

DETERMINATION

Case reference: **STP/000533**

Local Authority: **Gateshead Council**

Proposal: **To discontinue Sacred Heart Voluntary Aided (VA) Roman Catholic (RC) Primary School Byermoor on 31st August 2011.**

Objectors: **The Governing Body of Sacred Heart VA RC Primary School
The Hexham and Newcastle RC Diocese**

Date: **28th February 2011**

Determination:

Under the powers conferred on me by Schedule 2 to the Education and Inspections Act 2006, I hereby reject the proposal that Sacred Heart VA RC Primary School be discontinued on 31st August 2011.

Referral

1 In a letter dated 16th December 2010, Gateshead Council's ("the Council") Strategic Director of Legal and Corporate Services wrote to the Office of the Schools Adjudicator (OSA) on behalf of the Council referring a decision made by it to discontinue Sacred Heart VA RC Primary School ("the School") on 31st August 2011. The School serves boys and girls in years R to 6.

2 The referral was made following a letter, dated 16th December 2010, from the Chair of the School's Governing Body to the Council's Strategic Director of Legal and Corporate Services in which the Chair indicated the Governing Body's wish to appeal against the Council's decision to discontinue the School. On 7th January 2011, the Council received a further letter of appeal from the Director of Educational Services of the Diocese of Hexham and Newcastle (the "Diocese"). This was also duly referred by the Council to the OSA.

Jurisdiction

3 On 15th October 2010, having carried out the appropriate consultation, the Council formally published the proposal in the Newcastle Chronicle and The Journal. The notice was in the form required by the Education and Inspections Act 2006 (the Act) and the Regulations made thereunder, the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007.

4 The Governing Body of the School and the Diocese lodged appeals, as they are entitled to do under paragraph 14 of Schedule 2 of the Act, against the Council's decision to discontinue the School and requested that the Council refer the matter to the Adjudicator within the prescribed timescales. This it did.

5 I am satisfied that the proposals have been properly referred to me in accordance with Schedule 2 to the Act and that, therefore, I have jurisdiction to determine this matter.

Context

6 The School, founded in 1883, is located close to the administrative border between Gateshead and County Durham with approximately one third of pupils being resident in the former area and the remainder in the latter. The latest Ofsted inspection report on the work of the School (October 2007) described the majority of pupils as being White British, and found that the percentage entitled to free school meals and with learning difficulties and/or disabilities to be below the national average. The School states that this pupil profile has not significantly changed over the last three years. No pupils have a statement of special educational needs. 42% of pupils are baptised Roman Catholics. In February 2011 there were 78 pupils on roll with a planned admission number of 15 and a capacity of 105. The School is officially designated by the Department for Education as a rural primary school.

7 In 2005/6 the Council undertook a review of primary school provision across the authority. The main purposes of this review were to address the issue of surplus places and *"to put in place a strategy for the future development of primary school provision"*. At this stage, the review excluded the RC sector. It resulted in some school closures and the removal of surplus capacity at other schools.

8 At its meeting on 10th February 2009, the Council's Cabinet considered a report from the Council's Group Director, Learning and Children which set out a series of reasons why a further phase of the primary review should be initiated. The reasons stated were:

- *To ensure that all schools identified for capital investment have a secure and long term future;*
- *Falling numbers in some schools/areas not previously subject to review, with growing surplus capacity as a result;*
- *Growing numbers of small primary schools, putting increasing strain on the reducing finances available for all primary schools;*
- *The need to bring forward proposals for reducing surplus capacity and small schools in the RC sector;*
- *To maintain the very high standards of education in Gateshead's primary sector and ensure that provision matches parental preferences as far as possible.*

9 At the above meeting, Cabinet agreed to carry out two “*targeted reviews*” of primary school provision. The first would focus on community primary schools in the Whickham area and the second on RC primary schools “*with a particular focus on small schools and surplus capacity.*” The Group Director’s report highlighted the position in the RC sector where there had been no reduction in the number of RC schools, nor any “*significant reduction in overall capacity or surplus places*”, despite a similar pattern of falling demand for places as that facing community schools. The report identified five RC primary schools to be included in the RC review, one of which was the School, and all of which were small schools with rolls of between 82 and 108. The Council had identified one of these schools for capital investment and had plans to remove surplus places at another.

10 Stage 1 of the RC review took place in the spring and summer of 2009 with a report on the outcome of the associated consultation exercise being presented to Cabinet on 22nd September 2009. In the report, the Group Director suggested a “*set of Core Principles to guide the reviews*”. The “*key principle*” (amongst the 14 put forward) that is particularly relevant to the School’s situation was that the minimum size of any primary school should be one form of entry resulting in a total number on roll of 210 (excluding any nursery provision). Given that the School’s planned admission number is 15 and its capacity is 105, the agreement of this principle immediately brought the future of the School into sharp focus. Indeed, the same report stated “*the need to review very small schools and reduce capacity in RC primary schools results in the need to consider the closure of Sacred Heart at Byermoor.*” A further RC school was identified for potential closure and two others for amalgamation. The report noted that the School was also situated in the Whickham area where primary community school provision was also being reviewed.

11 Cabinet agreed to endorse the 14 core principles and to commence Stage 2 of the RC review, a consultation on specific proposals for the RC sector which included this proposal. A summary of the outcome of the Stage 2 consultation was contained in a report from the Group Director to Cabinet on 25th May 2010. In her report, the Group Director noted that, although the Diocese had agreed to conduct its own review of primary school provision, “*the Diocese has not made sufficient progress with its review to enable any discussion on rationalisation of RC primary school provision to take place. Nor was there any clarity from the Diocese on the review process itself or the timetable for reaching decisions.*”

12 The Group Director recognised “*that the proposal to close this school goes against the views of a significant body of parents and friends of the school, as well as the RC Diocese which supports its retention for the present.*” However, the Group Director also noted that “*This high level of support is not reflected in the number of children attending the school, which is currently around 74. Of these, around 50% are Catholic and around 75% live outside of Gateshead borough. The buildings are old and located some distance from the areas where most pupils live.*”

13 The Group Director also set out proposed transition arrangements should Cabinet agree to discontinue the School. The parents of children attending the School would be offered alternative places at other local RC and community schools with spare capacity according to parental preference. If necessary, the Council stated it would consider a temporary increase in capacity at another RC primary school, St Mary's. The Group Director also noted that, if the School were to close, the Diocese would need to review its wider admission arrangements to recognise the new pattern of schools.

14 Cabinet endorsed the proposal to discontinue the School with effect from 31st August 2011 and agreed to carry out statutory consultations on the proposal. This became Stage 3 of the review process, the results of which were reported to the Cabinet meeting of 15th September 2010. The Group Director's report noted the following "*main issues*" that had arisen from the consultation exercise:

- "*Overwhelming objection to the Council's closure proposal*";
- A belief that the Council had provided insufficient information and that consultation had been inadequate;
- The Council had not taken into account the views expressed by the objectors;
- The proposal would make it more difficult for pupils to walk to school, thereby increasing the number of car journeys;
- The proposal will reduce local access to RC provision.

15 Having considered the Group Director's report, Cabinet agreed to confirm the proposal to discontinue the School from 31st August 2011 and to publish Statutory Notices. These were duly placed in the Newcastle Chronicle and The Journal on 15th October 2010. The response to the statutory representation period was reported to Cabinet on 14th December 2010. The Group Director's report summarised the issues raised during this period as follows:

- The consultation process was fundamentally flawed;
- The Council had failed to take sufficient account of the School's rural status;
- There are insufficient alternative places for the pupils who will be displaced;
- The Council had failed to consider the impact on educational standards;
- The Council had failed to consider the impact on the balance of denominational provision;
- The Council had failed to consider alternatives to closure.

Cabinet was also presented with a more detailed summary of the main points raised by the Diocese, the Governing Body, and the Sacred Heart Parents Action Group ("SHPAG"). SHPAG were earlier known as the Sacred Heart Parents Action Committee.

16 After considering the available evidence and oral representations from the Diocese and SHPAG, Cabinet agreed to approve the School's closure on 31st August 2011. The Chair of the School's Governing Body was formally notified of this decision on 16th December 2010 and, on the same day, notified the Council that the Governing Body wished to appeal against the decision. The Council then referred their decision to OSA on 22nd December 2010. A further appeal, from the Diocese, was sent to the Council on 7th January 2011, referred to OSA on the 10th January 2011 and received by OSA on 12th January 2011.

Procedures

17 In considering this case I have examined all the relevant documentation including:

- Reports to the Council's Cabinet relating to the various stages of the review process;
- The Statutory Notices and further information required by regulations;
- Minutes of a range of relevant consultation meetings;
- Evidence, including petitions, submitted by the School community (including pupils), the School's Governing Body, the Sacred Heart School Action Committee, the Sacred Heart Parents Action Group, the Diocese and other interested parties;
- Letters from two MPs;
- The latest Ofsted inspection report for the School and for other schools in the area;
- The report of the School's School Improvement Partner dated 13th January 2010;
- The Department for Education's 2009 list of designated rural primary schools;
- Material produced by the Council to assist the various stages of the consultation exercise;
- Information about the School's 2010/11 budget produced by the Council and DfE;
- "*Small Schools: How Well are They Doing?*" (2000). A report by Ofsted using data from inspections and national test results.

18 I toured the local area and visited the School on 10th February 2011. On the same day I held a meeting with representatives from the School, the Council and the Diocese and held a public meeting (attended by some 250 people) to hear the views of interested parties. I have considered the points made and the material presented to me at these meetings and subsequent to them.

Consideration

19 I assessed the Council's proposal taking into account the requirements of the relevant legislation, and the statutory guidance. In reaching my decision I had regard to all the relevant matters including those highlighted in the following specific considerations.

Effect on Standards and Contribution to School Improvement

20 The latest Ofsted inspection of the School, undertaken in October 2007, found the School to be satisfactory overall, a grade bettered by approximately half of English primary schools. Achievement and standards were also judged satisfactory, as was the quality of teaching and leadership and management. Pupil's personal development and well being, and care, guidance and support were judged to be good. Inspectors noted that the School has "*an over-optimistic view of its effectiveness.*" If the School were to close, the schools most likely to receive displaced pupils, St Patricks (in County Durham), St Mary's RC, Burnopfield and Clover Hill were found, at their latest Ofsted inspections, to be good, outstanding, good with outstanding features and outstanding respectively.

21 The School boycotted the 2010 key stage 2 SATs. Over the last year, external evaluations by the Council have found standards in the foundation stage, key stage 1 and key stage 2 to be good, satisfactory and satisfactory respectively. The most recent value added score for the School (2009) was 99.7. The School is confident that 2011 data will show improvement in standards at the end of key stages 1 and 2.

22 The relevant Council papers give relatively little attention to standards and school improvement matters. Whilst there is an implicit assumption that a primary school with less than 210 pupils will compromise the quality of teaching and learning, the Group Director's report does not indicate any concern about standards at the School. Indeed, standards are not one of the six "*issues in the RC sector*" set out in her report to Cabinet on 15th September 2010. Nationally, there is no evidence that I am aware of that small rural schools are associated with the provision of poorer quality education. Neither does the Council provide any evidence that this is the case. Indeed, an Ofsted report (2000) on small schools found that "*the quality of education provided by small schools compares well with what is provided by larger schools.*"

23 The Diocese believes that standards at the School are not an issue. The Governing Body believes the School is improving and cite written evidence from the School's School Improvement Partner (SIP) to support their case. Over the last year there have been two SIP reports. In spring 2010, the School was found to be a "*satisfactory school with some good features*", whilst the report dated January 2011 concluded that overall effectiveness and outcomes were satisfactory. Other objectors believe the School is a good school which achieves good results and that the quality of provision at alternative primary schools is not as good as that experienced at the School.

The publically available evidence suggests that the objectors have an over positive view of the quality of provision at the school compared to other schools in the area. However, the Council has specifically stated (report to Cabinet 14th December 2010) that it “*has not argued for closure on grounds of the standards achieved*” at the School. I also note that there have been significant changes to the membership of the School’s Governing Body in recent years and there are positive signs of a renewed commitment to school improvement. Similarly, SIP reports comment on how a focus by school leaders on improving the quality of teaching and learning is “*impacting positively on pupil’s standards, progress and enjoyment of learning.*”

24 I have noted that there are no firm plans in place to support the transfer of potentially displaced pupils to other schools although it would be reasonable to expect that such plans, even though they would be subject to parental preferences, would exist at this stage. The school to school transition process is inevitably a cause of concern for children and parents and pupil’s progress with their learning is always at risk at such times. The lack of planning for smooth pupil transition should the School close and the relative lack of attention given to whether this proposal will improve standards are both causes of concern.

25 The evidence does suggest that the quality of education at the School and the standards achieved by the pupils, although clearly having the potential to improve, are not a matter of concern for parents, the Diocese or the Council. External evidence shows some signs of recent improvement. Balancing this consensus against the uncertainties and risks associated with pupil transition, I do not believe that there is good evidence that this proposal will have a positive impact on pupil’s standards of achievement.

26 In relation to extended services, there is an independent provider of early year’s education based at the School and some objectors are concerned about the future of this provision should the School close. This concern is particularly related to parent’s positive views about the close links between this provision and the School’s early year’s class. The Council points out that the School buildings are owned by the Parish and it will be for the Church authorities and the contractor to decide on the future of the pre-school provision should the School close. Whilst this is true, it ignores the evidence that parents clearly place a high value on the close links between this provision and the School’s early year’s class.

27 By closing a RC VA school, this proposal would reduce the diversity of type of primary school in the local area. The local demand for denominational education is shown by the fact that there were only 15 vacant places in total in the four other denominational schools within a three mile radius in January 2011. When considering the proposals to close a school with a religious character, the statutory guidance states that I should not normally approve closure where the proposal would result in a reduction in the proportion of denominational places in the area unless the school concerned is severely under-subscribed or standards have been consistently low. The evidence suggests that neither of these caveats apply. Although the School now has

26% of its places vacant, the evidence suggests that this figure was well below 10% before this proposal was made and the Council accept that standards have not been consistently low.

28 On 31st December 2010, the Council discontinued the nearby Marley Hill Community School, resulting in the removal of 120 community school places. At the Cabinet meeting on 14th December 2010 the Council agreed to the closure of St John the Baptist RC Primary School with the loss of 210 denominational places. This proposal would remove a further 105 denominational places. The Council has concluded "*the balance of provision is broadly maintained*" within the area local to Sacred Heart. In coming to this conclusion it has defined St John the Baptist as being outside the local area, whereas the objectors consider it to be within it. I have noted that St John the Baptist is some 9 miles by road from the School and I believe that the closure of this school is not relevant to my consideration of this case. Whilst the Council can claim that this proposal and the closure of Marley Hill will broadly maintain the balance of the total number of community and denominational places in the area, in January 2011, there were some 450 vacant places at community schools within 3 miles of the School, compared to only 15 in the four Catholic schools, two of which were above capacity. This proposal could well have the effect of removing all available denominational places in the local area. In analysing the impact of this proposal on the balance of denominational provision, the Council has given undue emphasis to the effect it will have on the total number of places in the area rather than the local pattern of supply and demand for places at community and denominational schools. In this context, this proposal will have an adverse impact on the number of denominational places as well as reducing the diversity of type of school in the local area.

29 The majority of pupils attending the School are non-Catholics and the number of baptisms in the parish is reported as being very small. However, it is clear that the parents of all children at the School, whether Catholic or not, are attracted to the denominational provision and that the preferences of this larger community should also be considered, not just the demand from practising Catholics. Whilst the Council believes that "*alternative RC provision is available within reasonable travelling distance*" for all parents who might prefer such a school for their child, the number of such places available for pupils currently at the School is very limited.

30 The evidence suggests that the School makes a good contribution to the Every Child Matters agenda. The same is true of the other schools in the local area and I am not persuaded that there is any evidence to suggest that my decision, whether it is to approve or reject the proposals, will impact on that agenda.

Need for Places

31 The objectors (November 2010) believe the Council's place planning analysis "*seriously underestimates the potential for admissions*" and that the Council has used "*out of date information.*" However, the data used by the objectors does not relate to demographics within the specific local area. The Council's data does make a good case for reviewing overall school provision across its area and in the Whickham area more specifically. However, it does not provide a basis for evaluating demand for RC denominational places at the School. I acknowledge that predicting demand for RC denominational provision, as opposed to general primary school provision, is difficult, but the popularity of the five RC primary schools in the area does not suggest this demand is diminishing.

32 The Council's planning of alternative provision for current pupils should the School close is severely constrained by the fact that the parents of these children will not indicate alternative preferences. In considering alternative provision the Council appears to assume that the parents of non-Catholic children will accept an alternative place at a community school. ("*There is sufficient capacity in the local community primary school – Burnopfield*" report to Cabinet 14th December 2010). However, it seems reasonable to assume that, having chosen a denominational school for their children in the first place (when they could have indicated a preference for places at Burnopfield or another local community primary school); parents will wish their child to continue their education at such a school. I also note that, over the last three years, the number of parents allocated a place for their child at the school (15 in 2008/9; 12 in 2009/11; and 14 in 2010/11) broadly matches the planned admission number of 15, although the Council state that a number of these places were not parent's first preference and that it has received only 8 first preferences for places in September 2011. None the less, the data for recent years suggests that, even at a time when the future of the School is uncertain, the demand for denominational places at the School broadly matches the supply.

33 The evidence also suggests that, as things stand, there is insufficient denominational provision for displaced children. There are four RC primary schools within a three mile straight line distance of the School. These are St Joseph's (c3 miles distant), Highfield St Joseph's (c2 miles distant), St Mary's (c3 miles distant), and St Patrick's (c3 miles distant). In February 2011, they had 6, nil, nil and 9 vacant places respectively.

34 The Council has stated that "*consideration will be given to a temporary increase in capacity, in consultation with the governing body of St Mary's RC Primary School*", as well as pointing to the surplus capacity in nearby community schools. No formal discussions have taken place with St Mary's on this matter although the Diocese believes that, should St Mary's be asked to accommodate more pupils, the school's response would be positive. Many parents are concerned that if such a development be necessary, the School's pupils would be educated in unsatisfactory temporary accommodation on the St Mary's site.

35 Given the small number of alternative denominational places for displaced pupils at present, the absence of any firm plans to expand provision at other RC schools, and the fact that no discussions have taken place with parents to ascertain whether they prefer an alternative place at a local community school, I cannot be satisfied that sufficient alternative denominational places are available within the local area.

36 The Council (report to Cabinet of 15th September 2010) has identified the issues in the RC sector as including “*the reduction in number of children in some RC schools*”, “*surplus capacity focussed in particular schools*”, and the fact that some schools are “*significantly undersubscribed*.” An agreed core principle of the RC primary school review is that the number of surplus places should be 10% or less and “*no individual school should be consistently operating with more than 25% surplus places*”.

37 In May 2010 (the time of a key Cabinet meeting which considered this proposal), there were 74 pupils on roll at the School which has a capacity of 105, meaning that some 30% of places were vacant. By February 2011, the roll had increased to 78 (26% vacant places). The Guidance to decision makers states that “*the Decision Maker should normally approve proposals to close schools in order to remove surplus places where the school proposed for closure has a quarter or more places unfilled and at least 30 surplus places, and where standards are low compared to standards across the Council*.” In May 2010, the School fit the first two of these criteria but not the third (as there is no evidence or suggestion that standards are low compared to those across the Council). By February 2011 it met only the first. The Guidance goes on to state the importance of also considering the match of school places to parental preferences. In this case there are only a small number of alternative denominational places currently available in the local area (see paragraph 28 above). I am also mindful of the presumption against the closure of rural schools and that, if determining against the presumption, “*the case for closure should be strong*”.

38 The objectors state that, until the School was identified for possible closure in February 2009, it was operating at full capacity and that the decline in roll since then has been as a result of insecurity in the minds of parents rather than representative of any medium or long term decline in demand for places at the School. This view is supported by the January school census data. For the four years January 2006 to January 2009, the School was operating at over 92% of its capacity, but this dropped to 75% by January 2010. Similar patterns of pupil movement from schools in such circumstances are not unusual. A sense of insecurity must also exist for local parents who are indicating their preferences for primary school place for their children in September 2011. The Council is due to allocate these places for September on 1st April 2011 and it will assist all parties if this determination is made before that date. A small School is particularly vulnerable to differences in the size of particular year groups. For example, in 2008/9, year 6 had 19 pupils whilst a year later the successor year 6 had only 8 pupils (a figure which had remained stable as this cohort passed through the School). The current year 3

has only 7 pupils on roll, a figure which it may well prove difficult to grow as parents generally recognise the benefits of keeping their children at the same school for the whole of key stage 2. It may well be the case that building the overall roll back to the School's capacity proves more difficult than the objectors envisage, even if it fills all its 15 reception places in September.

39 I believe that, in light of the local demand for denominational places and the associated relative shortage of such places, the fact that until this proposal was made less than 8% of places at the School were unfilled, the absence of any detailed plans for relocating displaced pupils and the fact standards at the School are not a cause of concern, this proposal is not strong enough to outweigh the presumption against the closure of a DfE designated rural school such as Sacred Heart.

Impact on the Community and Travel

40 The School and co-located Church act as foci for family and community activity. This is accepted by Council officers, "*it is clear that the school is an important part of the Parish community*", as is the fact that "*the pre-school play group is valued by local families.*" (See Cabinet report of 15th September 2010). Evidence, including a petition with over 5000 signatures, shows the local community regard the School as a significant asset and that there is overwhelming local opposition to closure. The Chair of the Governing Body states the School is "*at the heart of our community.*" The Diocese states that it has found support for the School from the community to be "*unprecedented*". It is concerned that closure would "*have a significant impact upon the local community.*"

41 The objectors accept that the School "*does not have extended services directly attached to the School*". Instead, the School's significance to the local community appears to lie (in addition to its education function) in its relationship with the Church and its long standing history of serving the area since 1883. The Council, in valuing the work of the pre-school play group, are also right to say that this facility could continue if the School were to close although its effectiveness in the eyes of parents is substantially related to the close links it has with the School's reception class. The Governing Body permits the local community to have free unsupervised access to a playground in the School grounds for certain times of the year. Such access does not have to be compromised by this proposal as the land will remain in the ownership of the Parish which could continue existing arrangements if it wished to do so.

42 Evidence from objectors suggests that the School, along with the Church, plays a significant role in community cohesion in the rural area it serves. Council officers state that the School is "*located some distance away from the areas where most pupils live*" and note that "*many of those signing the petition live some distance from the School*". Data supplied by the Council show that some 75% of pupils live within 2 miles of the School, which, given its rural location, does not suggest the Council's conclusion in relation to the

proximity of pupils homes to the School is correct, even if their analysis of the addresses of those signing the petition is.

43 I have limited evidence of any analysis of transport and accessibility issues. From the Council's perspective, such work has been hindered by parent's reluctance to indicate any preference for alternative schools. The School currently benefits from easy access by private car, good parking facilities and, from the nearer communities, the established utilisation of a "walking bus". If the School were to close it is likely that some of the children affected would live nearer to their alternative school whilst some would live further away, with related implications for car use and travel costs. The Council estimates that journeys to school distances are likely to increase by "2-3 miles for most" and state that existing public bus services cover the area and that those living more than two miles from their nearest suitable school will be entitled to financial assistance with transport. The Parent's Action Group has provided data to show the impact on families worse affected by accessibility issues but not the overall pattern of the numbers of "winners and losers". The limited evidence about the impact of this proposal on travel and access issues means I am unable to form any clear conclusions in relation to this consideration.

44 I do not have any evidence which demonstrates any equalities issues arising from these proposals. I note that the Council undertook an Equality Impact and Needs Assessment (dated May 2010) and concluded there were no discrimination issues arising from the proposal. This assessment considered the full range of protected characteristics.

45 The School is designated by the Department for Education as a rural primary school. The statutory guidance on closing a school states "*there is therefore a presumption against the closure of rural schools. This does not mean that a rural school should never close, but the case for closure should be strong and the proposals clearly in the best interest of educational provision in the area.*" The guidance also requires decision makers to consider several specific additional factors which are clearly stated. Until May 2010 there is little evidence that the Council took this presumption, or the need to have strong evidence to over-ride it, into account in their decision making. The issue appears to have emerged at that stage because it had been raised by those objecting to the Council's closure proposal. Even when the School's status as a designated rural school is discussed in reports to Cabinet, the presumption against closure and the need for strong evidence to override the presumption is not stated. Rather, reference is made to the need to "*consider additional factors when considering a closure proposal. These include alternatives to closure, transport implications and community impact.*" Neither the Council nor the Diocese has considered alternatives such as federation in any detail. The Council acknowledges that the transport implications are "*unclear*" and that the School is an important part of the community. I do not believe this represents the strong evidence required to over-ride the presumption.

46 When Cabinet agreed the 14 core principles that would inform the RC primary review, the presumption against the closure of a designated rural school was not among them. If it had been included, it would be unlikely that the “*key principle*” would have been that a primary school should have a minimum size of one form of entry as the designation of small rural schools and presumption against closure are specifically designed to protect such small schools. The School was the only one of the 5 RC primary schools included in the review which had designated rural school status. Whilst a one form entry minimum school size is a reasonable criteria to inform a review of schools in urban areas it clearly prejudices the future of small schools with rural school designation. Such an approach is at odds with the Government’s clearly stated intention to protect rural schools. It is unreasonable that the Government’s presumption against the closure of rural school did not influence the criteria that the Council used to inform its review of RC primary schools. The criteria were designed to be applied equally to all schools which were under review (“*the proposed options have been developed by applying the Core Principles to the schools within the review.*”) However, the statutory guidance requires a tougher test (“*the case for closure should be strong*”) when considering the closure of designated rural primary schools and it is reasonable to assume that this is intended to ensure that decision makers apply this tougher test to the application of all the criteria that are used to inform decision making.

47 The strength of the Council’s case is further weakened by its statement that a concern about standards has not influenced this proposal (see paragraph 23 above).

48 I am not satisfied that the Council has properly considered the presumption against the closure of rural schools nor that it has provided sufficiently strong evidence for me to override this presumption.

Buildings, Funding and Site

49 The School buildings are owned by the Parish; therefore the Council is unable to generate a capital receipt from this proposal. The School states it has rectified many of the building related needs identified in the most recent asset management survey and that the School buildings are now sound and do not require any significant investment. The Council acknowledge that the School has addressed some of the needs described in the survey but point out several that the School has not, most notably a short term, “*essential*”, need to replace its central heating boiler at an estimated cost of £57,000. The Council estimates that the School will receive approximately £5,350 of devolved capital funding from DfE in the coming year. The evidence suggests that the capital funding needs of the School are more significant than the School acknowledges. Bridging the gap between needs and available capital resources will be a challenge for the School, the Parish and the Diocese. However, I also note that the Council’s proposal, should the School close, is to provide additional accommodation at St Mary’s School which will also require capital resources, although at this stage this resource has not been quantified. Overall, I do not believe that the need for capital investment at the

School, as defined by the Council, should have a decisive influence on my conclusion, although the School's ability to properly maintain its buildings should be a concern for the Governing Body.

50 An important element of the Council's case for closure is that the School *"receives a significant level of additional money to subsidise it and ensure it is adequately funded. This makes Sacred Heart relatively expensive to run. The School will require long term financial subsidy if it is provide the full curriculum for primary schools."* (Statutory Consultation Document, June 2010). In the same document the Council states that the average cost per pupil of a Gateshead primary school is £3,473 per year whilst the School costs £3,998 per pupil per year, some £525 (or 15%) above the average cost. At the meeting on 10th February 2011, the Council tabled DfE data for 2009/10 which showed an even higher per pupil funding cost for the School of £6,008 pa compared to an average cost for similar schools in Gateshead of £3,733. In recent years, the Council has provided the School with an additional lump sum of £25,000 pa to enable the School to set a balanced budget but it clearly states that *"this support is not sustainable"*. Overall, the Council estimates that the closure of the School would release almost £170,000 of annual revenue funding for the benefit of other schools.

51 The objectors question the basis of the Council's estimate of savings and point out that some 40% of Gateshead primary schools had higher per pupil costs according to the Council's own 2009/10 budget report. I have studied the Council's budget breakdown and find it reasonable. It is also fair to say that per pupil costs of a small school are very sensitive to pupil numbers. The Governing Body believe that, should the School's future be secured, the roll would rise and per pupil costs would drop. This is a reasonable assumption as numbers could certainly rise without the need for any significant increase in staffing costs.

52 More broadly, the Council is concerned about the impact of the revenue budget subsidy it makes to 16 small schools on its overall primary school budget and the need to target diminishing capital resources on schools which are viable in the medium to long term. The target school size was identified, in part, because such a school would require no subsidy. The Council also consider the School's buildings to be old and, implicitly, in need of an investment that is hard for them to justify in light of the size of the School roll. The Council is undertaking a review of its arrangements for funding small schools with a view to reducing subsidies. It is open to the Council to seek to remove the lump sum subsidy referred to in paragraph 50 above irrespective of whether this proposal is approved.

53 The importance of resourcing issues to this proposal is made clear in the Group Director's report to Cabinet of 14th December 2010. *"A key factor in sustainability relates to the high costs of maintaining small schools, their impact on the resources available to all schools in the Borough and the need to use resources efficiently to maintain and improve standards. Efficiencies*

cannot be achieved if the Council continues to maintain all its small schools on their current scales.”

54 It is difficult to ascertain the true revenue and capital savings as, if the proposal was to be approved, there would be new costs in relation to pupil transport, possible capital works at St Mary’s and, potentially, staff redundancies. None of these are yet known. I am also mindful of the School’s designated rural school status as it is generally accepted that such schools, by their very nature, have higher than average per pupil costs. (*“Small schools have unavoidably higher unit costs than larger schools,” Ofsted (2000).*)

55 Whilst it is entirely reasonable to give emphasis to financial considerations in relation to small schools in urban settings I believe it is unreasonable to apply the same test, with the same viability threshold, to a designated rural primary school. The question then becomes whether the level of subsidy is reasonable in this context. Local evidence provided by objectors, but quoting Council data, shows other schools whose futures are not subject to review have higher per pupil funding.

56 The Council’s estimate of c£170,000 of redistributable revenue costs is made up as follows.

Description	Redistributable saving
Small school allowance	£54,000
Premises costs	£26,000
Staffing costs (mainly on-costs of headteacher and caretaker)	£89,000

57 The evidence shows that, when the School had a secure future, the roll was higher and the need for a subsidy was therefore lower. The main staffing cost saving (£66k) is the on-cost of a headteacher. This saving could be achieved by alternatives to closure such as federation. Such an action would also negate the need for additional accommodation at another local school. Given the evidence relating to other Gateshead schools, the presumption against closure, the very recent fall in the School’s roll and therefore budget, and possible alternatives to closure which could reduce headteacher and per pupil costs, I do not accept that the evidence relating to resources is strong enough to over-ride the presumption.

Special Educational Needs (SEN)

58 Little attention has been given to the impact of this proposal on pupils with special educational needs. There are no pupils at the school with statements of SEN and no designated provision for pupils with SEN. The evidence from nearby schools shows that provision for pupils with SEN who have been identified at school level is at least as good as that provided by the School. I do not believe that this factor should have a significant influence on my conclusion.

Views of interested parties

59 The consultation process has been highly controversial, attracting large scale opposition from a range of interested parties. It has involved staff, governors, parents, pupils and others over the last two years. Details of the findings of the consultation process were considered by the Council's Cabinet on various occasions and these were summarised in officer's reports at each stage, including the meeting on 14th December 2010, when the Cabinet gave this proposal its final endorsement.

60 Overall, I believe that the Council has taken reasonable steps to organise the consultation associated with this proposal. The breadth of evidence supplied by the objectors, and the number of objectors, provides good evidence of the ability of a wide range of interested parties to comment on it. The consultative process moved through four phases over almost two years. The Council's Cabinet was fully informed of feedback from each consultation phase. I believe that any weaknesses in the consultation exercise were not associated with the mechanics of the process. Although Cabinet reached a decision that was the opposite of the views of the objectors, there is no evidence that Cabinet did not consider these views. There is however, some evidence that insufficient attention was given to certain considerations set out in the statutory decision makers' guidance, a matter I address in paragraphs 67-69 below.

61 The Council readily acknowledge that there is "*overwhelming objection to the Council's closure proposal*" (Report to Cabinet 15th September 2010). In the report to Cabinet on 14th December 2010, officers listed objections from:

- The Diocese of Hexham and Newcastle;
- The School's Governing Body;
- The School's Parent Action Group;
- 468 objection forms from individuals submitted by the Action Group.

A petition against closure signed by some 5,100 people was also submitted to the Council.

62 In this paragraph I summarise the concerns raised by these interested parties and indicate the paragraphs where I have discussed each one:

- The loss of a small, highly valued rural RC primary school which has strong and long standing links with, and the overwhelming support of, the local community and a concern that closure would have negative impact on community life (see paragraphs 40-42);
- The loss of a school which is believed to have good standards, ethos and links with parents and offers small class sizes and a good quality of education (paragraphs 20-25);
- The Council's failure to show how the proposal will improve the quality of education and the standards of education for pupils in the School and in the area (see paragraph 22);
- Until this proposal was first made, the School was full and that, should the threat of closure be removed, this position may soon be regained and the School would have a viable future (see paragraph 38);
- The lack of recognition of the fact that non-Catholic parents had shown their preference for an RC denominational school (see paragraph 32);
- The loss of RC denominational places in the local area and the associated reduced choice of type of school for parents (see paragraph 28);
- The lack of sufficient alternative denominational places in the area and the possibility that friends and siblings may have to attend different schools (see paragraph 31);
- The possibility there may be insufficient primary school places to meet future demand (see paragraph 31);
- Concern about transition arrangements and the negative effect the closure would have on pupils who currently attend the school (see paragraphs 24, 34-35, 38);
- The possibility that displaced pupils would be educated in temporary accommodation (see paragraph 34);
- The possible negative impact on travel and the environment , increasing travel to school times, cost and distances (see paragraph 43);
- A belief that the consultation process was flawed in terms of process, the criteria used to identify schools for closure, the match to statutory guidance, and the quality and accuracy of information provided (see paragraphs 60, 67-69);
- The School has been unfairly treated due to the Council's decision to review the future of all primary school with less than 210 places and that this discriminates against small rural schools (see paragraphs 45-46, 67);
- That the benefits of the pre-school provision and the School's early years provision being on the same site would be lost (see paragraphs 26 and 41);
- The lack of any detailed consideration of any alternative solutions to the problem as defined by the Council (see paragraphs 45, 57, 71).
- No convincing case has been made for the financial benefits of this proposal for the Council and other schools (see paragraphs 49-57);

- The lack of attention given to the DfE's presumption against the closure of rural schools (see paragraphs 45-48 and 67-71);
- The School has a viable future in terms of finances, standards, curriculum and roll, and that the recent drop in roll is entirely related to the threat of closure (see paragraphs 38 and 51).

63 Although the objectors state that pupils did not have a proper opportunity to contribute their views, it is clear that the School was invited to collate and submit evidence from the pupil perspective and that it did so. The main points raised by pupils at the school were:

- They feel happy and secure at the school and concerned that they might lose friends and familiar staff if they were displaced;
- They believe they are receiving a good quality of education;
- They value the opportunities and facilities provided by the School;
- They are concerned about how a possible move to another school could affect them.

64 A series of written complaints were made to the Council about the behaviour of councillors and officers during the consultation process. These were investigated, and duly responded to, by the Council's Director of Learning and the Council's Strategic Director of Legal and Corporate Services in accordance with the Council's policy. I do not have jurisdiction to comment on this matter.

65 It is clear that all those most directly affected by these proposals, and who have chosen to respond to the consultation exercise, resolutely oppose them.

Conclusion

66 In considering the proposals, I referred to the relevant legislation. I also had before me the statutory guidance for decision makers.

67 I believe that insufficient attention has been given to the presumption against the closure of rural schools which is clearly set out in the DfE decision maker's guidance. When the Council agreed its 14 core principles, officers clearly stated that the "*key principle*" was that the minimum size of primary school should be one form of entry. By agreeing to this principle, Cabinet set a criterion that the School could never meet. The presumption against the closure of designated rural schools is designed to give extra protection to rural schools which are often smaller than this threshold set by the Council. In the report to the Cabinet meeting of 22nd September 2009, when this criterion was agreed, no mention was made of the presumption against closure or that the only RC school subject to review to which this presumption applied was Sacred Heart. I am minded to agree with the objector's view that the School was treated unfairly and that Cabinet was not fully informed of this context.

68 In the report to Cabinet on 25th May 2010, the Group Director's report still did not make clear the significance of the rural school designation (i.e. that it had been so designated by DfE) or the fact that the case for the closure of such a school should "*be strong*" and "*clearly in the best interests of educational provision in the area.*" Instead, the report concentrated on the need to consider additional factors although one of these, alternatives to closure, was not considered in any depth. Whilst DfE guidance requires that these additional matters are addressed, it is the strength of the overall case informed by all the stated factors, not solely whether the additional factors have been considered, that is decisive in deciding whether the presumption should apply.

69 Appendix 3 of the Group Director's report to Cabinet on 15th September does refer to the fact that the School's rural designation had been made by the DfE but still did not state the need for a strong case if the presumption against closure is not to apply. Although the report commented on the additional factors that must be considered, it did so very briefly.

70 I do not believe the Council has made a sufficiently strong case for closure and, therefore, I believe that the presumption against closure should apply. The Council itself has stated that it "*has not argued for closure on the grounds of the standards achieved*" at the School. There is no evidence that the size of the School is limiting the quality of education it provides. The evidence suggests there is a demand for RC denominational places (from Catholics and others) in the area and that, if the School's future was to be secured, then the roll would recover and the number of surplus places and per pupil costs would be reduced. I have also noted the low number of available alternative RC denominational places in the area and that no steps have been taken to increase capacity at other schools.

71 The Council is rightly concerned about the financial subsidy it has made in recent years to support the School's revenue budget and the School's ability to fund the repair and maintenance needs of its site and buildings. It does not need the closure of the School to address the subsidy as the Council could seek to change its funding arrangements to this end. If the subsidy was to be removed and available capital resources were diminished as the Council predict (and any resources freed up spread across other schools as the Council wishes) it would be a matter for the Governing Body to decide how to manage the School in light of the available revenue and capital resources. Given the widespread wish for educational provision to remain on the School site, this might encourage the Governing Body and Diocese to consider alternative solutions such as federation with another local school. Given the enthusiasm of the new members of the Governing Body and the high quality of education and standards achieved at nearby RC schools, such a decision also offers the potential to contribute to further improving the quality of education and standards at Sacred Heart which, the evidence suggests should be better than they currently are.

72 All parties agree that there is overwhelming support from those most affected by the proposal for the School to continue. This is further strong evidence against the case for closure.

Determination

73 Under the powers conferred on me by Schedule 2 to the Education and Inspections Act 2006, I hereby reject the proposal that Sacred Heart VA RC Primary School be discontinued on 31st August 2011.

Dated: 28th February 2011

Signed:

Adjudicator: Mr John Simpson