

CET/24/30  
Cabinet  
8 May 2024

## The future of Kingswear Primary School

### Report of the Director of Climate Change, Environment and Transport

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Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

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#### 1) Recommendation

That the Cabinet be asked to:

- (a) Agree to the decision of the Secretary of State for Education to close Kingswear Primary (Academy) School;
- (b) Approve the proposed new designated area for the area currently served by Kingswear Primary School to inform school transport eligibility should a decision be made by the Secretary of State to close Kingswear Primary School.

#### 2) Introduction

Kingswear Primary is an academy school within the Education South West Multi Academy Trust. It is a co-educational school for ages 5 to 11.

Education South West has been in discussion regarding the viability of the school with the Department for Education (DfE) for a number of years due to a decreasing number of children on roll and therefore the financial and educational sustainability of the school.

There have been no children on roll since the beginning of the academic year September 2023 and no preferences for admission into the Reception Class for September 2024.

As Kingswear Primary is an academy it is the Secretary of State who makes the final decision regarding the future of the school. Following consideration of closure, the DfE has received an in-principle decision from the Secretary of State to close the school.

Prior to the Secretary of State making a substantive decision to close the school, Devon County Council are being asked to agree to the closure of the school as it is identified as a Rural school. Guidance from the DfE states that the Local Authority needs to agree to the closure of a rural academy school. Whilst there is a presumption against the closure of rural schools, this does not mean that a rural school will never close, but the case for closure should be strong and in the best interests of educational provision in the area. Devon County Council has a presumption against the closure of schools unless on educational grounds.

### 3) Proposal

The closure of an academy school must follow a six stage process under DfE guidance:

**Stage 1: consideration of closure** – An academy trust engages with the Regions Group (formerly known as the Regional Director's Office) regarding their viability concerns and early consideration of closure is discussed.

**Stage 2: seeking in principle agreement** - Submission of evidence that supports the principle of terminating the Funding Agreement between the Trust and DfE.

**Stage 3: in principle decision to close** - The Regional Director of the DfE considers the information available and, if applicable, makes a recommendation to the Secretary of State to terminate the Funding Agreement in principle.

**Stage 4: seeking a substantive decision on closure by the Secretary of State** - This stage has not been actioned at this time but requires further work to be completed by the DfE as a part of due diligence. The Academy Trust will need to formulate a communication and stakeholder plan for the formal closure.

**Stage 5: substantive closure/termination of Funding Agreement decision by the Secretary of State, followed by a 'Listening Period' held by the Academy Trust** - This stage has not been actioned but is detailed below.

**Stage 6: approval and implementation of closure.**

The Department for Education has received an in-principle decision from the minister (Stage 3) to close Kingswear Primary School and has sought Devon County Council's agreement.

Education South West will conduct a Listening Period following any substantive decision on closure. In accordance with guidance from the Department for Education, the Listening Period is an opportunity for stakeholders and interested parties to be provided with information as to why the school is closing and how the closure process will operate. It allows stakeholders and interested parties to submit their views on how the school closure process can best be managed. It is not a consultation on the decision itself.

The school has been undersubscribed for a number of years and pupil numbers have consistently fallen from a total number on roll of 66 pupils in 2017. The school was last inspected in 2017 and continued to be a good school.

As at the October 2022 census there were 12 children on roll, 5 of which were in Year 6 and due to transition to secondary school in September 2023. The delivery of a broad and balanced curriculum was difficult with such a small and decreasing number of children. It is educationally challenging for children with such a wide age range to be taught together. Social and emotional development can also be very challenging with such low numbers.

Analysis of pupil plots show that over time there has been less migration to Kingswear Primary School from Dartmouth and Torbay Council administrative area. The school serves a wide rural catchment area with very few children living in the Kingswear village itself.

Area Health Authority data, September 2023, shows low future cohorts of pre-school aged children living in the Kingswear designated area. Future cohorts show: 5 children due for admission into Reception Class September 2024 (with no applications), 4 for September 2025, 3 for September 2026 and 5 for September 2027.

Within the District Council's adopted Joint Local Plan, there is one allocated site at Noss on Dart Marina, within the parish of Kingswear for 126 dwellings. However, the walking distance from the proposed development to Kingswear is 1.6 miles and is considered unlikely to be suitable for safe walking. The planning application does not seek to provide any on site affordable housing. South Hams has suggested that first houses will not be completed until 2026.

There is sufficient capacity in local schools to accommodate future known cohorts of pre-school aged children in the Kingswear catchment area and proposed development. Therefore, the closure will not impact on Devon County Council's statutory responsibilities to ensure a sufficient supply of school places.

### **School Transport**

All children are entitled to free home to school transport, in line with [DCC's home to school transport policy](#), if they attend the nearest/designated school to their home address and they:

- are of statutory school age
- live more than two miles away by the shortest walking route for primary and three miles for secondary
- live under two/three miles away but all walking routes are considered unavailable.

The designated area for Dartmouth Academy secondary phase includes the area currently in catchment for Kingswear Primary School. It is recommended that the designated area for Dartmouth Academy primary phase be extended to include the Kingswear Primary School catchment area in the first instance. Schools within the Dartmouth Local Learning Community have been consulted and asked to submit any comments regarding arrangements for the catchment area should Kingswear Primary School close. No responses have been received. Current and proposed catchment areas can be seen at Appendix 1.

Currently, for secondary aged children living in Kingswear, DCC provides a ferry pass for those pupils within 3 miles statutory walking distance and pupils have walk to and from the ferry points. Secondary aged pupils who live over 3 miles are also provided with a pass for a public bus from Dartmouth pontoon up to Dartmouth Academy.

However, due to their age, it is recommended that primary-age children living in the current Kingswear Primary School area are eligible for free school transport to Dartmouth Academy, regardless of distance, due to the need to cross the river.

#### **4) Options / Alternatives**

Do nothing – it is highly unlikely there will be sufficient interest from parents wanting to choose a place and therefore there is no likelihood of a sustainable number of children. The school would continue to be ‘open’ and would only receive lump sum funding.

Transfer to another Trust – re-brokerage to a new academy trust was considered by the DfE. The DfE tested re-brokerage with a number of local multi academy trusts but due to current and future pupil numbers being so low and the financial sustainability/impact of the school, this option could not be pursued.

Change of designation – it was considered whether the designation for the school could be changed to support Special Educational Needs however this would still require a process effectively closing the school and the location of the school is not deemed suitable to support need across the County including potentially significant transport costs and long journeys for children and young people with SEND.

#### **5) Consultations / Representations / Technical Data**

Devon has provided technical data on pupil numbers, parental choice and the location of children living with the wide catchment area to support the decision making of the Trust and the Department for Education.

Devon is not under a statutory duty to consult on the future of Kingswear Primary School. Kingswear Primary is not a Local Authority maintained school and therefore the proposal does not require a statutory process under the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013.

However, because Kingswear Primary is classified as a Rural academy school, the Department for Education (DfE) have asked DCC to agree to the closure before the Secretary of State makes a substantive/final decision on closure. There was a clear view from the Cabinet Member for Children’s Services and Schools and senior officers that Cabinet should not be asked to make this decision without hearing the community’s views on the future of the school even though this is outside of the DfE’s process for closing academy schools.

A consultation by DCC was held between 26 February to 22 March 2024. The consultation was widely circulated to the Parish Council, MP, County and District Councillors, local early years providers, all schools, Torbay Council, Union representatives, Equality groups amongst others. It was also promoted on social media and published on DCC’s Have Your Say consultation website.

There have only been 10 responses to the consultation, of which: 7 objections, 1 with concerns and 2 comments. A further two objections were received outside of the

consultation period. Consultation responses in full can be made available for Members to view on request prior to the Cabinet meeting.

The main points raised have been:

### **Education**

- Uncertainty over the school's future and communications from the Trust led to parents withdrawing their children from school.
- Flexi schooling should have been explored.
- Academy's decision to close the Pre-School affected future pupil numbers. Parents have now started a playgroup with good attendance.
- Inconsistent staffing, fluctuating numbers and rumours led to a falling roll.
- Academy concept is failing, a holistic approach to education has been lost. Focus has shifted to measurable academic attainments and financial prudence.
- Parents were told to find other schools for their children and prospective new pupils were told their children were not suitable and discouraged from applying.

### **Community**

- With the demographic residency in Kingswear not being young families the school was being used by people who wanted a small school rather than by the Kingswear community itself in the main. Not viable for school to continue.
- Should be encouraging young families to live in the area and having a local school is key.
- Very few young families in the area because there aren't the local jobs to attract and house prices driven up by incomers.
- With few children in the village there does not seem to be the demand for a village school and it is hard to imagine a credible business case to reopen it.
- A small school is incredibly special and children thrived.
- Issues with the school site which were not conducive to learning: cramped, PE field some distance away from school site via unpaved roads, parking near school: safety concerns.
- School is uniquely placed to take full advantage of outdoor activities and use local businesses to teach skills that people living and working in Kingswear use – boat skills, basic engineering, sailing courses and marine conservation.
- Local community not given the opportunity to help save the school and kept in the dark.
- Homeworking is transforming lifestyles and Kingswear is again becoming more attractive to families.
- Village school is key to the integrity and continuity of village life.
- Impact of new homes being built in Dartmouth and Brixham/West of Torbay. Create more affordable housing.

### **Other**

- Parents are having to pay a fortune to go on the ferry four times a day to get their children to school across to Dartmouth or Stoke Fleming.

- Disagreement to a statement in the Impact Assessment in respect of walking route from the allocated development at Noss Marina being considered unlikely to be suitable for safe walking.
- Future of school as a provision for SEND.
- Concern over what happens to the school building should it close.

In respect of education, Devon County Council officers have worked closely with Education South West Multi Academy Trust. In response to the consultation, the Trust has confirmed:-

- For the academic year 2022-23, a new headteacher was appointed to the school, along with 2 new members of staff, after staff left to work in larger schools.
- There were 13 children in the school. There were 2 classes, one class with children from Nursery to Year 4, the other, Years 5 and 6. Classes were split into smaller groups for teaching to ensure that they received the appropriate curriculum entitlement.
- During the course of the academic year further children left the school.
- Children received a full curriculum with some of their provision at two partner schools – science at Dartmouth and PE at Stoke Fleming. However, the Trust do not believe that we were best serving these children in their education.
- In June 2023, the headteacher and two members of staff obtained promotion in other schools.
- The Trust established leadership and teaching provision for September 2023, including some lessons at others Trust schools for the remaining children on roll and were clear with parents that the school would be open. However, a number of families indicated that they would be leaving the school, which in turn led to others leaving.
- Subsequently, for September 2023 there were no children on roll. However, the school remained 'open' with a teacher, learning support assistant, support staff structure and resources all budgeted for supported by reserves from across Education South West.
- There were four children in the Governor run Pre-School. The trust was not obligated to run early years provision. With one member of staff to teach the remaining eight children on roll for September 2023, it would not have been appropriate, or legal or safe to place the Pre-school children into classes with the children on roll at the school. Therefore, the pre-school parents were informed that no early years provision would run from September because numbers were not viable. The parents then explored running a provision for these children at the parish hall. The school was not legally obligated to run early years provision but had started one at cost to the school in an effort to increase numbers. No numbers increased because there were not enough children in the area. The school gave good notice to parents that the pre-school would not be able to be run the next year.

- The Trust has confirmed that the school has historically invested heavily in marketing efforts beyond the Kingswear catchment area, including a virtual school video; flyers distributed to homes outside the local catchment boundaries; adverts; subsidising ferry costs; social media; open mornings; engaging in community events and fundraising, for example the Christmas market in December 2022; open afternoons; running early years, even though this is not a statutory part of the school.

In respect of flexi schooling, the Local Authority recognises the view from the DfE that all state funded school places are offered as full-time places.

In terms of community, the consultation recognises the very low numbers of children in the village but also the important role schools play within rural communities. Devon County Council supports the principle of local schools for local children for community reasons and has a presumption against school closure unless on education grounds. The impact of housing development allocated in the Joint Local Plan for Dartmouth has been accounted for by the Local Authority in respect of school place planning. A review of cohorts and primary admission allocations shows there is no pressure on school places in Dartmouth or the wider Local Learning Community area. The impact on the community has been outlined in the published Impact Assessment. The impact on a community of a school closure cannot be underestimated but this has to be balanced against the educational and financial sustainability of the school.

In respect of other comments, the Minister and Churchwardens of Kingswear hold the freehold for the school site and the future of the school site, should the school close, is not a matter for consideration by Devon County Council. The proposal for SEND provision was considered in section 4.

As identified at section 3, should the school close, it is being recommended to Cabinet that primary age children living in the current Kingswear Primary School catchment area should be eligible for free school transport to Dartmouth Academy, regardless of distance.

Outside of the consultation, Officers have also reviewed activity on Devon County Council's corporate social media which primarily focused on matters highlighted above under 'Education' for which the Trust has provided a response.

The local Member has been kept informed of developments and the outcome of the consultation.

## **6) Strategic Plan**

DCC's Strategic Plan 2021-2025 identifies a corporate priority to be ambitious for children and young people and to ensure that children and young people have the best possible start in life, good health and emotional wellbeing. Whilst the immediate effects of closure can be stressful, the long-term effects can be beneficial to pupils in terms of educational and social development. Schools have unfortunately closed periodically across the county. However, DCC has seen good practice with children being fully supported in their transition to their new schools. The underlying benefit to the children of closure will be to provide an educational offer that is educationally and financially sustainable. Without the likelihood of

the school becoming educationally sustainable, agreement to support the Secretary of State's decision to close the school would not be in conflict with the Strategic Plan.

## **7) Financial Considerations**

There is no capital expenditure related to this proposal since there is sufficient capacity amongst nearby primary schools to accommodate future known cohorts of children.

The likely cost of free school transport to other schools will depend on transport eligibility to the nearest and designated school to the families home address and on parental preference. Should it be agreed that the catchment area for Dartmouth Academy be extended to include the current Kingswear catchment area for primary aged children then the Transport Co-ordination Service have estimated that the cost of school transport to Dartmouth Academy for primary aged children living in the current Kingswear Primary catchment area is likely to be in the region of £250.00 per day (including the ferry crossing fare) for a 16 seater mini bus, met through Devon County Council's home to school transport budget in line with policy.

## **8) Legal Considerations**

As highlighted previously, Kingswear Primary is an academy school and as such does not fall under the statutory requirements for Devon County Council maintained schools which have to follow a statutory process for closure under statutory guidance on Opening and Closing Maintained Schools, January 2023 and under legislation School Organisation (Establishment and Discontinuance of Schools) Regulations 2013.

Under Section 15 of the Education and Inspections Act 2006, there is a presumption against the closure of rural schools and therefore the Local Authority has been asked to formally consider the proposed closure.

In respect of the school site, DCC only owns a very small strip of land acquired by DCC to enable a school led project to extend toilet provision. DCC acquired the land from the adjoining owner for a nominal £1. In consultation with the Director of Transformation and Business Services, it is agreed to offer the land back to the original owner, who had conveyed it to DCC for nil value on the assumption it would be used for educational purposes. If the owner did not wish to take the land back then it would be offered to the Minister and Churchwardens.

The remainder of the site is under a registered leasehold between the academy trust and the landlord. The landlord is the Minister and Churchwardens of Kingswear.

## **9) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)**

An Environmental analysis has been included in the published Impact Assessment. The Impact Assessment has been circulated separately to Cabinet Councillors and is also available on the Council's website at: [Kingswear Primary School Impact Assessment -](#)



[Impact Assessment \(devon.gov.uk\)](https://www.devon.gov.uk) which Councillors will need to consider for the purposes of this item.

Devon County Council recognises the economic, social and environmental benefits that a school brings to the local community. However, the main duty of a school is to provide quality education to its pupils and meet the statutory responsibilities of the Local Authority regarding school place planning. Unfortunately, with no students at the school and no likelihood of a sustainable roll, the school is not able to provide its core function nor is able to support the wider community. Devon has confirmed with the Trust that the buildings are not used by the community outside of school hours.

## 10) Equality Considerations

Where relevant, in coming to a decision the Equality Act 2010 Public Sector Equality Duty requires decision makers to give due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding

in relation to the protected characteristics (age, disability, gender reassignment, marriage and civil partnership (for employment), pregnancy and maternity, race/ethnicity, religion or belief, sex and sexual orientation).

A decision maker may also consider other relevant factors such as caring responsibilities, rural isolation or socio-economic disadvantage.

In progressing this particular proposal, an Impact Assessment has been prepared which has been circulated separately to Cabinet Members and also is available on the Council's website at: [Kingswear Primary School Impact Assessment - Impact Assessment \(devon.gov.uk\)](https://www.devon.gov.uk)

Members will need to consider the Impact Assessment for the purposes of this item.

The consultation has been open and fair and undertaken as best practice guidance and with regard to Cabinet Office guidance on consultation principles.

Should the school close, all families are able to express a preference for three schools in the normal admissions round. Where schools are oversubscribed, admission authorities will rank applications in accordance with their determined arrangements. Oversubscription criteria must be reasonable, clear, objective, procedurally fair and comply with all relevant legislation, including equalities legislation. As per the School Admissions Code of Practice, admission authorities must ensure that arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs.

Entitlement to school transport will align to the Devon Home to School Transport Policy.

## **11) Risk Management Considerations**

No significant risks have been identified.

## **12) Summary / Conclusions / Reasons for Recommendations**

Regardless of the governance of schools in Devon and where the decision-making sits, it is important that the Local Authority ensures decision making is fair, transparent and evidence based. Whilst there is a presumption against closure, it is clear there is sufficient evidence that Kingswear Primary will not have sufficient numbers on roll to be educationally sustainable. Therefore with regret it is recommended that Cabinet agree to the decision of the Secretary of State for Education to close Kingswear Primary (Academy) School and approve the proposed new designated area for the area currently served by Kingswear Primary School to inform school transport eligibility should a decision be made by the Secretary of State to close Kingswear Primary School.

### **Meg Booth**

Director of Climate Change, Environment and Transport

**Electoral Divisions:** Dartmouth and Marldon

Cabinet Member for Children's Services and Schools Councillor Andrew Leadbetter

### **Local Government Act 1972: List of background papers**

Background Paper: Impact Assessment

Date: 4 April 2024

File Reference: [Kingswear Primary School Impact Assessment - Impact Assessment \(devon.gov.uk\)](#)

### **Contact for enquiries:**

Name: Simon Niles

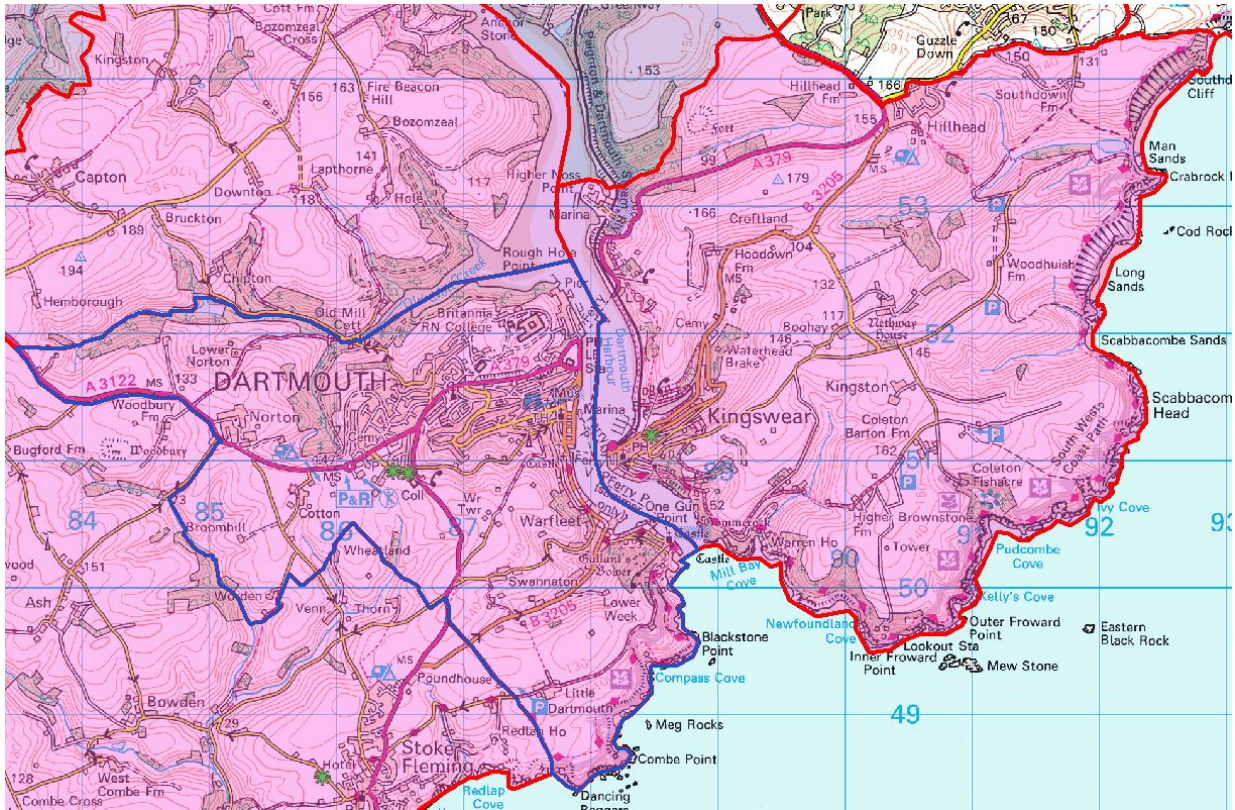
Telephone: 01392 383000

Address: Room 120, County Hall, Exeter. EX2 4QD.

# Appendix 1 to CET/24/30

## Map 1

The red-line boundary shows the extent of the current catchment area for Kingswear Primary School



## Map 2

The blue line shows the proposed boundary of the expanded catchment area for transport eligibility.

