

Brighton & Hove City Council

Children Families & Schools Committee

Agenda Item 59

Subject: Proposal for closure of St Bartholomew's CE Primary School

Date of meeting: CFS committee 29 February 2024
Full Council 4 March 2024

Report of: Executive Director Families, Children & Learning

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Ward(s) affected: All

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that the representation period following the publication of a statutory notice in respect of the school closure proposal did not end until 20 February 2024. Sufficient time then needed to be allowed for consideration and analysis of representations received.

For general release

1. Purpose of the report and policy context

- 1.1 In response to the fall in primary pupil numbers both in Brighton and Hove and nationally, and the consequential impact on schools' finances and the Council's own funding position, it is proposed that two, one form entry primary schools are closed. This proposal will assist in addressing the number of unfilled places in the city, having considered the longer-term viability of both schools in relation to pupil numbers, financial viability and the availability of places in the surrounding area.
- 1.2 This report details the response to the recent publication of a Statutory Notice and the earlier public consultation on the proposal to close St Bartholomew's CE Primary School on 31 August 2024 and seeks approval to recommend the school's closure to Full Council.

2. Recommendations

Recommendations to Children, Families and Schools Committee 29 February 2024

- 2.1 That Committee notes the responses received during the representation period following the publication of a Statutory Notice on 23 January 2024 proposing closure of St Bartholomew's CE Primary School.

- 2.2 That Committee agrees to recommend to Full Council the closure of St Bartholomew's CE Primary School with effect from 31 August 2024, for consideration by Full Council on 4 March 2024.

Recommendations to Full Council 4 March 2024

- 2.3 That Full Council accept the recommendation from the meeting of Children, Families and Schools Committee on 29 February 2024 and notes the draft minutes.
- 2.4 That Full Council approve the closure of St Bartholomew's CE Primary School with effect from 31 August 2024.

3. Context and background information

- 3.1 The proposal is made in the context of the school being unable to meet its published admission number over a number of years and significantly falling pupil numbers across the city. Pupil numbers across the city are projected to continue to fall further in the coming years, which has the potential to generate a decline in the first preference applications to the school. This is occurring in a context of an already excessive number of surplus school places in the city, causing an unsustainable and increasing financial burden to schools and so the Council, in the context of unprecedented pressures to the overall Council budget.
- 3.2 The number of primary school age children in the city has dropped significantly in recent years. The national Census undertaken in 2021 revealed that there was a 22% drop in children aged 0-4 living in the city in the 2021 census compared to the 2011 census. Whilst there has been a national trend in declining numbers of primary school age children the situation in the city is also more acute than both the regional and national picture. Brighton & Hove's population profile had fewer children & young people aged 0 to 19 (20.5%) compared to the South East (23.1%) and England (23.1%).
- 3.3 The Council has a statutory duty to ensure that there are a sufficient number of school places for pupils and that places are planned effectively. In fulfilling this duty, the Council must take into account the fall in pupil numbers overall across the city, and the fact that they are forecast to continue to fall over the next few years.
- 3.4 The implications of excess school places for the funding of schools is stark and inevitably has implications for the education that schools running deficits can provide and the impact upon Council services, where large deficits need to be supported. Schools are funded by the Government, not the Council. The funding is largely calculated on a per-pupil basis. The vast majority of a school budget covers staffing costs. If schools do not have enough pupils attending or suffer from fluctuating numbers, this brings sustained and increasing financial pressure on them. Falling rolls equate to reduced funding to deliver education. The reality is that the current formula for funding by central government does not make smaller class sizes viable

within the budget of a school, even if understandably they might be the preference of parents. Reduced and less flexible budgets will inevitably have an impact on the educational offer of a school. Schools, like St Bartholomew's, who are unable to operate in a financially efficient way risk entering a budget deficit. If the number of surplus places in the city is not addressed the likelihood is that an even greater number of schools competing for a declining population of primary age pupils could face significant financial issues, that will impact on their ability to sustain their school improvement journey.

- 3.5 Where schools do not take appropriate action to adjust their expenditure in line with changes in revenue, they risk incurring a deficit budget which has an implication for the school and the Council's own budget. This comes at a time when the Council is facing severe financial pressures across almost every area of council services, and unpalatable decisions are being taken by almost every council department to try to balance the Council's budget. Unless action is taken to reduce the number of unfilled places in the city it will place greater pressure on the Council's own funding. The latest figures published by the Department of Education for 2022/23 outlined in Paragraph 3.8, confirm that the number of deficits the Council has agreed was significantly above the national average.
- 3.6 The use of a licensed deficit permits schools to plan their budget to balance or move into surplus within a 3-5 year period. The current economic conditions faced by schools, including the funding levels set by central government are making it more difficult for schools to maintain a positive budget position. For the 2023/24 financial year there are 33 schools (out of a total of 61 maintained schools) that have licensed deficit budget arrangements. This represents 54% of all schools with the greatest pressure being in the primary phase, where 29 out of a total of 48 schools will be operating licensed deficits.
- 3.7 As reported in a recent [Schoolsweek](#) article published in January 2024, highlighting a recent [dataset released by the Department for Education](#), the proportion of primary schools in deficit is now at its highest level since the current dataset began in 2015. Other than Brighton and Hove the only other authorities with a similar proportion of schools in deficit appears to be the London Boroughs of Havering and Westminster, where more than 40 per cent of primary schools have a deficit.
- 3.8 The position in the city is more acute than the national picture. Whereas DfE figures show that nationally in 2022/23 12.3% of primary schools had a negative revenue balance (deficit), the proportion in Brighton & Hove for primary schools in deficit was 40.8%. This highlights the extent of the stress on primary school finances in the city and reinforces the need to take action on unfilled places due to the number of schools impacted at this time. The total of the licensed deficits for 2023/24 is £4.393m. This is only slightly below the net school balances at the end of the 2022/23 financial year which was a surplus of £4.540m. It is anticipated that by the end of the 2023/24 financial year there will no longer be an overall surplus balance position and that the net position across all schools will be around the breakeven mark, however this assumes some improvement in school forecasts between now

and the end of the financial year, and there is still risk that overall school balances will show a net deficit position at year-end.

- 3.9 Any assumption or reliance on the Council being able to continue to absorb deficits at the current level needs to be considered in the broad context of the Council's overall financial position. The Government's Autumn Statement 2023 and recent additional funding announcement purport to increase Local Government Spending Power by 7.5% for 2024/25. However real terms inflation being experienced by the Council is closer to 8% due to increases in the costs of social care provision, most of which is externally provided, together with energy cost uplifts, increased interest rates driving up capital financing costs, and increased external contract costs. Moreover, the funding does not keep pace with significant increases in demands including, for example, significant growth in adult and children's social care, home to school transport, and homelessness. The impact of the cost of living crisis on council incomes is further compounding funding pressures, including everything from reduced planning fees to lower commercial rent incomes, to lower than expected parking and permit income.
- 3.10 In summary, as the Local Government Association (LGA) has noted, the Autumn Statement 2023 falls far short of the funding needed to meet demand and cost pressures across local government. In this Council, the conservative estimate of the growth in costs and demands in 2024/25 is approximately £48 million, an unprecedented increase of over 20% of the council's net budget. This includes the combined impact of inflation, increased demands and reduced incomes as referred to above. A budget shortfall (gap) of over £30 million is estimated for 2024/25 and this inevitably results in some very difficult choices given that the Council has no unallocated provisions or risk reserves to help the position in the short term. This adds to the challenge of councils being able to develop viable, sustainable medium term financial plans and it remains to be seen how many councils will continue to be financially viable over the next 2 years without resorting to unsustainable, short-term measures including using up emergency reserves (Working Balances) or selling off public assets.
- 3.11 It is against this backdrop that the Council is having to take significant steps to address the negative impact on school finances of unfilled school places. With a continued drop in the forecast of Reception school places needed in future years, it is imperative to avoid an accumulation of financial pressures across primary phase schools and why such significant steps as the closure of St Bartholomew's CE Primary School have to be considered. If the Council fails to take action to reduce the number of surplus places in the city in the longer-term, school budgets will remain lower thus making more schools less viable. Schools are more likely to be able to balance their budgets if operating with full, or close to full, forms of entry.
- 3.12 The Council monitors surplus reception places, a key measure of demand, and aims to maintain a 5-10% surplus across all city primary schools.
- 3.13 Significant surplus school places across the city will make it more difficult for some schools to attract sufficient pupils to operate to the maximum of their

published admission number. During the public consultation period the Council obtained updated data to forecast pupil projections to September 2027 and revised previous forecasts for earlier years. The table below outlines the Council's forecast of demand for school places in the coming years and the expected surplus of places, not taking into account places removed in September 2025 following recent committee decisions, see 3.15 below. More details are provided in Appendix 1.

School Year	Pupil Forecast	Unfilled places
September 2024	2132	478
September 2025	1970	640
September 2026	1953	657
September 2027	1787	823

- 3.14 The Council is confident in its forecasting. In December 2022, the Council estimated that 2107 starting school places would be required in September 2024. On 7 February 2024, a total of 2120 first preference applications have been made for Brighton and Hove schools for September 2024, the forecast is 99.4% of the actual pupil number and provides assurance that the Council's pupil forecasts are a reliable source of information on which to base decisions.
- 3.15 In order to address the issue of surplus places CF&S committee took the decision at their meeting of 22 January 2024 to reduce the PAN of six primary schools in the city from September 2025 thus removing 180 reception places. The closure of St Peter's and St Bartholomew's schools would remove an additional 60 places. Further measures to address falling rolls are likely to be required in the coming years to bring the number of primary school places in the city into line with current and projected demand. If taken forward, the proposal outlined in this report would begin to address the issue of falling rolls by removing 30 reception places; however, in isolation, this is unlikely to resolve the problem and, based on current projections, further action to address surplus reception places is highly likely.

St Bartholomew's CE Primary School and the central planning area

- 3.16 St Bartholomew's Primary school is a voluntary aided primary school in central Brighton. It has a Published Admission Number (PAN) of 30 and capacity for 210 pupils from Reception to year 6.
- 3.17 There are 406 applications from families living in the Central City planning area for reception places at Brighton and Hove Schools in September 2024. This compares with a forecast figure of 415 pupils, a forecast accuracy rate of 97.8%.
- 3.18 The table below shows the Council's forecast of demand for school places in the planning area up to September 2027. Note that this is an extract from the complete table contained at Appendix 1. No further analysis of the pupil forecasts has been undertaken during the representation period.

Date of Birth / school year	School year in Sept 2024	BN1 2	BN1 3	BN1 5	BN1 1	BN1 4	BN1 6	BN1 7	TOTALS	pupils likely to want a school place based on 90% of GP reg data	Surplus places or shortfall of places
4 Central City			St Mary Mags Prim St Pauls Primary	Stanford Infant Stanford Junior Westdene Primary	Middle Street Primary	St Bartholomews	Downs Infant Downs Junior Ballour Primary St Bernadettes Pri	Hertford Infant Hertford Junior St Josephs Primary			
places in each school year from Sept 2024			60	150	30	30	210	60	540		
01 September 13 to 31 August 14	6	31	63	136	10	51	207	112	610		
01 September 14 to 31 August 15	5	20	65	123	≤5	57	210	96	571		
01 September 15 to 31 August 16	4	24	80	116	12	64	182	103	581		
01 September 16 to 31 August 17	3	33	52	116	10	60	173	86	530		
01 September 17 to 31 August 18	2	24	69	100	9	42	173	91	508		
01 September 18 to 31 August 19	1	23	69	91	9	58	165	70	485		
01 September 19 to 31 August 20	R	32	62	86	12	43	145	90	470	423	117
01 September 20 to 31 August 21	2025	20	60	99	9	57	145	81	471	424	116
01 September 21 to 31 August 22	2026	28	67	72	7	40	146	58	418	376	164
01 September 22 to 31 August 23	2027	15	60	85	6	61	112	62	401	361	179

3.19 The Central City planning area is estimated to have over 100 unfilled places in the coming years. As a church school it is accepted that St Bartholomew's will not simply draw pupils from the BN1 4 postcode but the localised picture, of there being surplus places in the planning area, is replicated in other adjoining planning areas. In 2023 the school received the lowest number of on-time first preferences of the schools in the planning area, albeit other one form entry schools received fewer than 20 first preferences. In 2022 the school also received the lowest number of on-time first preferences of the schools in the planning area and the second lowest in the city.

3.20 This proposal would reduce the number of Church of England school places in the planning area by 30 which is a 50% reduction. Across the city, the closure of St Bartholomew's CE Primary School would mean a reduction in Church of England school places of 10%. The Council notes that both the consultation and the response received during the representation period from the Chichester Diocesan Board of Education (CDBE) highlight the decrease in the number of Church of Education school places available to children in the city. The CDBE sees this as very significant in relation to any further or future reviews that the Council may initiate.

3.21 The Council considers that, should the proposed closure be implemented, the impact on the balance of denominational provision in the area and the impact on parental choice will not be significant. The next closest Church of England school is St Paul's CE Primary School which is under 1100 metres from St Bartholomew's CE Primary School. In addition, St Martin's CE Primary and Nursery School is 1705 metres from St Bartholomew's CE Primary School. According to the October 2023 census return, both schools are currently operating at approximately 84% occupancy and neither school was full in the Reception year on allocation day 2023.

3.22 The table below details the number of pupils on roll at St Bartholomew's CE Primary School on census day in both October 2022 and October 2023. This is the second lowest number of children in Year R to Year 6 of any primary school in Brighton & Hove. The school with the lowest number on roll is St Peter's Community Primary and Nursery School which is also subject to a proposal to close. The October census figures are used to determine a school's budget in the following year.

Census Date	Year R	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total
October 2023	19	17	23	23	20	16	23	141
October 2022	13	20	24	17	12	18	20	124

The school experienced a lower level of pupil numbers in October 2022 than they had at other points in that academic year.

- 3.23 As at 21 February 2024, 134 pupils in total remain on roll at St Bartholomew's CE Primary School which demonstrates the commitment of families to support the school's efforts to avoid the school's closure. 112 pupils are still on roll in years R to Year 5. It is expected that pupils in Year 6 will continue to attend the school until its proposed closure at the end of the academic year 2023-24.
- 3.24 Whilst undoubtedly affected by the Council's proposals, the number of first preferences received for the school from parents of children due to start at the school in September 2024 is substantially lower than the school's PAN and would have a significant impact on the school's budget allocation for 2025/26 should the school not increase pupil numbers before the October 2024 census which informs funding levels in the following financial year. Individual parents will not be informed of the outcome of their applications until National Offer Day on 16 April 2024 and so the specific figure for first preferences cannot be published here but is provided to Members in their background papers.
- 3.25 The school is currently forecasting that at the end of 2023-24 financial year its budget will be in deficit by approximately £205,000. This represents 27% of the school's 2023/24 formula budget allocation of £753,000. The school's budget for 2024/25 has been determined as £905,325. The increase in budget in 2024/25 reflects the impact of the low pupil numbers recorded by the school in October 2022 which had a detrimental impact on the school's budget allocation in 2023/24. In the event of the school closing, it will only be allocated the pro-rata amount of funding April 2024 – August 2024 with the remaining funding re-distributed to other schools in the city for the period September 2024 – March 2025.
- 3.26 If the school was to remain open, the Council would be required to support the school for an uncertain period of time into the future before the deficit was cleared and this would create additional risk to the Council's own General Fund which at this time would add to the need for the Council to continue to take drastic financial action, as detailed in recent budget proposals put forward to Full Council. Further information regarding the financial implications of the closure can be found at paragraph 6 below.
- 3.27 Based on all the factors above, with considerable regret, the Council remains of the view that St Bartholomew's is no longer financially viable.

4. Process to close a school

- 4.1 The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2013 (“the Regulations”) set out the reasons for closing a maintained school. These include, but are not limited to, where:
- there are surplus places elsewhere in the local area which can accommodate displaced pupils and there is no predicted demand for the school in the medium to long term;
 - it is to be amalgamated with another school;
 - it has been judged inadequate by Ofsted and the Secretary of State has revoked the academy order;
 - it is no longer considered viable;
 - it is being replaced by a new school
- 4.2 When seeking to close a school the Council is required to follow the processes set out in the Department for Education statutory guidance “Opening and closing maintained schools -Statutory guidance for proposers and decision makers, January 2023” (“the DfE Guidance”). In particular the Guidance sets out the considerations that should be taken into account by the decision maker when deciding proposals to discontinue (close) a school. It requires that the decision maker should have due regard to all responses received during the representation period and be satisfied that the proposer has carried out the requirements of the statutory process satisfactorily.
- 4.3 On 6 November 2023 CF&S committee decided to proceed to consultation on the proposal to close St Bartholomew’s school. (The November committee report is included as Appendix 5). A consultation ran between 7 November 2023 – 20 December 2023 which gathered feedback on the proposals from parents and staff at the school and other stakeholders who might be impacted by the decision.
- 4.4 On 22 January 2024 CF&S committee considered the consultation feedback and agreed to publish statutory notices. The January report is included as Appendix 4. The evidence and rationale for the decision to move to the statutory notice period is set out in the January report.
- 4.5 When publishing Statutory Notices, the Guidance states that “the proposer must publish the full proposal on a website along with a statement setting out:
- how copies of the proposal may be obtained;
 - that anybody can object to, or comment on, the proposal;
 - the date that the representation period ends (4 weeks from publication); and
 - the address to which objections or comments should be submitted.”
- 4.6 A brief notice containing the website address of the full proposal must be published in a local newspaper.
- 4.7 The council published its Statutory Notice on the Council’s webpages on 23 January 2024 [here](#). It provided details of the representation period and

proposals [here](#) and asked for responses to be made via the online [consultation portal](#). The Statutory Notice was also published in The Argus.

- 4.8 During the final 10 days of the representation period, although there is no statutory requirement to do so, in order to further publicise the proposal the Council also displayed the notices within publicly accessible buildings in the local area and further promoted to local nurseries and family hubs and social work buildings.
- 4.9 If responders were unable to access the information made available on the Council's website, they were asked to contact the Council's School Admissions team by telephone for further assistance. For those who could not use the Council's own translation facility they were asked to email the Council directly. No requests were made to the Council.
- 4.10 In addition St Bartholomew's was provided with a letter translated into Albanian, Amharic, Arabic, Begali, Greek, Hungarian, Italian, Japanese, Lithuanian, Malayalam, Pashto, Polish, Portuguese, Romanian, Tamil, Tigrinya, Ukrainian and Urdu to share with their school community which provided guidance and support on how to make a representation to the Council.
- 4.11 Copies of the proposal were sent to the following parties on or very soon after 23 January 2024:
- The Members of Parliament for Hove, Brighton Pavilion and Brighton Kemptown
 - All Headteachers and Chairs of Governors in Brighton & Hove
 - Early Years providers in the city
 - CEOs of Multi Academy Trusts with Brighton & Hove Schools
 - East and West Sussex County Councils
 - All Brighton & Hove City Councillors
 - The Anglican Diocese and their Board of Education
 - The Catholic Diocese
 - The Department for Education
 - It was also shared with Community Works and some local Voluntary and Third Sector groups to share amongst their networks.
- 4.12 Following the publication of the statutory notice, a 4-week representation period ran from 23 January 2024 until 20 February 2024, during which time interested parties were invited to make further comments on the proposal.

5. Responses to the Statutory Notices

- 5.1 All responses received are available confidentially to Members sitting on the Children, Families and Skills Committee and for Full Council for their consideration.
- 5.2 The responses received via the Council's consultation portal during the representation period have been grouped into the following categories:

Supportive – 3
 Unsupportive – 49
 Total - 52

The breakdown of responders is as follows:

Brighton & Hove resident	15	29%
Governor at one of Brighton & Hove schools	3	6%
Parent or guardian of a child(ren) not directly affected by the proposed changes	9	17%
Parent or guardian of a child(ren) directly affected by the proposed changes	10	19%
Representative of a voluntary or community group	2	4%
Teacher in one of Brighton & Hove schools	8	15%
Other	5	10%

Religion

Agnostic	3	6%
Atheist	1	2%
Christian	15	29%
I have no particular religion	9	17%
Muslim	1	2%
Not Answered	19	36%
Prefer not to say	4	8%

Ethnic origin

Black or Black British: African	2	4%
Black or Black British: Any other Black background	1	2%
Mixed: Black Caribbean & White	1	2%
Not Answered	20	38%
Prefer not to say	3	6%
White: Any other White background	2	4%
White: English / Welsh / Scottish / Northern Irish / British	21	40%
White: Gypsy or Irish Traveller	1	2%
White: Irish	1	2%

5.3 Many of the issues raised reiterated concerns which had been raised during the previous consultation period.

5.4 A summary of the points raised is set out below:

- Comments made included reference to the school being rated as Good by Ofsted, much loved by its community, being local to those living in the vicinity and there being a range of potential alternative actions that could be taken to keep the school open should pupil numbers rise in the future and more places be required.
- Reference was made to the school being in a good state of repair, the future use of the site, and the potential impact on families who might have to cross less safe areas of the city to attend school.
- The staff and the school's ethos were praised by respondents and many of the replies highlighted concern for the emotional wellbeing of the pupils, families and staff. Concerns were expressed regarding the impact on pupils with well-established friendships at the school, and how they would cope especially when services such as CAMHS were under significant pressure and pupils were still recovering from the impact of Covid measures.
- It was noted by one respondent that more decisive action around the falling pupil numbers should have been taken years ago and the consequence of delay has had a detrimental effect on the relationships between schools in the city. The suggestion was made that other big primary schools should absorb more changes in PANs to reduce the number of unfilled places in the city and there should be a range of school sizes in the city.
- Concern was expressed about the impact on the majority non-white and disadvantaged community served by the school and the need to move pupils to bigger class sizes and the impact this would have on them. The intersectionality of vulnerabilities was raised and a question was posed as to whether the school was targeted because families might not object to the closure proposal as vociferously as other school communities.
- A number of responses noted that it felt that the community had not been listened to following the public consultation, and that there had been a lack of transparency in decision making.
- The supportive comments acknowledged the difficult decision faced by the Council but felt it was necessary as small classes could not be sustained, and other schools also have significant numbers of disadvantaged children.

5.5 The Governing Body submitted their own response during the representation period which was sent to all Councillors on the Committee and will be available to Full Council. The response detailed concerns that the actions of the Council had pre-empted the outcome and made the proposed decision to close the school a fait accompli. The Governors felt that the Council had disregarded the significant number of objections to the proposals and that there was a lack of evidence that the responses had been listened to. Additionally, they felt that the data used to support the proposals was only short term, and that there was a lack of detail from the Council in relation to the costings of the proposed closure. The Governors remain concerned around issues of transition to different schools for the many pupils who are

vulnerable and have complex needs. They once again outlined proposals to alleviate budget deficits by reducing their PAN, exploring the possibility of federating with another/other school(s) and the moving of Bright Start Nursery to the school. The response ended with a request that should a decision be taken to close the school, then a longer timeframe should be considered. These proposals and issues are considered elsewhere in this report.

- 5.6 The Parochial Church Council of St Bartholomew's Church in their response reiterated the concerns expressed in the initial consultation especially around what they felt to be a tight timeframe which in their view would adversely impact on some of the most deprived children and families in the city. The PCC are of the view that proposals lack the depth which should be applied to a decision of such gravity.
- 5.7 The Chichester Diocesan Board of Education (CDBE) is the religious authority for St Bartholomew's School. Their response to the representation period sought answers to questions about the support available for the transition of pupils with Education, Health and Care Plans, SEND needs and those from vulnerable and disadvantaged backgrounds. They sought further information regarding the estimated cost of keeping the school open for a further academic year versus the cost of implementing closure by July 2024 and the additional support that children and families with English as an Additional Language (EAL) would receive.
- 5.8 The Board sought clarification on the specific support provided for the receiving schools who are already carrying significant need and the process of Annual Reviews. They also asked for clarification as to whether receiving schools would be offered additional resource to achieve a successful transition for pupils.
- 5.9 The CDBE wished to understand how the Council would strategically deploy its resource to meet this need and how the impact of the support put in place will be measured and if that will be shared.
- 5.10 The response concluded by noting that whilst the CDBE recognises other proposals are aimed at reducing some places within community schools, the potential loss of this Church of England school would be very painful and hugely significant for the parish and wider Diocese. The CDBE advised that if the school closed this would be very significant in relation to any further or future reviews that the Council may initiate.
- 5.11 The Council acknowledges the continued level of opposition to the proposal as outlined by the responses during the representation period. This report seeks to address the concerns raised and look at how the Council can mitigate the impact of closure in the event the proposal is agreed.

6 Considering the financial implications of these proposals

- 6.1 The financial year 2023/24 will be the fourth consecutive year that St Bartholomew's has ended the financial year with an overspend. It is the view

of the Council that the school has not provided a viable, long term plan to bring the budget back into a balanced position. There is also a risk that with a further fall in pupil numbers across the city the capacity of the school to attract sufficient pupils by the time of the October census which determines funding will decline still further.

- 6.2 In their representations both the Governing Body of St Bartholomew's and the CDBE have raised the potential costs to the Council should the school be closed.
- 6.3 Calculating the future consequences, both negative and positive, of a decision requires the use of assumption. The figures relating to the future financial impact of specific decisions must therefore be treated with caution however there are some factors which can be determined such as a school's budget position on a specific day, a final redundancy calculation and the total budget allocated to a specific activity. The financial impact of a child without an Education, Health and Care Plan (EHCP) moving to a new school roll can only be calculated after they have been counted on the receiving school's October census figure. This is then translated into a budget allocation for the next financial year and those funding levels are yet to be determined. The additional expenditure incurred by a school of one extra pupil being admitted will be clear if for example a new class teacher is required but may not be clear if the school is able to provide additional resources required such as curriculum materials or classroom furniture from those currently available in the school.
- 6.4 However it is important to demonstrate that the financial impact of a decision has been taken into consideration, no matter how broad the considerations and assumptions made. In considering and estimating the potential costs of closure the costs, the final figures will vary but can be categorised into 4 main areas:
- Potential redundancy and possible pension costs – Based on latest estimated data from Human Resources there is an estimated cost of £413,000. This represents an assumption that 75% of staff will accept an offer of redundancy which is felt to be a prudent estimate.
 - Write-off of deficits at the point of closure – there is a deficit of approximately £200,000 expected at the end of the 2023/24 financial year. For the purposes of financial planning there is an assumption that there will be a final deficit of £250,000 at the end of the summer term 2024.
 - Team around the school, costs to the Council of supporting displaced pupils, securing school sites after closure - Costs are not fixed but an estimate of £175,000 has been made to cover these areas.
 - Potential pay protection of redeployments – There is uncertainty about the number of potential redeployments and whether protected pay arrangements will be required. An estimate of £40,000 is being allowed which represents 10 staff at £2,000 each for 2 years.

Total potential costs as summarised above total £878,000.

- 6.5 Against the costs estimated above, the potential financial offset if the school is closed should also feature in the analysis of whether the proposal is justified. The proposal to close St Bartholomew’s will mean that pupils displaced will move to other schools in the city. The funding of the school is based on the pupils that were in attendance during the October 2023 census of pupils (used to calculate the 2024/25 budget). There were 141 pupils at St Bartholomew’s with pupil-led funding of approximately £5,000 per pupil. After closure, as pupils move to other schools in the city, there will be financial benefits to schools receiving pupils equivalent to approximately £5,000 per pupil. In total this will mean funding equating to £715,000 as an improvement to other schools, which for receiving schools, where their pupil numbers are below the PAN, will improve their budgetary position.
- 6.6 For most schools receiving pupils it is expected there will only be a very limited impact to organisational structure that should not significantly affect their cost base as pupils will be accommodated within existing surplus places. However, in recognition that there may be some situations where schools do need to increase their cost base to accommodate displaced pupils the estimates assume that a further 50% of the additional £5,000 funding per pupil will be required. Over a 5-year period, and assuming a 5% reduction in pupil numbers each year (linked to the forward projection of falling pupil numbers) it is estimated that the closure of the school will produce a net cost benefit of £1.615m to the wider primary school system.

Total potential cost offset of closure as described above: £1,615,000.

- 6.7 Overall, this would mean an estimated net potential cost benefit of £737,000 over a 5-year period. At this stage in producing these estimates no financial benefits have been allowed for possible capital receipts for future disposal of school sites, or for wider behavioural change by schools in relation to budget management as a consequence of the Council’s current proposals to close two one form entry primary schools with significant deficit budget positions.

7. Capacity to accommodate displaced pupils

- 7.1 The DfE Guidance states that “*The decision maker should take into account the overall quality of alternative places in the local area, balanced with the need to reduce excessive surplus capacity in the system*”. The Council is confident that there is sufficient capacity to accommodate displaced pupils if the school is to close, even when taking into account sibling links of children in primary school classes. While school places potentially fluctuate on a daily basis the availability of school places on 21 February 2024 is as follows (it is expected that children in year 6 will remain for the rest of the year so that information is not provided but is available).

	Current Year group						
School (distance from St	Year R	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6

Bartholomew's in metres)							
St Bartholomew's – Current pupil numbers	19	16	21	23	19	14	
St Paul's (1082.21m)	4	13	10	3	6	2	
St Martin's (1704.73m)	17	11	3	5	10	7	
Stanford schools (1096.91m)	24	10	21*	28	11	9	
Carlton Hill (1310.95m)	0	0	2	1	0	0	
Downs Schools (1294.66m)	5	10	9*	0	0	2	
St Mary Magdalen's (1506.08m)	10	4	13	10	13	11	
Fairlight (1588.25m)	9	18	14	15	32	23	
Middle Street (1390.54)	1	3	3	11	6	3	
St Joseph's (2102.31m)	11	13	6	10	6	9	

*assuming only pupils from the Infant school move up to the Junior school.

Transition

- 7.2 Since the decision was taken to publish a Statutory Notice consideration has been given to ensuring that, should the proposals be agreed by Full Council, pupils at St Bartholomew's Primary School are supported to move to another school with maximum support from Council services so that any disruption to pupils is minimised.
- 7.3 The Council recognises that there will be an impact on all pupils who are required to move schools and is seeking to work with staff at the school and any receiving school to minimise the negative impact of the change. The Council is enhancing its resources in its Inclusion Support Service, SEN services and Standards and Achievement team to do so. In addition, the Ethnic Minority Achievement Service, who support children and families where English is not their first language, and the Schools Mental Health Service have also received additional funding to meet the needs that occurs from the move of pupils, should the school close. This latter service will have a member of staff committed to half a day per week for this work.
- 7.4 The Council has put in place a Transition Board, chaired by the Assistant Director, Education & Skills with oversight from the Co-Chairs of the CF&S committee to monitor and oversee the arrangements. This Transition Board works closely with the teams mentioned above, school staff, and staff at

receiving schools to ensure the transition of pupils is managed in a 'child-centred', caring and considered way. Head teachers attend the Board. The term of reference are provided as Appendix 3

- 7.5 The Board's membership includes the schools themselves, a parent/carer representative from PACC and a range of specialists covering Standards & Achievement, SEN, Educational Psychology, Admissions, Ethnic Minority achievement Service, Access to Education, Anti Racist expertise, and the Virtual School. The Board includes expertise in trauma-informed practice.
- 7.6 The Transition Board held a recent meeting focusing on SEN (see Pupils with Special Educational Needs section below). Future meetings will look at anti-racist practice; at children who may have multiple vulnerabilities including a diagnosis or who are known to social care; and how the Council allocates resource fairly and transparently.
- 7.7 The newly released results of the January 2024 School Census are now available. This comprehensive data is being used to populate a Vulnerability Index for all pupils at the school. Combined with more nuanced insights from the school, this will build detailed profiles of the children in most need based on information from those closest to them and enable resources to be targeted accurately and fairly in a proactive way.
- 7.8 The Transition Board is setting up a 'Team around the School', which will bring together a professional network around the needs and strengths of each child identified by the Vulnerability Index as a priority. Working with the Headteacher, SENCOs and staff who know the pupils well, support plans will be created to identify and plan the successful transition to a new school. This also ensures the receiving schools have a full and up to date picture of strengths and needs.
- 7.9 To ensure families were fully informed about the school application process, subject to a final decision by Full Council, information was sent to the school to circulate to families on 1 February 2024 and all primary schools in the city were notified of this process on 2 February 2024.
- 7.10 Subject to final decision by Full Council, parents of children already at the school who have not applied by the end of the Spring term for a new school place, will be contacted by the School Admissions Team and asked to submit preferences for new school places by 28 March 2024. New places will be allocated to these pupils by 15 April 2024 and these places will be available to take up until September 2024, meaning that families who wish for their children to complete the academic year at St Bartholomew's can do so.
- 7.11 All schools in the city will be reminded of their role to support the children who need to move school and to ensure that they use the additional funding that would have been made available to St Bartholomew's CE Primary School between September 2024 – March 2025 to support them in their new setting.

- 7.12 The Council will consider any circumstances where a child's medical or social need means their needs can only be met at a specific school, when parents make applications for other schools.
- 7.13 Information on pupils' needs and strategies and interventions that work to support pupils in their learning will be made available to receiving schools and staff will be encouraged to discuss individual pupils as part of the transition process. Evidence collated by St Bartholomew's will remain valid and can be used as supporting information for an Education, Health and Care Needs Assessment. The process of assessment will lead to a conclusion as to how best to meet the child's needs and whether there is a need to identify a child's primary area of difficulty and the type of school best suited to meet that need.
- 7.14 Work is also underway to look at the costs families may incur from any proposed closure. The Council is looking to work closely with the receiving schools to ensure funding for uniforms are provided for those who need this.

Size of alternative schools

- 7.15 The Council has heard many families comment on the benefits of St Bartholomew's CE Primary School's small class sizes. It will not be possible to replicate the small class size experience in other schools and this is a contributory factor to schools currently facing financial pressures. The vast majority of school funding is based on pupil numbers and therefore schools operating with small class sizes are less likely to be financially viable, particularly smaller schools where economies of scale that may exist in larger schools, do not apply.

8. Pupils with Special Educational Needs

- 8.1 In St Bartholomew's there are 10 pupils with an Education Health and care Plan (EHC Plan); 2 of these are currently in year 6. This constitutes 7.5% of the school population. In the October 2023 School Census 33 pupils were recorded as having SEN support which constitutes 23% of the school population. There are 2 children where there are Education, Health and Care needs assessments in process.
- 8.2 Through the public consultation and representation period, concerns have been expressed about how other schools will be able to meet the special educational needs of these pupils and whether specialist placements would be more appropriate, how these pupils will cope with a transition to another school, the time it will take to develop positive relationships with new staff and whether any receiving school would put in place appropriate interventions to support the pupils.
- 8.3 In terms of considering transition support, priority is being given to children with complex needs or multiple vulnerabilities, or where there are siblings to consider. To smooth the transition, the SEN service will look for ways to retain existing school relationships where possible and will seek to include

Special Educational Needs Coordinators (SENCOs) from receiving schools in relevant Annual Reviews.

- 8.4 The Council has put in place dedicated support from a senior SEN Casework Officer and Team Manager to oversee the transfer of pupils at the school who are known to the Council's SEN service. The Principal Educational Psychologist has been in contact with the Headteacher to discuss how the Brighton and Hove Inclusion Support Service (BHISS) can support the transition process should the decision be made to close the school.
- 8.5 In the Autumn term 2023, an SEN Casework Manager attended a parent/carer coffee morning at the school to listen to concerns and to explain the process of changing a school for pupils with EHC plans.
- 8.6 Since the start of January 2024, the SEN service has been in regular contact with the schools' SENCo about children with EHC plans and arranged/attended meetings at the school to discuss these children and any other pupils who might need an EHC needs assessment.
- 8.7 The SEN service has offered support to the school and the SENCo with the following:
- Attending the children's Annual Reviews at the schools
 - Reviewing their current in school provision to ensure that resources will be in place to ensure a smooth transition
 - Offering to meet with parents of the children with EHC Plans to ensure that the team understand any emerging preferences and deal with any queries
 - Discuss any pupils currently on the SEN register and consider whether an EHC needs assessment may be appropriate
 - Offering to meet or telephone each parent with a child with an EHC plan individually to discuss their preferences and options. The school SENCo has confirmed that they wish to take the lead on this contact with families as they know them best.
- 8.8 As part of the meetings between the SEN Casework Manager and the school, information has been gathered using a child centered approach regarding supporting children to stay in friendship groups or to ensure siblings are placed together and knowledge of dynamics in classes which have to be considered. This has included discussing possible appropriate placements for pupils who have complex needs and the consideration of potential specialist placements for September 2024.
- 8.9 Children with Education, Health and Care Plans may require an Annual Review and the SEN Service will work to support the school and the families to facilitate this in the Spring or Summer Term 2024. For children who have had Annual Reviews in the last 6 months the Head of SEN has confirmed that there will not be a need for another full Annual Review meeting but there will need to be a meeting to discuss preferences and transition as soon as

possible. The SEN team understand there are a further 4 Annual Reviews that will need to be undertaken. It is anticipated that the needs of the majority of pupils can be met in other mainstream schools with appropriate support. If it is identified during the review process that specialist provision might be more suitable this will be followed up through the usual processes by the SEN team.

- 8.10 Pupils who are currently undergoing statutory assessment will see no disruption to the process should the decision be made to close the school. All evidence that has been collated for pupils attending the school in advance of a formal request for statutory assessment will be made available to the receiving school and will be taken into consideration when considering what the appropriate next steps might be to meet a pupil's needs.
- 8.11 Concerns have been expressed about whether any receiving school would be able to adequately meet the needs of pupils currently being supported by the staff at St Bartholomew's CE Primary School, due to the amount of time it would take to gain the knowledge and confidence of individuals. The implication is that the Council may need to find more specialist placements or provide additional funding to that which is currently available to pupils at the school and that therefore it would cost the Council more should the school close. However, the Council is confident that the needs of all pupils can be met within other settings, subject to the updated information obtained during the annual review process.
- 8.12 The SEN Service has identified the other local school options according to each pupil's address for the those with EHC plans and are aware of the spaces so that when parents have made a preference the team will be in a position to guide them as to next steps.

9. Needs of Black and Racially Minoritised Communities and other concerns raised during the consultation and statutory notice period

- 9.1 In the public consultation responses, significant concern was raised about the impact on and future of the Black and Racially Minoritised children attending the school. The Council recognises the significant part these communities play in the school, additionally the complexity of intersecting vulnerabilities many of these children experience. These factors are a core element of the transition planning and the Council will draw on the knowledge, experience and commitment of the staff at St Bartholomew's and other schools who currently support Black and Racially Minoritised children elsewhere in the city.
- 9.2 Significant concerns regarding this issue continued to be raised during the representation period, particularly in relation to the challenges and barriers faced by children from Black and Racially Minoritised heritages alongside additional factors such as special educational needs. Alongside this, concerns were raised about the impact of this proposed closure for children already suffering from the trauma of Adverse Childhood Experiences.

- 9.3 Many families have spoken about the way that St Bartholomew's CE Primary School has met their child's additional needs and, in some cases, after other schools have not been able to do so. The school has also outlined how they have been able to avoid pupils needing to attend specialist provision because of the interventions that the school has put in place. The school has also highlighted the impact of multiple factors affecting their pupils and families, the intersectionality of which means that they are some of the most vulnerable pupils and families that the city schools will need to support.
- 9.4 During the in-person consultation events held at the school, the sense of community that had developed between the school and families was very apparent. The Council heard examples of how this relationship has helped address previous traumatic experiences families had encountered and how the closure proposals were raising anxiety levels and re-invoking previous adverse experiences families had encountered.
- 9.5 The Council recognises that there will be an impact on all children who are required to move schools and is seeking to work with staff at the school and any receiving school to minimise the negative impact of the change. The proposals for the Transition Board have been set out above and alongside that work the council plans to invite schools to build up a profile of all their pupils using the Vulnerability Index tool, which is already well embedded and being adapted for this purpose, so that needs can be properly prioritised and receiving schools are fully aware of the support that will be required. This tool is designed to recognise and highlight some of the intersectional factors that a child might have and consider what barriers this might present the child and / or what support needs to be in place.
- 9.6 The Council will request that church schools who are their own admission authority give due consideration to any applications they receive, in line with their own admission arrangements. The previous submission from the CDBE to the public consultation period outlined the commitment of the Diocese to work as partners in exploring places in alternative schools for children with identified, documented, additional needs within an EHCP and children with high level needs but without an EHCP.

Impact on the community

- 9.7 The impact of the proposals on the community are acknowledged. Responses to the consultation and representation period have described the sadness in the community at the possibility of such a long-established school closing. The process has been challenging for the whole school community including the governing body, staff, families and pupils. The Council has sought to foster a proactive and collaborative approach with all those involved during the engagement events and stages, which has included support to all groups to mitigate the impact of these proposals. This offer of support will be ongoing should the proposals be agreed by Full Council.

- 9.8 Responses to the initial consultation described the sadness in the community at the potential closure of such a long-established school with a strong bond to the parish church. The school has explained that the school is used to support a number of community initiatives including providing a space for an Islamic and Bulgarian school that could be lost to the community if the school was to close.
- 9.9 In response to the publication of the Statutory Notice, comments were made about it being a school which is much loved by its community, being local to those living in the centre of Brighton. The staff are welcoming of pupils and their families.
- 9.10 It has been recognised that the school's community stretches beyond the area the school sits within and it is not likely that classes from the school will move in their entirety into the same school, although technically possible on some school sites and dependent upon parents all expressing such a wish. The Council has closely considered how pupils and families could be supported in that transition in order that the sense of community can be preserved so far as possible. It is expected that this will happen through the scheduling of opportunities for pupils and families to come together through and beyond the transition phase with the support of the Council's Schools Mental Health Service.

10. Staffing

- 10.1 Should the school close, the staff will be at risk of redundancy. The Council has started a 39 day consultation with staff. This consultation period started on 7 February 2024 and will run until 25 March 2024. If a decision is taken not to proceed with the closure of the school the consultation process will cease immediately. It has been made clear that the decision to start the consultation does not in any way pre-empt the decision of Full Council.
- 10.2 It was considered appropriate to start the consultation period before a final decision had been taken to ensure all staff had the benefit from being added to the Council's redeployment pool at the earliest opportunity. It is hoped that compulsory redundancies can be avoided wherever possible. The Leader of the Council and Co-Chairs of the CF&S committee wrote to all primary phase Headteachers and Chairs of Governors on 24 January 2024 stressing the importance for the sector, and the city more generally, of trying to retain staff at both St Bartholomew's and St Peter's schools within the local education system. This has included asking that where other schools hold vacancies that they consider including them in a redeployment pool, whilst being acutely aware of the broader position on school funding and in the context of many schools looking to make savings on their own budgets.
- 10.3 This message was also shared with colleagues in the secondary sector on 11 February 2024, as it is possible that staff at the school have transferable skills that will suit roles in secondary schools.
- 10.4 The Council recognises that despite the correspondence from the Leader of the Council and Co-Chairs of the CF&S Committee, this is a decision for

individual governing boards and whilst the Council would like to see all schools consider redeployment before recruitment this is not a decision that the Council can impose on schools. As of 19 February 2024, there were 6 primary school teaching jobs being advertised by schools and 21 support staff roles. Additionally, there are 47 posts in the Council's redeployment pool which staff will also have access to.

- 10.5 Whilst the Council is hoping to retain the knowledge and experience of staff working at St Bartholomew's should the school close it is however recognised that as pupil numbers continue to fall across the city schools are having to reduce the number of staff employed.
- 10.6 The school's proposal to remain open as a smaller school (see section 14 below) would mean the retention of most staff. This could have a bearing on the school's ability to ensure its expenditure was less than its income and the time taken to clear the school's current deficit.
- 10.7 Staff who are made redundant due to the closure of the school will receive their relevant entitlements depending on the role in which they hold at the school and continuous service.

11. Accommodation

- 11.1 As a voluntary aided school, the school's accommodation is the responsibility of the Diocese of Chichester and its on-going maintenance and purpose are not the Council's responsibility. However, this is subject to a full review of the documentation and agreements put in place over the number of years that the school has operated, including in a previous location. The Diocese holds the view, supported by the Council, that any of its educational buildings that are not in use as schools are kept in the service of education as often as possible, where this is legally allowed, and this position has not changed. There are no active plans for the Council, alongside the Diocese, to re-purpose the accommodation that would become vacant should the school close.
- 11.2 The school has put forward proposals for how the school might remain open and its financial viability be supplemented by the co-location of other services, including a proposal put forward by the school to re-locate Bright Start nursery into the building.
- 11.3 The Council has considered these proposals but does not envisage new provision or workforce bases being required at the location of St Bartholomew's CE Primary School, with the associated costs of this. Arrangements have already been agreed regarding the relocation of Bright Start nursery within an existing council run building. Therefore, the school has not been encouraged to provide any costed examples of how these options may ensure the school's viability due to the Council's opinion that they do not merit further examination.
- 11.4 The Council is committed to working with the Diocese to explore how their stated aim of keeping the building in the service of education can occur. The

Council is aware that there is increasing demand for appropriate accommodation in the city to enable a wider range of children across all ages to access the right educational offer for them. As a result, all available accommodation is being considered for its suitability in meeting the challenge faced by the city, and this will include on-going discussion with the Diocese as well as ensuring that the terms of site trusts are not breached.

12. Travel

12.1 Throughout the process the Council has been mindful of the provision contained in the DfE Guidance which relate to the travel implications of the proposal. In particular, the DfE Guidance provides that -

- Decision makers should be satisfied that the proposal will not adversely impact any particular group, including those with protected characteristics or who are disadvantaged (for example, those who are eligible for free school meals or pupil premium).
- The decision maker will need to consider the local context, for example in areas with excessive surplus places, the decision maker should consider whether the travel implications of the proposal are reasonable compared to those for alternative options for reducing excessive surplus capacity.
- Decision makers should also consider how the proposal will support the local authority's duty to promote the use of sustainable travel and transport to school.
- When closing a school, decision makers should consider whether the proposal will result in unreasonably long journey times or increased travel costs for local authorities or families, as well as any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase.

12.2 Through both the consultation period and representation period concerns have been expressed by families about their ability to get their children to different schools because of work commitments, the reliability and accessibility of public transport and the safety of walking routes to other schools. A particular concern was for families with young children and the practicalities of transporting them to and from a new school site when accompanying their school aged sibling. Concerns were also raised about the safe travel of children with additional needs.

12.3 In order to consider the impact of the proposal for closure the council has analysed the distances involved of alternative options available to the current families attending the school, taken from the addresses of those families.

12.4 The following table provides information regarding the distance to alternative schools from all postcodes where current pupils on roll at St Bartholomew's live. The number of pupils in each postcode is included in brackets. Where there is more than one child living in a particular postcode the distance shown is the average distance of all pupil journeys from that postcode to the

school. The distances are measured in metres and have been measured using the shortest available walking route, and not as the crow flies. The first line in the table provides the current distance from where existing pupils live to St Bartholomew's school, which varies considerably with the shortest distance being an average of 422 meters and the longest distance being 15,819.

School	BN1 1 (1)	BN1 2 (1)	BN1 3 (5)	BN1 4 (49)	BN1 6 (21)	BN1 8 (2)	BN2 0 (5)	BN2 1 (1)	BN2 3 (4)	BN2 4 (4)	BN2 5 (5)	BN2 9 (25)	BN3 1 (1)	BN3 4 (2)	BN9 9 (3)
St Bartholomew's CE Primary School	747	1845	724	422	1322	3850	1324	2152	872	2907	4133	890	1995	4194	15819
Carlton Hill Primary School	545	1814	1169	1041	2075	4525	285	1090	1345	3320	3531	427	2459	4164	14757
Downs Infant School	1680	2635	1669	1101	1014	3166	2043	2870	958	2413	4166	1564	2396	4703	16537
Fairlight Primary School	1574	2875	1752	1269	1897	4094	1601	2196	720	1983	3594	1221	2690	4997	15634
Middle Street Primary School	665	787	979	1310	2378	4929	1279	1691	2023	4014	4236	1318	1835	3332	15315
St Joseph's RC Primary School	2488	3442	2476	1909	1782	3439	2827	3433	1602	1842	4301	2330	3204	5511	16756
St Martin's CE Primary School	1720	3021	1892	1405	1981	4122	1702	2240	738	1964	3474	1412	2807	5113	15505
St Mary Magdalen's RC School	1070	469	956	1433	2134	4684	1735	2219	2230	4274	4767	1681	1341	2801	15854
St Paul's CE Primary School	703	902	559	1063	2030	4578	1374	2076	1830	3882	4576	1305	1410	3235	15711
Stanford Infant School	2166	2129	1326	1539	1020	3348	2727	3556	1910	3797	5314	2292	1524	3350	17222

- 12.5 The majority of families attending the school live in the BN1 4 postcode, with the second highest number living in the BN2 9 postcode, and the third highest in BN1 6. The analysis demonstrates that the vast majority of families will be able to state a preference for a school well within a 2-mile walking route of their home addresses. The analysis also demonstrates that some families already live outside of a two mile radius of St Bartholomew's and other schools are closer to them.
- 12.6 The Council's Home to School Transport policy reflects the legislation and sets out that the Council has a duty to provide assistance with transport for children of compulsory school age between home and school if the child is under the age of 8 and lives more than two miles (3.2km) from their nearest suitable school; or the child is aged between 8 and 16 years and lives more than three miles (4.8km) from their nearest suitable school. The 'nearest suitable school' in relation to primary education is considered to be the closest maintained school to the child's permanent home address that is suitable to age, educational needs and has a place available. Families may be eligible for transport assistance from the Council, because of their

circumstances, when a new school place is known. Factors that may be taken into account in deciding eligibility for assistance include having to take other primary age or younger children to a different school or pre-school, fixed employment patterns and the medical condition or disability of a parent or carer which means they cannot accompany their child to school.

- 12.7 In accordance with the Council's Home to School transport policy and the Department for Education's statutory guidance, the starting point for assessment of eligibility for assistance with travel is that as far as possible parents should accompany their children to school or that children should make their own way to school. For children with SEN, a disability or mobility problem this may mean that some additional support is provided.
- 12.8 The Council will work with schools who receive pupils from St Bartholomew's CE Primary School to develop their school travel plans to seek to mitigate against increased car use.

13. Equalities

- 13.1 When contemplating school closure, the Council must have 'due regard' to the duties set out in section 149 of the Equalities Act 2010 (the Public Sector Equality Duty). This requires the Council to consider how any decision to close might affect people who are protected under the Equality Act. Decision makers should be satisfied that the proposer has shown a commitment to providing access to a range of opportunities which reflect the ethnic and cultural mix of the area in which a school is located, whilst ensuring that such opportunities are open to all.
- 13.2 This report is accompanied by an Equalities Impact Assessment (Appendix 2) which has been undertaken as part of the statutory process to identify any equality implications of the proposal and to address any concerns through appropriate mitigations if a decision is made to close the school. This EIA has been particularly informed by the responses to the consultation and representation periods.
- 13.3 Through the consultation and representation period, concerns have been expressed by the school and from other responders about the ability for all members of the community to engage in the process and whether the consultation was sufficiently accessible. Both the school and the Council have provided additional support for families where English is not the first language and for those whose children have special educational needs, including translated materials and specific meetings for those families to share their experiences and raise concerns about the proposals. For the public consultation the school created a proactive plan on how to engage with their families and this informed Council actions on this matter. The school expressed disappointment that this had not been undertaken by the Council before the consultation was planned. There were a number of different meetings held for parents and the Council accepts that it meant many families attended multiple meetings and discussed their circumstances more than once and that this was a difficult and potentially stressful process.

- 13.4 For the subsequent representation period, communications in multiple languages were shared with the school towards the start of that process to enable families to engage with providing a representation response.
- 13.5 Staff from the Ethnic Minority Achievement Service (EMAS) have supported families they work with throughout the formal consultation period to understand the proposals and have facilitated them in responding to the Council. The service has directly supported a range of families covering a number of languages, to help them understand and to respond to the consultation during meetings and in writing. The Brighton and Hove Parent and Carer Council have also been available for families to support them, as part of the process, which has been valuable for those families with the potential for multiple additional needs such as children with SEN and not having English as an additional language (EAL).
- 13.6 During the representation period EMAS staff have continued to liaise with EAL parents to ensure that they understood what was happening in the representation period and what their options were if they wished to respond. EMAS staff have also continued to support parental understanding and access to early reviews of EHCPs. They have shared information around admissions choices parents can make about transferring to a different school and what would happen if the Council made the decision not to close the school. The Brighton and Hove Parent and Carer Council have also been available for families to support them as part of the process.
- 13.7 In both the public consultation phase and the representation period, the Council promoted to families the offer of interpreting and translation services. No families requested that support however, as described above, some translated text was made available to the school to support EAL families to make a response to the statutory notices. An offer was also made through both periods for a transcribing service to be available to enable anyone who didn't wish to make a written submission to provide a response. There were no requests made via that route.
- 13.8 Closing St Bartholomew's CE Primary School will remove the option of a school place in central Brighton at a school that is appreciated for how it supports families and children irrespective of their disabilities, race and life experiences.
- 13.9 In their submissions made during the representation period, both the Governing Body and the wider school further highlighted the schools support to a diverse range of children and families who have high levels of complex social and educational need and notes the support given by the school is something that this Church of England school community feels rightly proud of.
- 13.10 Whilst the Council recognises all the factors outlined in the paragraphs above and fully acknowledges the sense of uniqueness that the school community believe St Bartholomew's CE Primary School offers, the Council hopes that by proposing the closure of the school it will ensure that other schools in the city, including other Church of England schools, are supported to remain resilient in the short and medium term. Other schools will then be

better placed to ensure that pupils transferring to new schools remain well supported.

- 13.11 Notwithstanding St Bartholomew's place within its community there are other schools in the city who do support families with vulnerabilities and pupils with an intersection of needs and characteristics which require special consideration to achieve equality of access to education and opportunity. Alternative schools within the local area of the families the school serves are ready and available to welcome tranches of pupils and their families into a new school community, enhancing the ethnic and cultural mix there. The work of the Transition Board will be important in this regard and the Council expresses the hope that in the event the school is to be closed St Bartholomew's management and staff will continue to demonstrate their commitment to the welfare of their families by actively supporting the transition of pupils, reassuring families about the future transition, and working in partnership with new schools to have a full and detailed understanding of the needs of the pupils.

14. Analysis and consideration of alternative options

- 14.1 During the public consultation period, the school put forward a number of proposals to mitigate the impact of the school's low pupil numbers. They suggested reducing the school's PAN and combining classes, looking at alternative options for co-locating with a nursery provision by re-locating Bright Start Nursery into its building, opening a specialist provision in the school which would utilise the knowledge and expertise of staff and the school's inclusive culture, and developing a multi-agency hub which would ensure the school's experience at supporting pupils and families with various intersections of vulnerability could be harnessed. Elements of these proposals were repeated in the responses received during the representation period and dissatisfaction was expressed by the Governing Board and the school regarding the Council's lack of consideration of the alternative options.
- 14.2 There have also been multiple requests from the school and the Church of England community for the Council to consider a slower closure period to allow for a longer transition.
- 14.3 The Council could propose not to close St Bartholomew's Primary School, propose to close the school over a longer time period or further explore the suggestions put forward by the school for alternative delivery models and these options are considered further below.

14.4 Option 1 – no action

- 14.4.1 The Council has an overall duty to manage school places effectively and to ensure that schools continue to provide high quality education for children in the city. If no action is taken it is inevitable that quality of education and outcomes for children in the city are at risk and the Council will be liable for the costs of schools worst affected by falling rolls as they move into debt or increase their deficit and eventually close for financial reasons.

14.4.2 The statutory consultation requirements in the closure process have meant that the school staff, families and community have faced a significant amount of uncertainty since November 2023. This has resulted in a few families taking up opportunities of or considering school places elsewhere. Although it is recognised that despite the undoubted uncertainty generated by the Council's proposals, the number of pupils attending the school has not fluctuated significantly.

14.4.3 The operational and financial challenges affecting schools with falling rolls will continue to increase with a negative impact on pupils and the Council's financial position. Taking no action to the issues affecting schools with falling rolls is not an acceptable option available to the Council.

14.5 Option 2 - Phased implementation of the current proposals over 2 or more years

14.5.1 In considering whether a phased implementation is realistic as an option, the Council has looked at the impact of further delay, and whether the perceived advantages outweigh the consequences of delay.

14.5.2 In conducting this balancing exercise, the council has considered the financial viability of the school were closure to be phased or delayed, particularly with reference to the projected numbers of pupils. As indicated at paragraph 3 of this report the school has been made aware that there are currently only a small number of first preferences for admission in September 2024. This is in a context where pupil numbers have fallen across the city which has meant that many more parents can exercise parental preference to obtain places in alternative schools that in other years might have been oversubscribed. Currently the number of preferences for admission in 2024 does not appear to be a viable number for the academic year 2024/25 and the school's current precarious financial position will worsen were it to remain open beyond August 2024, albeit the school is responsible for making financial decisions and may not agree with this analysis.

14.5.3 The strong likelihood is that with continued uncertainty over the school's future, pupil numbers will continue to drop, especially if parents decide to take advantage of undersubscribed schools and move pupils within the school year, thus worsening the already serious financial position the school finds itself in. By way of example should 50% of the school's October 2023 census numbers leave the school this would equate to approximately 70 not considered financially children. Based on a cost of £5,000 per pupil, this would mean funding of approximately £350,000 would potentially be needed to support recipient schools. The Council would not be able to draw on funding from St Bartholomew's as the school would be continuing in the interim. In contrast, if the school closes in August 2024, the budget released from St Bartholomew's from September 2024 would be available for redistribution at that stage to schools receiving pupils.

- 14.5.4 Additionally, in the event the timescale for closure were extended St Bartholomew's budget for the final term of operation (summer term of the 2025/26 financial year) would likely be set at a significantly more challenging level than currently, on the expectation that October 2024 census numbers will be further reduced from the 2023/24 position due to the pre-announced planned closure. It is unknown if staffing levels would have been reduced by this time but there is a substantial risk that costs at St Bartholomew's CE Primary School for summer term 2025 would far exceed budget allocation, thus adding to the final school deficit and increasing the risk to the Council's general fund. There may also be a risk that redundancy costs and pension entitlements increase by delaying closure by a further year.
- 14.5.6 In the circumstances described it is not accepted that a longer timescale or a phased implementation of closure are financially viable options. There is an urgent need to take action and any delay is very likely to result in increased financial liability for the Council as schools may increase their deficit position. It is reasonable to assume that the risk of greater costs to the Council's General Fund will rise should the school remain open longer and whilst possible alternative or mitigating factors are put in place, as a result, the council's finances will be affected by any gap that develops.
- 14.5.7 The council has also considered the impact upon pupils if the closure were to be the subject of a planned delay. The need for pupils to transition to a new school will not change if the school were to close in 2025 instead of 2024, however there is the potential for the experience of existing pupils to become more uncertain if the period before closure were extended over a much longer timetable. It is predictable that within the intervening year staff would start to look at alternatives and the school would find itself in a position of having to manage a series of changes of staff, thus providing further upheaval and uncertainty for remaining pupils and parents.
- 14.5.8 It has been suggested that the period of time over which the Council has been considering this proposal is insufficient for closure in the August 2024 to be achievable in terms of families finding alternative schools for existing and new pupils. The Council is committed to assisting families to find new schools for the children before the start of the academic year, and confident that there are sufficient places available at alternative schools to make this achievable upon timescales which will allow for a planned introduction to their new school over the summer term, ready for entry in the new academic year.
- 14.5.9 The planning of the Transition Board and the likely alternative schools is already underway and will be key in ensuring the transition recognises the needs of individual pupils. There is communication, assistance and reassurance offered to their families, and full liaison with the schools to whom pupils will transition.
- 14.5.10 As indicated elsewhere in this report the numbers applying for a new place in Reception year for entry in September 2024 are very low, and if a decision is made to close the school at the end of this academic year these families can be contacted as a priority following the council decision to enable them

to express a new first preference if they so wish on the basis of a late application with valid reason by 8 March. In the alternative they will be considered for their second or third preference. If they wish to apply for a school outside of the application cycle then places at preferred schools can be offered if the preferred school is not yet oversubscribed in relation to their published admission number.

14.5.11 It has been suggested that the speed over which the Council has sought to make this decision is an outlier, or unreasonable. It is the case that in line with the national trend for surplus school places other Local Authorities are in the process of consulting upon or closing schools in their areas, and it is apparent that the timescales from decision to closure are not significantly different to those being considered by this Council. Whilst the type and length of consultation undertaken may have varied between councils, the time between the decision to close and closure has been within that academic year. This Council will have engaged in this process over a period of nine months by the time a decision is taken. Whilst not an exhaustive list the following provide examples of timescales used in the South East.

- Voluntary aided primary school in East Sussex- length of time from start of consultation to closure –7 months
- Community primary schools in London Borough of Hackney- 14 months (although should be noted that this involved 6 schools and a combination of closures and amalgamations)
- Community primary school in London Borough of Tower Hamlets-14 months
- Community primary school in London Borough of Southwark- 8 months

14.5.12 The Council has complied with legally required timescales and it is believed that the contents of this report provide a robust evidence base upon which the Council can make a fully informed reasonable decision, which takes into account the many detailed representations made over that period.

14.6 Option 3 Explore options put forward by the school

14.6.1 As part of the consultation process and during the representation period the school put forward a number of alternative options:

- Reduce the PAN to 20 and operate with mixed year group classes and a maximum of 140 pupils on roll
- Relocate Bright Start nursery to run a full offer nursery from the school site.
- Work with the SEN team to create specialist provision on the school site, to support pupils from across the city.
- Federation or Academise.
- Create an multi agency hub for some of the most vulnerable groups in the city that would also ensure the school's experience at supporting pupils and families with various intersections of vulnerability could be harnessed.

Reduction in Published Admissions Number (PAN)

14.6.2 During the consultation process, the school submitted a revised budget plan and staffing structure which purported to demonstrate how the school could operate with a reduced PAN of 20 pupils (the maximum children to be admitted to the school each September) and therefore a maximum of 140 pupils on roll. The Council remains concerned that operating at a PAN of this number would bring no economies of scale for the school in the timescale required. These proposals would, in theory, begin to contribute to a reduction in the school's overall deficit when coupled with the higher budget allocation in 2024/25 and reduced expenditure, but how the organisational structure would impact on the quality of education the school provides and the progress of the school's improvement journey is untested. The surplus generated would be used to offset the school's current deficit but it was not forecast that the deficit would be removed in its entirety.

14.6.3 The Council would not be looking to create (or amend) a city centre school by design to operate at such a small PAN given the availability of other school places within the statutory walking distance.

14.6.4 Whilst the school has suggested forging closer collaborations with other schools as a means of working more efficiently there has not appeared to be sufficient commitment from other parties to forge these arrangements in time to realise financial improvements, nor does it appear that there are many potential partners to do so. As a result, the school's current position appears to be a significant barrier in demonstrating that this would be a viable option and deliver the expected benefits.

14.6.5 In addition, against a backdrop of falling primary pupil numbers in the planning area and the city as a whole, and the current numbers on roll, the Council does not have confidence that the school would maintain sufficient popularity in the community to retain 140 pupils across the school. It is acknowledged that it is possible that the school might, as in previous years, pick up additional pupils throughout the academic year however this could crucially miss the October census date on which pupil based funding is calculated. Insufficient funding for all pupils would risk the most vulnerable pupils being left without the support they require, of particular relevance in a school which supports relatively high numbers of pupils with special educational needs or characteristics which make them vulnerable.

Relocate Bright Start nursery to run a full offer nursery from the school site.

14.6.6 Bright Start is a Council run nursery which currently operates from the converted Slipper Baths within the Prince Regent Swimming Complex in Brighton. Children, Families and Skills committee decided at the meeting of 6 November 2023 that the provision should be moved to the existing Turner Family Hub.

Work with the SEN team to create specialist provision on the school site

14.6.7 When the Council looks to expand specialist provision onto the sites of some schools in the city, one of the key prerequisites is that the host school

should be financially stable and be able to demonstrate ongoing financial stability in future years. Adding a specialist facility would not provide the school with the financial stability which it requires and would require a strong school infrastructure to provide it. For those reasons the Council does not consider this to be a viable option.

Federation or Academise.

14.6.8 This option of federation has been explored informally with other potential schools and the Diocese. Unfortunately, there was little traction in moving forward with these plans beyond informal agreements and arrangements. This process requires the agreement and "buy in" from each school's governing board, therefore is not solely within the gift of the Diocese, nor the Council, but requires agreements across institutions. The process of federation or academisation will not change the fundamental challenge in terms of the demographic issues of falling pupil numbers and excess school places faced by schools across the city.

15 Community engagement and consultation

- 15.1 The council undertook a public consultation exercise between 7 November and 22 December 2023. A total of 6 meetings held in-person or online took place and the 3 fully open meetings were attended by a total of approximately 120 people. Many people attended more than one meeting.
- 15.2 The online consultation response form received 327 responses and 15 replies were received directly to the council's school organisation or school admissions email accounts.
- 15.3 The consultation was notified to various stakeholders including both Dioceses.
- 15.4 On 22 January 2024 the CF&S committee agreed to publish a Statutory Notice proposing closure of St Bartholomew's School. This was followed by a four week representation period between 23 January 2024 and 20 February 2024 which sought comments from interested parties.
- 15.5 The Statutory Notice was widely shared, along with communications from the Council on their website and social media channels. Translated text was shared with the school to support EAL families to engage with the representation period. The statutory notice was notified directly to all Brighton & Hove Headteachers and Chairs of Governors, East and West Sussex County Councils, both diocese and nurseries were informed.
- 15.6 A total of 52 responses were received via the Council's consultation portal in response to the publication of the Statutory Notice and broadly 94% of responders commented negatively about the proposal. Formal responses were also received from the Parochial Church Council of St Bartholomew's Church, the school's Governing Board, the school's leadership and from the Chichester Diocesan Board of Education. The themes of the responses have been captured in this report, and the equalities impact assessment has

been reviewed to ensure that it reflects any issues raised which require it to be updated.

- 15.7 It will be apparent that this report is published within three days of the representation period closing. By way of reassurance this is because officers have worked to absorb and consider representations as they came in, and worked additional hours following the closure of the representation period to ensure that all representations were considered before the drafting of the report was completed. Councillors are being provided with all the representations made in an unedited format on a confidential basis with their background papers.
- 15.8 It is intended that should Full Council approve the recommendation to close the school direct opportunities will be provided to families to meet officers and discuss issues such as transport, uniform, school admissions.
- 15.9 In response to concerns raised during both the public consultation and the representation period, should the school close, further efforts will be made by the Council to work with the school, the families and with local community groups to work together on the transition support and to further develop understanding of the changing needs of the communities impacted by the school closure.

16. Conclusion and summary

- 16.1 The council has undertaken a public consultation and issued a Statutory Notice on proposals to close St Bartholomew's CE Primary School on 31 August 2024.
- 16.2 During the initial public consultation, a total of 327 responses were received via the consultation portal and there were 15 email direct responses to the Council's school organisation or school admission email accounts about the proposals. The representation period following the publication of statutory notices generated 52 representations via the Council's consultation portal and a small number of direct submissions.
- 16.3 The Council recognises the impact the proposal has upon the children, families and dedicated staff at the school, especially given the intersectional diversity of the school's community, and that the caring approach of the school has produced enormous loyalty and pride in the families it currently serves. It is with great regret that this proposal has become necessary to combat circumstances of reducing pupil numbers against a backdrop of constrained and pressurised resources for the funding not of just of schools, but of all council services across all communities in our city.
- 16.4 The school is anticipating ending this financial year with approximately a £205,000 deficit .2023/24 will be the fourth consecutive year that St Bartholomew's has ended the financial year with an overspend, with no long term plan to bring the budget back into a balanced position. The low numbers of pupils attending the school and, in the view of the Council, the absence of a credible financial plan that shows the school coming out of

deficit means any alternative to closure would need additional financial support from the Council at a time of constrained funding of the Council as a whole.

- 16.5 In the school's submitted response to the consultation the proposals put forward to assist the school to remain open were about mitigating the low pupil numbers, through reducing the PAN and enhancing the SEN support made available and possibly hosting the Bright Start Nursery. Proposals did not consider how the school would seek to improve levels of parental preference and fill the school's capacity of 210 pupils. The Council's view is that a medium to long term strategy to maintain the school though a reduced number of pupils onsite is not a viable approach, with pupil numbers still expected to fall further in future years and parental preference being a mainstay of government policy.
- 16.6 On 21 February 2024 the school was operating with 134 pupils, making it the second smallest primary school in Brighton & Hove. The primary school with the lowest number of pupils, St Peter's Community Primary and Nursery School, is also the subject of a proposal for closure on 31 August 2024.
- 16.7 The Council can have reasonable assurance that the demographic forecasting for pupil numbers is accurate. As outlined above, in December 2022, the Council estimated that 2107 starting school places would be required in September 2024. At 7 February 2024, a total of 2120 first preference applications have been made for Brighton and Hove schools for September 2024, the forecast is 99.4% of the actual pupil number and provides assurance that the Council's pupil forecasts are a reliable source of information on which to base decisions.
- 16.8 The Central City planning area in which the school is situated is expected to have over 100 unfilled places and rising in the coming years. It is a planning area with one of the highest proportions of unfilled spaces to expected pupils. St Bartholomew's CE Primary School has received low levels of parental preferences in recent years.
- 16.9 Irrespective of the financial viability of the school the parents of children attending the school are concerned that their children's needs will not be met as well as they are by staff at St Bartholomew's CE Primary School and that the culture of inclusivity that the school operates provides the right environment for their children to succeed, will not be found elsewhere. In addition, concerns have been expressed about the availability of church school places in proximity to the school and the impact the uncertainty about the school's future is having on families who have experienced adverse events before.
- 16.10 The Council recognises the concerns of parents in this regard and the additional impact that any change can have on families with experience of trauma. The appended Equalities Impact Assessment and this report seeks to capture not only how families and staff with protected characteristics will be likely to be negatively affected by the proposal, but also sets out the measures that the Council will take to address this.

- 16.11 In considering this proposal the Council has been proactive in seeking to put measures in place which will offer the best prospect of a welcoming and effective transition for pupils and their families to other schools in the city which also take pride in operating an inclusive and caring ethos.
- 16.12 In recommending that the school closes the Council is committed to supporting all pupils to find an alternative school place, being supported to attend that school if their circumstances mean they are entitled to transport assistance, and to work with the receiving schools to meet the individual needs of the children, with particular attention for those children with special educational needs, as set out in the report.
- 16.13 If the proposal to close the school is agreed, the Council will engage with the families and staff of St Bartholomew's to make the best alternative arrangements possible and is confident of the commitment of alternative receiving schools to welcome and meet the needs of new pupils, who will add to the vibrancy of the schools they ultimately attend.
- 16.14 The Council has put additional resources in place to provide teams with dedicated time and staff to oversee arrangements. The Council has clear expectations of receiving schools to engage with families and St Bartholomew's CE Primary School to enable pupils to become familiar and be offered some reassurance about their new school in advance of the new academic year. It is likely that there will be some groups of pupils who will select the same alternative school. Pupils currently in Year 6 will not be impacted by this proposal in so far as they will be changing schools and moving on to secondary school in any event.
- 16.15 The proposal is taken in the context of the Council having recently voted to reduce the PAN of other schools, but this alone will be insufficient to address the surplus in school places with the financial consequences for schools the report describes. Whereas nationally in 2022/23 12.3% of primary schools had a negative revenue balance (deficit), the proportion in Brighton & Hove for primary schools in deficit was 40.8%, and 54% of all schools in the city now are in deficit. The position is unsustainable. Should the Council not proceed with proposals to close the school, and with the limitations on Council's adjusting the PAN of other schools, the problems the report describes will not be resolved and it can be reasonably expected that the Council will need to contemplate the closure of alternative schools in the future. This would potentially affect schools with higher numbers of pupils thereby affecting more families than the proposal put forward in this report.
- 16.16 If the recommendations in this report are agreed, a recommendation will be made to Full Council on 4 March 2024 to agree to the closure of St Bartholomew's CE Primary School on 31 August 2024.

17. Financial implications

- 17.1 School budgets are determined in accordance with criteria set by the government and school funding regulations dictate that the vast majority

(over 90% in 2023/24) of the delegated schools block of funding is allocated through pupil-led factors. This means schools with falling pupil numbers are likely to see reductions in annual budgets. This situation can be particularly challenging where pupil numbers in year groups fall well below the expected number, based on the PAN of a school.

- 17.2 By reducing the number of surplus places in the city in the longer term there is an expectation that school occupancy rates will increase meaning that school budgets generally are more sustainable. Schools are more likely to be able to balance their budgets if operating with full, or close to full, forms of entry.
- 17.3 The governing body approved budget plan submitted by St Batholomew's in summer term 2023 shows the school with an estimated deficit balance of £205,260 at the end of the 2023/24 financial year with no long-term plan to bring the budget back into balance. The school submitted a revised budget plan during the consultation period based on a reduced PAN and this demonstrates how expenditure could be lowered through a reduction in the number of teaching staff and teaching assistants. The revised plan shows potential in-year surpluses which would partially offset the school's current deficit, however the predicted position at the end of the 2025/26 financial year still shows a cumulative deficit in the region of £130,000.
- 17.4 Where a local authority-maintained school has a deficit at the point at which the school closes this will be a charge to the Council's General Fund. The deficit of St Batholomew's by the end of the academic year 2023/24 is estimated to be £200k and the Council is making provision for this expenditure as part of its financial modelling, at a time of significant pressure on the Council's budget. There will also potentially be additional costs relating to redundancies and additional central staff expenditure for the Council in managing the process that will result in further costs to the Council's general fund.

Name of finance officer consulted: Steve Williams Date consulted: 21/02/24

18. Legal implications

- 18.1 Section 14 of the Education Act 1996 imposes a duty on the Council to ensure the provision of sufficient schools for the provision of primary and secondary education in its area.
- 18.2 In order to achieve any reorganisation of school provision the council must comply with School Organisation legislation- the Education and Inspections Act 2006 (EIA), associated regulations, and statutory guidance published by the Department for Education- "Opening and closing maintained schools, Statutory guidance for proposers and decision makers, January 2023". Both the legislation and guidance set out the steps which the council must take before making any decisions on proposals to reorganise school provision.
- 18.3 In accordance with Section 15 of the Education and Inspections Act 2006 ("the EIA 2006") (as amended) and the School Organisation (Establishment

and Discontinuance of Schools) Regulations 2013 (“the Regulations”), the Council has completed a formal consultation, statutory notices have been published and a four week representation period has taken place.

- 18.4 Under the Council’s Constitution, Full Council has reserved decisions on strategic issues relating to school admission arrangements to itself. (Part 3.1.02(a)(ii) of the Constitution). Given the significant nature of this proposal Children Families and Schools committee will make a recommendation to Full Council who will then make the final decision on the proposal on 4 March 2024.
- 18.5 The decision maker must have regard to the statutory decision makers guidance contained in the DfE Guidance referred to in paragraph 8.2 above. This sets out the considerations that should be made by the local when deciding proposals to establish or discontinue (close) a school. In all cases, the decision maker should be satisfied that the proposer has carried out the requirements of the statutory process satisfactorily and should have due regard to all responses received during the representation period. A link to the Guidance is below:
https://assets.publishing.service.gov.uk/media/63d1357ed3bf7f3c44bcd6b9/Opening_and_closing_maintained_schools_Jan_2023.pdf
- 18.6 As the decision maker on the proposal the Council must make the decision within two months of the end of the representation period.
When issuing a decision, the decision maker can:
- reject the proposal;
 - approve the proposal without modification;
 - approve the proposal with such modifications as they think desirable; or
 - approve the proposal, with or without modification, subject to certain conditions being met
- 18.7 In taking decisions the Council must act lawfully, including acting within its powers and following its own procedures as well as those required by law. The Council must ensure that all required consultations are properly undertaken in accordance with relevant law and guidance. It is important to recognise that a public consultation is not a vote or referendum, but an opportunity to gather a range of insights, views and feedback on proposals before any decisions are made. The Council must make rational, evidence based decisions, take into account all relevant considerations, act for a proper purpose, and be properly reasoned.
- 18.8 As St Bartholomew’s CE Primary School is a voluntary aided school the Diocesan Board of Education, the Bishop of any Roman Catholic diocese in the city or the governing body of the school may make a referral to the Office of the Schools Adjudicator should the Council make the decision to close the school. Any referral to the Schools Adjudicator must be made within 4 weeks of the date of notification of the decision of the Council.
- 18.9 The Council is required to have ‘due regard’ to the duties set out in Section 149 of the Equality Act 2010 (the Public Sector Equality Duty) in determining

the proposal. In order to comply with the public sector equality duty the Committee should have due regard to the analysis of the impact upon those affected by the proposal who have protected characteristics under the Act. This is summarised within the EIA template and the body of the report. Recent government guidance indicates that the general duty requires decision-makers to have due regard to advance equality of opportunity and foster good relations in relation to activities such as providing a public service. As indicated in recent government guidance the duty does not dictate a particular outcome. The level of “due regard” considered sufficient in any particular context depends on the facts. The duty should always be applied in a proportionate way depending on the circumstances of the case and the seriousness of the potential equality impacts on those with protected characteristics.

Name of lawyer consulted: Serena Kynaston Date consulted: 22/02/2024

19. Equalities implications

- 19.1 An Equalities Impact Assessment (EIA) has been undertaken and is included as Appendix 2 to this report. As the earlier equalities section details, in proposing the closure of a school the Council needs to consider the impact of the proposals on the relevant protected characteristics and any issues that may arise from the proposals. In so doing, decision makers should be satisfied that the proposer has shown a commitment to providing access to a range of opportunities which reflect the ethnic and cultural mix of the area in which a school is located, whilst ensuring that such opportunities are open to all.
- 19.2 In addition, the Government refreshed guidance on the Public Sector Equality Duty which requires public authorities to have due regard to certain equality considerations when exercising their functions, like making decisions. The guidance reiterates that “It is for the decision-maker to decide how much weight should be given to the various factors informing the decision. The duty does not mean that decisions cannot be taken which disadvantage some people (provided this does not constitute unlawful discrimination), but the decision-maker should be aware of the equality impacts of these decisions and consider how they could positively contribute to the advancement of equality and good relations. The decision-maker should consider ways of preventing, or balancing the effects that their decision may have on certain groups. They should decide which mitigations, if any, they might want to put into place in reconsidering the decision. The mitigation should be proportionate to the problem at hand.” Therefore, compliance with the general duty involves consciously thinking about the equality aims while making decisions. There is no prescribed process for doing or recording this.
- 19.3 Through the public consultation and the statutory notice representation period, concerns have been expressed about the potential harm a school closure would have on families and children who have special educational needs, have life experiences that have caused trauma and created

disadvantage. It is reported that these are families who have experienced multiple intersectional vulnerabilities but who have found a welcome and supportive environment in the school that has led to a build-up of community support and resilience that would be lost if the school was to close. Whilst it is clear that any change of school will have an impact on a family and child, the Council is committed to minimising the harmful impact of that in conjunction with both St Bartholomew's CE Primary School and the receiving school.

- 19.4 It is possible that families may need to travel further to school than they do currently and there will be a need to establish new trusting relationships for families and children with staff in a new school.
- 19.5 The EIA outlines the potential actions that can be undertaken to advance equality of opportunity, eliminate discrimination, and foster good relations should the proposal to close the school be agreed.
- 19.6 The council recognises that the proposal to close the school is at odds with other stated objectives of the Council including its anti-racist pledge. Whilst the council recognises that it must be more transparent in its decision making and better demonstrate consideration of the impact decisions could have on those with protected characteristics, the requirement to address the issue of falling pupils numbers, financial pressures across the school system and minimise the risk to the Council's own viability result in having to put forward the proposal to close a school in an area with declining pupil numbers for which there is no compelling evidence of the school's on-going viability.
- 19.7 As a result, the council has identified in the EIA steps that can be taken to mitigate the effects of the school's closure.

20. Sustainability implications

- 20.1 The proposal to close St Bartholomew's CE Primary School could extend the length of journey families need to undertake to take their children to school. This could have an impact on the use of private vehicles, or the number of journeys undertaken on public transport especially when the distance from home to school increases when children are placed in other schools.
- 20.2 At this stage it is not possible to anticipate patterns of parental preference to identify what mitigation measures will need to be in place. However, schools are expected to have a School Travel Plan to:
- reduce the number of vehicles on the journey to school
 - improve safety on the journey to school
 - encourage more active and sustainable travel choices
- 20.3 And it would be expected that schools receiving pupils as a result of a decision to close the school are supported to amend these to take account

of the changes that occur. The table in paragraph 12 provides information regarding the distance to alternative schools from all postcodes where current pupils on roll at St Bartholomew's CE Primary School live.

- 20.4 The Council has heard the concern about safe walking routes to school especially for families who have younger children or those whose additional needs may make their behaviour unpredictable. Consideration will need to be made to reviewing routes considered safe walking routes where concerns have been expressed. In addition, due consideration will be given to the circumstances of any families who apply for transport assistance once their child has been allocated a new school place.

Supporting Documentation

Appendices

1. Primary School Place forecast
2. Equalities Impact Assessment
3. Terms of Reference of Transition Board
4. Proposed Closure of St Bartholomew's CE Primary School – CF&S Committee 22 January 2024 (minus appendices which are available online)
5. Proposed School Closures 2024 – CF&S Committee 6 November 2023 (minus appendices which are available online)

Background documents

The responses received via the consultation portal and then representations made during the Statutory Notices period have been made available confidentially to Councillors sitting on the Children, Families and Schools committee and on Full Council for their consideration.