

Open Report on behalf of Heather Sandy, Executive Director - Children's Services

Report to:	Councillor Mrs P A Bradwell OBE, Executive Councillor: Adult Care, Health and Children's Services
Date:	31 July 2020
Subject:	Proposal to Discontinue The Ash Villa South Rauceby School (Final Decision)
Decision Reference:	I0199950
Key decision?	Yes

Summary:

The proposal under consideration is to close The Ash Villa South Rauceby School with effect from 1 September 2020. Following careful consideration of how to secure a viable future for the school, Lincolnshire County Council (the local authority responsible for the school provision only), at the request of the Governing Body, has made the difficult decision to consult on the closure of the school.

The Ash Villa South Rauceby is a social, emotional and mental health (SEMH) school which provides high quality education to young people admitted to the integrated Ash Villa hospital unit. The hospital unit has temporarily been closed since October 2019 due to being unable to recruit the required consultant medical staff to operate safely. Lincolnshire Partnership NHS Foundation Trust (LPFT) has confirmed that the Ash Villa hospital unit will not reopen on the current site in the current building. Without the NHS care unit at Ash Villa there will continue to be no pupils for the Ash Villa South Rauceby School. Without the pupils the school cannot continue to operate.

The local authority is co-ordinating the process following statutory guidelines published in the Department for Education (DfE) guide "Opening and closing maintained schools. Statutory guidance for proposers and decision-makers" November 2019 in accordance with the terms of the Education and Inspections Act (EIA) 2006 as updated by the Education Act 2011("the Statutory Framework").

Following the consultation period the decision was taken on 21 April 2020 to publish a Statutory Notice on 6 May 2020. This initiated a four week Representation Period up to 3 June 2020 when further written objections and comments may be submitted. The process is now entering the final stage when the local authority, as decision maker, must take the final decision regarding the proposal within two months from the end of the Representation Period (by 3 August 2020).

This report seeks to advise the Executive Councillor on making the final decision regarding the proposed closure of The Ash Villa South Rauceby School.

Recommendation(s):

That the Executive Councillor for Adult Care, Health and Children's Services approves the closure of The Ash Villa South Rauceby School from 1 September 2020.

Alternatives Considered:

1. Retain The Ash Villa South Rauceby School and continue to fund the school staff indefinitely as it is now until the end of the pilot. Whilst it is possible to keep the school open in theory, in practice Lincolnshire Partnership NHS Foundation Trust (LPFT) has confirmed that they will not be re-opening the unit and will be adopting a new model going forward. There will therefore be no pupils to attend the school so keeping it open would be an inefficient use of resources and considered not to be in the best interests of the wellbeing of the staff employed at the school.
2. Consult on an alternative proposal to change the type of provision into an all-needs or specialist special school. It is possible to change the type of provision, but the buildings do not belong to Lincolnshire County Council and only provide very limited capacity. There is also a significant county wide capital programme to deliver the Special Educational Needs and Disabilities (SEND) capacity and facilities needed in line with the adopted SEND Building Communities of Specialist Provision. Ash Villa does not form part of that strategy. Social, emotional and mental health (SEMH) provision is also being reviewed as a separate SEND work-stream across the county and this facility is not expected to be part of that strategy either. It is generally considered that the minimum size of a special school to deliver a viable curriculum offer is about 50 pupils. Ash Villa does not provide enough capacity so is not a potential solution in relation to SEMH capacity.
3. Use the facilities as a satellite site for existing provision in the alternative provision or SEND sector. The buildings do not belong to Lincolnshire County Council so utilising the buildings for anything other than its current use would be in negotiation with LPFT. If they agreed to it being used for another type of provision then the closure process for Ash Villa School would still need to go ahead before it could be used for something else (therefore a final decision on the future of the school as it is now is still required). Any future use would be determined separate from this process.

4	Look to relocate the school instead of closing it. This would require a different statutory process, but is not an option as the future model will be to provide education in the young person's local school to ensure they get all the benefits of staying as part of their local community as intended by the model NHS England/LPFT are adopting.
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Reasons for Recommendation:

To comply with the wishes of the Governing Body.

To support the best interests of staff. With no pupils at the school staff are unable to practice their chosen profession. This period of uncertainty is having a detrimental effect on staff morale and wellbeing. Staff at the school would be given opportunities to work with existing providers and look for redeployment opportunities to secure their high quality specialist skills within the education sector wherever possible.

With the confirmation from LPFT that the hospital unit will not re-open on the existing site and with no certainty over the supply of pupils the school will not be able to set a balanced budget with the operating costs and a reduced income. Schools are not legally allowed to set a deficit budget without a realistic medium term plan showing how the deficit will be turned around.

The local authority is required to review the number of school places annually. Place numbers are established based on demand for places, therefore if demand reduces or ceases, the number of places provided should reflect this position.

It would not be considered reasonable to keep a school open long-term with no pupils as it is not viable. It would not be considered the efficient use of resources. The closure of the school would contribute to the provision of sustainable schools across the county allowing future funding to be used more effectively elsewhere.

1. Background

This report is written in the context of concern over the long term sustainability of the school. The integrated Ash Villa hospital unit has temporarily closed and it will not reopen on the current site in the current building. Without the care unit at Ash Villa there will continue to be no pupils for The Ash Villa South Rauceby School; without the pupils the school cannot continue to operate.

The Ash Villa South Rauceby is a SEMH special school which provides high quality education and courses to young people admitted to the integrated Ash Villa hospital unit. The hospital unit has temporarily been closed since October 2019 due to the inability to attract the required consultant medical staff to operate safely.

Nationally it has been recognised that most young people with severe mental health problems do better when they receive care in their local communities with intensive support provided in their own homes, along with attending their own school. The Government is currently piloting this approach and NHS England is supporting such a pilot in Lincolnshire from April to October 2020. This new care model will mean that children and young people who may previously have been admitted to the Ash Villa hospital unit will now, wherever possible, be treated in their own homes.

Whatever the outcome of the pilot in October 2020, Lincolnshire Partnership NHS Foundation Trust (LPFT) has confirmed that the Ash Villa hospital unit will not reopen on the current site in the current building. This is because the building is not fit for purpose and does not meet the new quality standards for such services prescribed by national policy.

The decision to consult on closure has been taken in the context of concern over the long term sustainability of the school with no certainty over the supply of pupils for this specialist provision. The proposal is considered to be in the best interests of staff wellbeing and the efficient use of resources. Without the unit open there will be no pupils attending the school which will not allow the school to set a balanced budget and staff are unable to practice in their chosen profession. It is not considered reasonable to keep a school open and staffed in the long term with no pupils.

It is the local authority's statutory duty to ensure that there are sufficient school places to accommodate all pupils of all needs of statutory school age across the county of Lincolnshire. The local authority must consider its duty to promote high educational standards, ensure fair access to educational opportunity and assist every child to achieve their potential with the aim of enabling children to take up a school place in the local area. The majority of pupils that access Ash Villa School are from outside of Lincolnshire. The local authority will be able to meet statutory duties within existing provision already in place across the county. The specialist staff at Ash Villa would be given opportunities to work with existing providers and look for redeployment opportunities to secure their high quality specialist skills within the education sector wherever possible.

As there are currently no pupils on roll at the school and the hospital unit will not reopen on its current site there will be no pupils displaced should the school close. As per the NHS England pilot young people who would have potentially been admitted into the hospital unit will now receive care in their local communities with intensive support provided in their own homes, along with attending their own school. NHS England also has other inpatient facilities, the closest located in Nottinghamshire. This facility and any other inpatient facilities available should not have an overriding bearing on this consultation, as this consultation relates solely to The Ash Villa South Rauceby School and not the inpatient hospital unit. The hospital unit closure formed part of a separate consultation by Lincolnshire Partnership NHS Foundation Trust.

Previous Census Data - May 2016 to May 2019

The figures below provide an indication of the number of pupils educated at school whilst the hospital unit was open. Although The Ash Villa South Rauceby School admits children aged 11 to 18 the majority of pupils accessing education via the unit were in Years 11, 12 and 13 and were from outside of Lincolnshire. The capacity for the school is 13.

Census Date	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Total FTE
May 2019	-	-	1	2	1	1	-	5
January 2019	-	-	-	3	2	4	2	11
October 2018	-	-	-	-	-	2	1	3
May 2018	-	-	1	-	2	3	1	7
January 2018	-	-	1	-	4	2	3	10
October 2017	-	-	-	-	-	1	2	3
May 2017	-	-	1	1	2	3	2	9
January 2017	-	-	-	2	2	3	5	12
October 2016	-	-	1	-	2	6	4	13
May 2016	-	1	-	1	3	4	1	10

Reaching the decision – Preliminary Considerations

The requirements for decision making relating to discontinuation of a local authority maintained school is set out in the guide "Opening and closing maintained schools. Statutory guidance for proposers and decision-makers" (November 2019) issued by the DfE.

The DfE does not prescribe the exact process which a decision maker should follow but the decision maker must have regard to this guidance. The decision maker should consider the views of those affected by the proposal and should not simply take account of the numbers of people expressing a view but give greatest weight to those stakeholders most likely to be affected.

Factors to be considered by Decision Makers

The Consultation and Representation Period

The Executive Councillor must be satisfied that the appropriate consultation and representation periods have been carried out and that all of the responses received have been given due consideration.

The local authority conducted a pre-consultation before publishing any proposals and moving onto the Representation period (a second formal consultation period of four weeks). It is for the proposer to determine the nature and length of the initial consultation, although it is best practice for consultations to be carried out in term time to allow the maximum number of people to respond. When planning the consultation timeline it was taken into account that half-term would fall within the initial consultation period, this led to the local authority opting for a six week consultation.

Proposers should have regard to the Cabinet Office guidance on consultation principles when deciding how to carry out the consultation period. Under these guidelines the local authority must ensure that sufficient time and information are provided for people to understand and form a view on the proposal and make a response.

Any consultations should be clear and concise and have a purpose. Consultations should be targeted to specific groups and enough information should be given to ensure that those consulted understand the issues and can give an informed response.

A Statutory Notice (Appendix B) and Complete Proposal (Appendix C), initiating a four week Representation Period, were published in accordance with current statutory requirements.

Responses submitted during both the Consultation and Representation Period have been made available to the Executive Councillor for consideration when taking the final decision and further details of these responses are provided in section 6 of this report (Consultation).

Demand and Need

The Executive Councillor should be satisfied that there are sufficient surplus places elsewhere in the local area to accommodate displaced pupils, and the likely supply and future demand for places in the medium and long term.

The school is dependent on receiving pupils via the now closed integrated hospital unit; as a result there are no pupils on roll at the school, so there will be no displaced pupils to accommodate. As there is no plan to reopen the hospital unit on its existing site there will continue to be no pupils admitted into the school.

Equal Opportunity

The local authority must have 'due regard' to the need to eliminate discrimination, advance equality of opportunity and foster good relations and should consider whether there are any sex, race or disability discrimination issues that arise out of the proposed closure. There should be a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of the area while ensuring that such opportunities are open to all.

The local authority will continue to be committed to provide access to a range of opportunities which reflect the ethnic and cultural mix of Lincolnshire while ensuring that such opportunities are open to all.

Integration and Community Cohesion

The impact on local integration and community cohesion must be considered and schools have a key part to play in providing opportunities for young people from different backgrounds to learn from and respect each other and gain an understanding of other cultures, faiths and communities. The decision-maker must take account of the community served by the school and the views of different sections of the community.

Travel and Accessibility

The Executive Councillor should be satisfied that accessibility planning has been properly taken into account and that proposed changes do not adversely impact on disadvantaged groups. Proposals should not unreasonably extend journey times or increase transport costs or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes. The proposal should be considered on the basis of how it will support and contribute to the Council's duty to promote the use of sustainable travel and transport to school.

The Ash Villa hospital unit provided beds to those who were admitted, the majority of who lived at the facility, therefore daily travel was minimal.

The NHS pilot will provide care in local communities and intensive support in the homes of young people with severe mental health conditions. This means there will be no change to the amount of travel a pupil would usually undertake if they continue to be educated at their existing school.

There are no children on roll at The Ash Villa South Rauceby School.

Funding

The Executive Councillor should be satisfied that any land, premises or necessary funding required to implement the proposals will be available and that all relevant parties have given their agreement.

Should a decision be made to proceed with the closure of the school, there will be staff related financial implications resulting from the closure which will need to be determined; however re-deployment opportunities will be explored to maintain high quality specialist skills within the sector. Financial liabilities will need to be managed within available school reserve and the high needs block of the Dedicated Schools Grant. The local authority would also consider how future planned funding could be re-directed to contribute to the provision of hospital education across the county. There will be no capital costs associated with this proposal.

School Premises and Playing Fields

The buildings do not belong to Lincolnshire County Council and are owned by LPFT, so the future of the school premises does not need to be considered.

Community Services

Some schools may be a focal point for family and community activity, providing extended services for a range of users, and their closure may have wider social consequences. Where the school is providing access to extended services, provision should be made for the pupils and their families to access similar services through their new schools or other means.

The school currently has no pupils and does not provide extended or community services.

Special Educational Needs and Disabilities (SEND) Provision

Nationally it has been recognised that most young people with severe mental health problems do better when they receive care in their local communities with intensive support provided in their own homes, along with attending their own school. The Government is currently piloting this approach and NHS England is supporting such a pilot in Lincolnshire from April to October 2020. This new care model will mean that children and young people who may previously have been admitted to the Ash Villa hospital unit will now, wherever possible, be treated in their own homes.

Balance of Denominational Provision

The decision maker should consider the effect on proposal to close a school that has been designated with religious character.

The Ash Villa South Rauceby School is a non-denominational school and as a result there will be no impact on denominational provision.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- * Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- * Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- * Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- * Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- * Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- * Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

An Equality Impact Assessment has been carried out and is available on request. No negative impacts were identified.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

The closure of the school would support both the JSNA strategy and the Lincolnshire Health and Wellbeing Strategy as follows:

- Ensuring young people with mental health issues receive the right support at the right time through the pilot that is currently operating in Lincolnshire. At present the NHS unit that is linked to the school is closed so cannot provide the support that is required.
- Ensuring young children do not have to travel long distances to get to school to avoid negative impact on their health and safety and general wellbeing. Where possible pupils will continue to be educated in their existing schools, within their communities, whilst living in the family home.

- The children are likely to benefit from a more rounded education in their existing, inevitably larger school with greater social interaction. They will be educated alongside their peers whilst retaining their friendship groups.
- The small size of the school limits its ability to offer a wide range of extended services which are likely to be more available at schools with more pupils on roll and which the children will benefit from.
- This in turn will enable the children to potentially achieve higher standards of attainment and promote the fulfilment of each child's potential. This will assist in improving their sense of achievement which in turn can improve personal aspiration.
- Factors which support children reaching their full potential will also promote their ability to achieve economic well-being and the positive contribution they can make.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

n/a

3. Conclusion

The final decision is required from the Executive Councillor to determine whether to approve the proposal to discontinue the Ash Villa South Rauceby School. The factors to consider in making this decision are within this report and all valid written responses received during consultation and the Representation Period (see section 6 Consultation) in relation to the closure of the Ash Villa South Rauceby School must be considered.

The local authority believes this proposal to be in the best financial interests; keeping the school open with no pupils would be an inefficient use of resources and considered not to be in the best interests of the wellbeing of the staff employed at the school.

The advantages of implementing this proposal are detailed earlier in this report in the "Reasons for Recommendations" section.

4. Legal Comments:

The Council is the decision-maker for school alteration proposals of this type by virtue of the Education and Inspections Act ("EIA") 2006 as amended by the Education Act 2011 and the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 made pursuant to the EIA. The decision-maker may reject the proposal, approve the proposal without modification or approve the proposal with such modifications as the Council considers desirable but only after consultation on those modifications with the governing body.

The Council as decision-maker may make the approval of the proposal conditional but only on specified matters contained in the regulations.

The proposal is consistent with the Policy Framework and within the remit of the Executive Councillor.

5. Resource Comments:

The recommendation to approve the closure of the Ash Villa South Rauceby School from 1 September 2020 will ensure the effective use of Dedicated Schools Grant funding going forward. The local authority carries out an annual review of school places for specialist provisions, and adjusts them to the required demands. There are no pupils placed there presently, and unlikely to be going forward following the confirmation from LPFT that the hospital unit will not re-open. This will result in the place numbers commissioned by the local authority ceasing. The school will have no other funding source to meet its present financial obligations. The Ash Villa South Rauceby School is a small school, and with no funding due to place numbers ceasing, it will be unable to set a balanced budget. Schools are not legally allowed to set a deficit budget without a realistic and evidence based business plan – the school falls under this category. It would also not be considered an efficient use of resources to continue funding the school.

There will be financial implications resulting from the closure which will need to be determined; however re-deployment opportunities will be explored to maintain high quality specialist skills within the sector. Financial liabilities will need to be managed within the available school reserve and the High Needs block of the Dedicated Schools Grant. The local authority would also consider how future planned funding could be re-directed to contribute to the provision of hospital education across the county.

6. Consultation

In order for the school to close the local authority must follow the necessary statutory legal processes as required by the Secretary of State in accordance with the Education and Inspections Act 2006, the Education Act 2011 and the guidance "Opening and closing maintained schools. Statutory guidance for proposers and decision-makers" (November 2019) issued by the DfE.

Under these guidelines the local authority must pre-consult appropriate parties before publishing any proposals and moving onto the representation period (a second formal consultation period of four weeks). It is for the proposer to determine the nature and length of the initial consultation, although it is best practice for consultations to be carried out in term time to allow the maximum number of people to respond. When planning the consultation timeline it was taken into account that half-term would fall within the initial pre-consultation period, this led to the local authority opting for a six week consultation.

Proposers should have regard to the Cabinet Office guidance on consultation principles when deciding how to carry out the consultation period. Under these guidelines the local authority must ensure that sufficient time and information are provided for people to understand and form a view on the proposal and make a response.

Any consultations should be clear and concise and have a purpose. Consultations should be targeted to specific groups and enough information should be given to ensure that those consulted understand the issues and can give an informed response.

The guidance "Opening and closing maintained schools. Statutory guidance for proposers and decision-makers" (November 2019) issued by the DfE lists who should be consulted in connection with all proposed school closures. The list of interested parties was therefore compiled according to these principles comprising of a wide a range of consultees and incorporated the Chief Executive of the District Council as well as individual county, district and parish councillors as appropriate.

Guidance requires that the proposer consults with pupils and parents of registered pupils at the school; however this was not possible as there are no children on roll at the school.

On 27 January 2020 a letter incorporating relevant information and reasons for the proposal was sent out to interested parties to commence a six week period of consultation. Responses to the consultation could be submitted online by completing a short survey, by letter or email. The deadline for responses was 9 March 2020. A copy of the letter commencing consultation was published on the County Council at www.lincolnshire.gov.uk/school-pupil-support/school-organisation-planning

A public meeting was held at the Ash Villa South Rauceby School, Greylees, Sleaford on 26 February to provide more detail about the proposal and to provide interested parties with an opportunity to ask questions and raise concerns. However, no members of the general public attended.

All written responses received during consultation have been made available to the Executive Councillor for consideration and further details are confirmed in this report in Appendix A.

To summarise, there were four valid responses in total.

One response had no objection providing that the local authority was able to provide quality education to allow children to flourish. The other three responses related mainly to the Ash Villa Hospital Unit, as opposed to the school. One of those supported the concept of the mainly community/home treatment service but they felt the proposal was not sufficiently adequate. A number of questions were raised surrounding the availability of alternative residential provision and where this would be located. Points were also raised about the impact of families dealing with someone with severe mental health issues within the home and questions were asked about how the new care model was performing.

There were no objections specifically to the closure of the school.

Following the completion of the pre-consultation period all feedback was considered with a full report (which is referred to in the Background Papers section below and will also be re-considered along with this report) by the Executive Councillor and a decision was taken on 21 April 2020 to proceed to Statutory Notice.

A statutory four week Representation Period was entered into on 6 May 2020 commencing with the publication of the Statutory Notice (Appendix B) in the local press, on the Lincolnshire County Council's website and at the school gates. The Complete Proposal, available in paper and electronic format (Appendix C) to which the Statutory Notice refers, was sent to interested parties as detailed in the statutory guidance and was also published on the website at www.lincolnshire.gov.uk/school-pupil-support/school-organisation-planning. The Representation Period provided a further opportunity for people and organisations to express their views and ensure that they are taken into account when the final decision is taken. No responses were received during the Representation Period which supported the proposal.

Under current legislation the local authority is the decision maker for the proposal and is co-ordinating the statutory process before making a final decision in July 2020. The local authority, as decision maker, must be able to show that all relevant issues raised are taken into consideration in the decision making process. Points raised can be considered unpersuasive but must not be ignored altogether.

a) Has Local Member Been Consulted?

Yes.

b) Has Executive Councillor Been Consulted?

Yes.

c) Scrutiny Comments

The decision of whether to proceed with the closure of the Ash Villa South Rauceby School will be discussed by the Children and Young People Scrutiny Committee on 17 July 2020 and the comments of the Committee will be passed on to the Executive Councillor.

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

An Equality Impact Assessment has been completed and in summary the analysis indicates that there will several positive impacts and no negative impacts arising from the Executive Councillor's decision.

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Summary of written consultation responses
Appendix B	Statutory Notice
Appendix C	Complete Proposal

8. Background Papers

Document title	Where the document can be viewed
Proposal to discontinue The Ash Villa South Rauceby School (decision to go to Statutory Notice)	Lincolnshire County Council Committee Records Reference I019599 https://lincolnshire.moderngov.co.uk/ieDecisionDetails.aspx?ID=599
Opening and closing maintained schools. Statutory guidance for proposers and decision-makers" (November 2019)	Available on request from the School Organisation Planning Team, Children's Services.
Equality Impact Analysis	Available on request from the School Organisation Planning Team, Children's Services.
Individual consultation responses	Individual responses available to be viewed by the decision maker. Content of responses anonymised and summarised to this report in Appendix A.
Health Scrutiny Committee paper regarding the Ash Villa Unit under LPFT	https://lincolnshire.moderngov.co.uk/documents/s31304/6.0%20CAMHS%20FINAL.pdf

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