal for closure afresh taking careful account of the arguments put to me by the local authority, the school and the Trust as well as the parents and many other interested parties who have written to me or made submissions.

19. I would like to express my appreciation of the time, the thought and the care that has gone into the many submissions. I have read and carefully considered everything that has been sent to me and the considerations below take account of the factual information and views that have been expressed to me.

#### Statutory process.

20. The statutory process for closing a maintained rural primary school has five stages;

Stage one; consultation before publication of the statutory notice

Stage two; Publication of the statutory notice

Stage three; Formal representation/consultation period

Stage four; Decision

Stage five; Implementation

21. I am of the view that overall the local authority fulfilled each of these requirements although I have concerns about the details of publications and communications within the overall process. These include the suggestion by the Trust that the local authority maintained a 'presumption of closure' throughout which I will cover later in this determination.
22. The Trust drew my attention to the delegated responsibility of the DCS as the decision maker. The DCS is the signatory to the statutory proposal to close the school which was published on 22 June 2018. The recommendation from the children's services and overview scrutiny committee on 25 July 2018 clearly acknowledges the DCS as the decision maker at this point and the outcome of the meeting was published as *"That the committee acknowledge the thorough report and the decision of the Director of Children's Services (DCS) to close Shelton Lower School"*.
23. The schedule of delegated responsibilities which is 4.5.15 of the council's constitution states that the DCS's delegated responsibility is *"To exercise the council's functions relating to the modification of previously determined statutory proposals for prescribed alteration and/or for the establishment and discontinuance of schools maintained by the council in accordance with the relevant provisions of the Education and Inspections Act 2006, the School Standards and Framework Act 1998 and regulations made under those acts."*

24. The local authority reports that the council's monitoring officer suggests that this section of the constitution can be read to mean that the DCS can establish or discontinue schools; I disagree and consider it very clear in that the functions relate only to the modifications of previously determined statutory proposals. However, I am of the view that the issuing of the Notice of Statutory Proposal on 22 June 2018 and informing parents of this, forms part of the wider process and I am satisfied that the final decision to close the school was made according to the guidance by the executive of the council.
25. I am more concerned about the process by which the executive made the final decision to close the school. On 7 August 2018, the executive of the local authority was provided with comprehensive reports of the two consultation processes. There were 125 responses to the second consultation, 91 per cent of which were against the closure. The local authority's knowledge and insight team concluded that *"Overall, the response to the statutory notice questionnaire broadly followed the initial stage of consultation – there is limited support for the proposal to close. Many of the key themes discussed are similar to the previous consultation stage, with the main topic of discussion around the amount of development in the area and the need for future school places. The main difference is the strength of feeling – more respondents are less supportive of closure at this point. There are also more comments this time around capacity of other schools – perhaps in part, due to parents having investigated options for their children should Shelton Lower school close. It's important to state that the demographics of those that have responded are representative of the main group accessing lower schools and that the majority of respondents live in an area where they could (or do) access Shelton Lower School."*
26. I have studied the minutes of the executive meeting and there is no record to suggest that the outcomes of these consultations were properly discussed before making the decision to close the school. The minutes record that *"the Executive Member confirmed that the consultation process has been followed correctly and explained that there was overwhelming evidence to support the closure of the school"*.
27. Whilst I understand that consultations cannot always accept the majority viewpoint and considering responses to consultation is much more than simply adding up the numbers of those in favour and those against a proposition, it is the case here that both in the consultation conducted before the publication of the proposals and in the representation period there were overwhelming proportions in favour of keeping the school open. In the representation period, this figure was 91 per cent. I find it hard that this significant view of the local community should have been dismissed by the executive apparently without due consideration.

28. The guidance states that the main reasons for closing a maintained school include where;

- it is surplus to requirements;
- it is to be amalgamated with another school;
- it is failing and there is no viable sponsored academy solution;
- it is to acquire, lose or change religious character; or
- it is being replaced by a new school.

29. I began by determining why the local authority had decided to close the school and whether any of the reasons set out in the guidance applied, bearing in mind that the guidance states that this list includes the main reasons; it does not purport to be an exhaustive list. At the meeting on 21 November 2018 I asked the local authority to confirm the main reason for the proposal to close the school and was told that the school is financially unviable. At the meeting the local authority stated that a review of places in the area had taken place previously and the decision had been made to increase capacity at another school. The 'financially unviable' reason for closure is not one provided in the guidance and I have therefore looked afresh at the guidance and the elements which a decision maker is required to consider.

30. The guidance goes on to say that, in the case of rural schools, there is a presumption against the closure. The guidance explains that "this does not mean that a rural school will never close, but the case for closure should be strong and a proposal must be 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;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- the availability, and likely cost to the local authority, of transport to other schools;
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of such an increase; and
- any alternatives to the closure of the school".

31. In line with the requirements above I have considered the case for closure afresh and in doing so I have considered the council's case for closure, the comments from the Trust and from other parties and any other relevant information that will help inform my decision making.

32. In considering the decision afresh I cover each of the issues identified in the referral and in addition, I have considered the local authority's assertion that it



is impossible to produce a budget recovery plan for the school and its assertions that there are sufficient school places in the area. I have taken all the information I have been given in making my decision.

### Presumption of Closure

33. The main tenet of the Trust's referral is that throughout the process there has been a 'presumption for closure' on the part of the local authority. Testimony from current and previous governors, members of the Trust, parents and members of the community show that the conclusion they drew from local authority personnel at meetings before and during the consultation leading up to the publication of the statutory proposal and during the representation period which followed indicated that the closure of the school was a foregone conclusion and that the local authority had approached the process with a clear presumption of closure. The local authority refutes this and says that the pre-consultation meeting held at the school and the first consultation process were to collect the views of the school community about the future of the school.
34. The community's first meeting with the local authority took place on 26 March 2018. The local authority provided a presentation which predicted pupil numbers in the school over the next four years and projected the budget deficits based on those numbers. At that time only four applications for admission had been received for September 2018 and this is the number in the presentation taken as the predicted intake at YR for the next three years with no children being admitted in the fourth year (2021). The projected budget deficit was presented as £61,000 in October 2018 rising to £386,000 in October 2021. The Trust suggests, and many parents at the open meeting agreed, that these figures were frightening. The following quote from one member of the community sums up their feelings; *"I was horrified when I looked at the incorrect figures presented during the consultation, and the apparent assumption by those who should have had an open mind that closure was inevitable, and which frightened so many parents into moving their children."*
35. The local authority maintains that they did not go into the process with a presumption of closure and I am not in a position to say that this is the case or not; what is obvious from a large number of people in the community is that their overwhelming and abiding perception was that such a presumption was held by local authority officers.
36. The statutory guidance is clear on this point; *"there is a presumption against the closure of rural schools"*. I have therefore, looked objectively at the information I have gathered without a presumption that the school closure is inevitable.

### Consideration to close a rural school - community usage – pre-school and nursery

37. In February 2018 there were 11 children in the school's nursery who were two and three year olds, state and privately funded and there was provision for more hours for three year olds. In the summer term of 2018 the local authority stated that there was provision in other local schools for the children who at that point attended the school nursery. The Trust suggests that this is not the case and that provision at the three local schools does not provide equivalent services. In one school it tells me there is provision only for funded two year olds and for 15 hours for three year olds. At the second school they will cater only for funded two year olds and for 18 hours for three year olds and at the third school they do not provide for two year olds and will only accept funded 3 year olds.
38. In her letter to the OSA of the 23 October 2018 the current Chair of the Governing Board states that *"The nursery provision has been closed/suspended with effect from 26 October 2018. The provision was not viable (and had not been through 2017/18). The Interim Headteacher had tried to accommodate children who wished to access the provision from September 2018 but there were insufficient staff to maintain ratios and mixing [nursery] children in with Y1 and YR was, in the view of the Interim Headteacher having an adverse impact on the education of children in Y1."* After the meeting on 21 November 2018 the Interim Headteacher sent me a breakdown of the nursery costs which show that income from the local authority and fees is less than expenditure (salaries and premises costs) for all months last year resulting in a deficit position at the end of the year.
39. At the round table meeting on the 21 November 2018 the Trust explained that a number of parents were now at home with their children because there is no longer nursery provision at the school and no available alternative provision locally. At that meeting the Trust said that they had been approached by a private local pre-school with a view to joint use of the site which would generate income and may lead to families choosing the school at YR. I was disappointed to see that the local authority, the chair of governors and the Interim Headteacher did not engage with this idea and did not show any interest in pursuing it.
40. Early years provision across the country is currently finding it hard to 'balance the books' and providers are having to cut staffing costs or raise non statutory fees in order to be cost effective. I am of the view that with the possible involvement of a private nursery on site and a review of fees and costs then there is a possibility that a viable nursery can be reintroduced to the site. The hope is then that children from the nursery will apply to enter the school at YR.

#### Consideration to close a rural school - community usage 2.

41. The Trust's document provides a list of community activities including the Flitwick Children's Centre, Technical Soccer Skills academy, private hire of the venue, summer fete attended by 113 adults, quiz nights, film nights, community camp out and the use of the school as the only possible meeting venue in the local area. In its report to the overview and scrutiny committee on 25 July 2018 the local authority says that the local community does not use the school facilities and therefore closure would have a minimal effect on the local community. The paper submitted by the DCS to the executive on 7 August 2018 says *"The lack of use of the school by the local community would mean that the closure of Shelton Lower School would have minimal effect on local community services or cohesion"* and later in the report says *"The local community does not use the school facilities for community activities. The closure would therefore have minimal effect on the local community."*
42. The usage of the buildings as a community resource was cited by many of the respondents in the consultation and representation periods and at the open meeting I held on 21 November 2018. Recent activities were described and many said that it is the only building in the village where meetings and events can be held except for the public house which is not suitable for children to attend. Since the initial pre-consultation meeting with the parents and staff in March and the consultation meeting on 24 April 2018 the use of the school by the community has declined. In her letter of the 19 October 2018 the interim Headteacher states that *"the local community previously used the school for events but this has now reduced to PTA events. The school does not have a caretaker, therefore the local community relies on the goodwill of staff members to ensure the facilities when being let."* At the round table meeting on 21 November 2018 the Trust accepted that the community usage had declined recently and made a number of suggestions about how the community use could be encouraged and revived.
43. I am concerned that the extent of community use and the depth of feeling of the community were not appropriately related to the executive before they made the decision to close the school. I am of the view that the kind of regeneration of the site suggested by the Trust, perhaps with shared usage, might well contribute to its longer term viability as a small rural school. I believe that the school and the local authority should work with the Trust to pursue this kind of development.

#### Consideration to close a rural school - educational standards

44. The Trust suggests that should the school close and its pupils be sent to other local schools, educational standards in those schools may decline as class sizes increase. The local authority state that *"there are three good schools each of which has vacancies."* In their most recent Ofsted reports, each of

these schools are reported as providing a good standard of education and results from the schools indicate the achievement in the early Years Foundation stage (EYFS) and key stage one (KS1) standard assessment tests are above both the national and local averages. Lower Shelton School itself was judged 'good' by its most recent Ofsted report and many of the respondents to the consultations said that the educational standards were good. The current Chair of the Governing Board and the interim Headteacher are both committed to maintaining high educational standards in the school. I am therefore of the view that there would be no impact on the educational standards due to the school either closing or remaining open for either the school or the local schools.

#### Consideration to close a rural school - transport

45. The Trust's referral contains a report of a school gate survey on 1 June 2018 which shows that on that day of the 33 parents arriving at the school 17 of them had walked from home and 16 had made the journey by car. The local authority reported to the overview and scrutiny committee on 25 July 2018 that *"as nearly all pupils attending the school come from outside the village, the effect of the use of motor vehicles in the area, if the school closes, is negligible"*. This statement was repeated in the paper to the executive on 7 August 2018. Following the survey, the Trust calculated that miles driven to school on 1 June 2018 for the purpose of transporting children there totalled 46.2 miles. The Trust then took the distance from each of the children's homes to the next nearest school and calculated that should all these children move to the nearest alternative local school the total driving distance each day will be 75.5 miles. In its most recent submission of 25 October 2018 the local authority maintains that these figures are *"at least three years out of date"*. The local authority then goes on in this letter to assess distances from the children's home to the current school and then from home to the next nearest school of the 21 pupils currently in YR to Y3 arguing that as Y4 will have moved to a new school in September 2019 they should not be counted. The local authority reports that for these 21 pupils the total distance travelled to school would be 1.3 miles less than currently. This does not take into account the pupils who were attending the school in April but who have moved schools in the interim.

46. I am not in a position to validate either of these two pieces of research although I am concerned that they seem to indicate opposing views concerning the increase of the use of motor vehicles.

#### Consideration to close a rural school - alternatives to closure

47. The Trust suggests that contrary to the statutory guidance, the local authority did not properly consider and pursue alternatives to closure. In its paper to the executive, the DCS says *"The Council has considered all possible alternatives to the closure of the school, including those submitted during the*

*preliminary consultation but none are believed to be viable.”* The Trust’s referral includes a letter from the Chief Executives of two local Multi Academy Trusts (MAT) dated 23 August 2018 that state that neither had been approached by the local authority during the consultation period.

48. I asked the local authority for comment on this and in the document sent on the 25 October 2018 the Interim Head of School Improvement explained that he had asked all other lower schools if they were in a position to federate with the school and all had refused. In addition he said that the local authority does not believe that the school could convert to academy status as the current chair of governors is of the view that it could not provide satisfactory financial projections. He explained that he had taken advice from the local Schools Commissioner who had explained the process by which a school becomes part of a multi-academy trust (MAT) and he believes that the school would not be able to take this course of action because of its financial position and the fact that the current Chair of the Governing Board does not believe that a financial recovery plan can be produced. He had approached the chief executive of one of the trusts on 16 October 2018 and was told that at this time the school would not fit with the Trust’s strategic plan.
49. It is disappointing that these possible options were not given serious attention at the beginning of this process rather than three months after the decision to close the school had been made. There are many examples nationally of MATs supporting failing or unviable schools and working with them until such a time as they can become financially viable, convert to academy status and join the MAT. I therefore believe that alternatives to closure of the school need to be considered afresh and with renewed impetus.

#### Financial planning

50. One of the key themes of the Trust’s referral is the local authority’s presentations of forecasts of pupil numbers and consequent financial positions derived from those numbers. The main reason why the local authority made the decision to close the school, based on the reports provided to the overview and scrutiny committee and the executive, was because the Chair of the Governing Board and the local authority do not believe the school is, or can be in the near future, financially viable. In order to make this decision afresh I have looked in detail at the projected figures for pupil numbers and deficits provided by the local authority to a variety of audiences. I have considered the current staffing establishment of the school and the current projected figures.
51. The governors became aware in February 2018 that the financial year would end in deficit and this prompted their meeting with the local authority. The first presentation made to parents and staff by the local authority was at the pre-consultation meeting on 26 March 2018. A second forecast was presented in

May/June with the first consultation. In the written report presented to the executive board a 'low' estimate and 'high' estimate table were produced and the presentation to the board included another, fifth set of figures. I have recorded the forecast numbers and projected deficit figures in the table below and have included a sixth set of figures which have been produced by the governing board in the last month and sent to me to show the current position.

Number on roll	2018	2019	2020	2021	Deficit (£000)	2018	2019	2020	2021
Report									
26.3.18	63	51	45	13		61	127	242	386
May/June 2018	35	31	30	25		18.7	36.9	70.8	110.6
August 2018 'low'	29	27	29	29		18.7	66.9	121.8	155.6
August 2018 'high'	29	31	36	39		18.7	36.9	<b>70.6</b>	<b>110.6</b>
August 2018 presentation	50	29	25	29		40.8	68.5	97.8	125.6
Current figures						34	102.5	173.8	242.6

52. In the report to parents at the first meeting to discuss the future of the school the lowest estimates of pupil numbers and the highest estimates of financial deficit were shared with parents and staff. At that point in the year there were only four definite applications for the school and the local authority used this figure and projected forward the same figure for the next three years thereby showing a dramatic decline in numbers from 63 to 13 over a three year period. The forecast deficit for these figures rises from £61000 in 2018/19 to £386000 in 2021/22. It is clear that these figures were inaccurate at the time as none of the other subsequent estimates nor the current budget projections have shown such large deficit and the local authority accept now that these were inaccurate. The presentation at the meeting in April prompted a significant number of parents to take their children out of the school and enrol them in other local schools. The number on roll began to decline quickly and there are now only 23 children on roll. Income to the school has therefore reduced and the forecast deficit has grown to such an extent that the Chair of the Governing Board reports that *"the financial position in which the school now finds itself is not sustainable and the governing body is not in a position to submit a recovery plan"*.
53. Submissions to me from the Trust, parents and members of the local community are clear that this presentation frightened many people and the rapid decline in numbers of children on roll started soon afterwards. The Trust suggests that these figures were deliberately inflated to make parents concerned and describes them as 'scaremongering'. The local authority insists that these projections were provided by the Headteacher at the time. If this is the case then I am surprised that they were not checked and validated

by local authority finance officers before they were presented to the community.

54. In addition, I have highlighted in bold and italics two figures on the table above which I believe are also inaccurate. These figures were presented as the forecast deficit in the case of higher than expected numbers on roll. Background information in the report to the executive shows that these 'high' (optimistic) figures are based on the same school income as the 'low' number on roll estimate and this is clearly an error as with more children on roll the part of the budget which is pupil number related would be greater. By calculating an income and expenditure per pupil in each of the local authority's presentations it is clear that the deficit in 2020 for the 'high' estimate should be significantly reduced and, using the same methodology, the optimistic estimate indicates that in 2021 the school could show a surplus budget. I shared this with the local authority in the meeting on 21 November 2018.
55. The main argument used by the local authority, the Chair of the Governing Board and the interim Headteacher is that it is not possible to produce either a balanced budget or a recovery plan which would bring in a balanced budget or one in surplus in the local authority's required period of three years. I disagree with this. I do not consider that sufficient work has been undertaken in this respect. I have researched the budgets of a large number of small schools. It is true to say that many small schools find it challenging to achieve balanced budgets but it is also true to say that the majority manage to balance their budgets annually.
56. In the case of this small rural school I understand that it is federated to another lower school in order to save funds by sharing some costs. This other school is half an hour's drive away from the school and therefore many of the possible shared costs are mitigated by the distance which staff have to travel in order to properly collaborate. I ascertained the staffing establishment of the school at the meeting on the 21 November 2018. I note that there are two full time equivalent teachers and a part time teacher; one of these also holds an assistant Headteacher post; in addition there is a non-teaching interim Headteacher (shared with the federated school). A detailed study of the budget for 2018-19 must take into account the salary of the Headteacher who, although on sickness leave, was paid until the end of August 2018 and the incoming interim Headteacher was appointed from June. Therefore two headteacher salaries were paid for three months (only half of the cost of one of these salaries would be charged to the school's budget because the headteacher post serves both federated schools.) The staffing costs could be considerably reduced in this school without compromising the educational standards and I disagree that it is not possible to return a budget recovery plan. I am of the view that following a comprehensive staffing review the

school would be able to reduce its costs so that a balanced budget could be produced within the timeframe set by the local authority of three years.

#### Pupil numbers and availability of local places

57. Pupil numbers are key to the success of this school as any other. Before this process started in February 2018 there were 55 pupils in the school. There are currently 23 children in the school. The Trust has suggested a number of strategies to improve this situation which, at the moment are not being taken forward either by the local authority or the school. It is clear that this school will find it hard to be financially viable in the future unless the numbers leaving the school is stemmed and additional pupils are admitted or readmitted. I have therefore sought to consider the scope for this.

58. According to the DfE the three nearest schools are all lower schools and are Church End (1.24 miles), Wootton (1.61 miles) and Broadmead (1.8 miles). Of these three only Church End is in the same local authority area as the school. The local authority says that places may be available at four local authority schools; Church End and then Thomas Johnson (2.66 miles), Cranfield Academy (2.36 miles) and Houghton Conquest (3.48 miles). I note that Church End is currently full and the other schools named by the local authority are beyond the statutory walking age for infant children and, in the case of Houghton Conquest, older children also. In the consultations many respondents mentioned the housing developments in the area and the children who may move into these houses. The local authority states that the children from the new housing development will be accommodated in the local primary school which is currently being extended.

59. I have researched this new development and the local school provision. There are published plans for 900 houses to be built in the next village to the school, Wootton. Currently about 100 are completed. Many local authorities use a formula to plan for pupil places from housing developments and that formula suggests that for every 100 houses built local authorities should plan for three pupils for each primary age group. Lower Schools in the area have five year groups (YR, Y1, Y2, Y3 and Y4) therefore for a development of 900 houses the local authority should plan for fifteen children across the school years multiplied by 9 (per 100 houses). This means that planners need to plan for 135 lower school age pupils coming into the area. Although this development is near to the school it is in the neighbouring local authority. Currently the local village school (Wootton) is full in every year group according to officials in that local authority. An additional 30 places are being provided in September 2019 for an increase in YR at this school. The plan is for additional new school buildings in the future so that this increase can be accommodated throughout the school over the next few years but only YR will



increase in September 2019. This means that families moving into the new housing development with children of Y1, 2, 3 or 4 in the next few years will not be able to be offered a place at their local school.

60. I questioned the neighbouring local authority about place planning and was told that while it does have sufficient planned places for all the children living in the borough, as indicated by the local authority for this case, it does not have sufficient local capacity for the expected rise in numbers in Wootton specifically. To provide explicit detail, I asked the neighbouring local authority to consider the placement of a Y2 pupil moving into the new houses in Wootton either this academic year or next and asked where they would find a school place. I was informed that the nearest schools in the local authority after Wootton were also full and were expected to be full in September 2019 with local children and therefore it is likely that the child would be offered a place at Bromham school. Bromham School is 4.9 miles from Wootton School whereas Shelton School is 1.6 miles from Wootton School. I therefore believe that there is significant potential to attract children to the school from the new housing development and this will require a concerted effort both from the Trust, the school and the two local authorities.

## **Summary of Findings**

61. I have considered carefully the proposal, the consultation responses and representations, and the arguments put to me by the local authority as the initial decision-maker, the governing body and the Trust in its referral documentation.
62. I am of the view that the local authority has not properly made the decision to close the school in line with the statutory guidance. Too much emphasis has been placed on the financial viability of the school and insufficient emphasis has been placed on supporting the school to increase pupil numbers. I consider that the local authority has not taken sufficient account of the likely effect of the closure on the local community, it has not considered sufficiently well alternatives to closure nor has it undertaken sufficient research in terms of additional vehicle usage.
63. Throughout much of the process the school has been without a substantive headteacher or a functioning Governing Board and therefore the view of those closest to the school have been unavailable. I believe that this has allowed the local authority to move too hastily and without sufficient and thorough consideration about the school and its community. Too many people at the meetings addressed by the local authority report that there was an obvious presumption to close the school from the beginning of the process. The unchecked and inaccurate projections of deficits presented to the first meetings caused much concern with parents and led to the removal of their

children from the school and this has exacerbated the shortage in pupil numbers.

64. I have looked at the decision to close the school afresh and I have come to the conclusion that there are insufficient grounds to close it. Looking at the pupil forecasts for the area and taking into account the large number of houses being built near to the school I do not believe that it is surplus to requirements. It is clearly not being amalgamated, nor is it failing, changing or acquiring religious character or being replaced by a new school. I therefore do not believe that there are sufficient reasons to close the school in line with the guidance.
65. In addition I do not believe that the requirements for closing a rural school have been met; insufficient notice has been taken of the impact of the school closure on the local community; proper research has not been carried out into the increase of motor vehicle use and alternatives to closure have not been properly pursued.
66. I am of the view that a budget recovery plan can be produced for the school. Consideration is required in terms of the economic benefit of a federation with a school which is a long way from the school. Staffing establishment requires detailed and extensive review and, although it will be difficult, I believe that with a reduction in staffing costs and an increase in pupil numbers, the school could be financially viable within the three year period required by the local authority.
67. The school needs to recruit more pupils; I believe that there are local opportunities for this to happen and this will require the school, the Trust, the local community and the local authorities working together. I consider that if numbers can increase then it is quite feasible to bring in a recovery plan within the local authority's required timeframe. This will require a review of current expenditure and careful planning.

### **Determination**

68. Under the powers conferred on me by the Education and Inspections Act 2006 and the Regulations made thereunder, I reject the statutory proposal to discontinue Shelton Lower School.

Dated: 27 November 2018

Signed:

A handwritten signature in dark ink, appearing to read 'Ann Talboys', is written over a faint circular official stamp.

Schools Adjudicator: Ann Talboys