

Neil Logue
Director of Education
Angus Council
Orchardbank Business Park
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31 January 2012

Dear Mr Logue

I refer to my letters 28 July and 22 December 2011 about Angus Council's decision to close Muirfield Primary School and Timmergreens Primary School in Arbroath. As you know, the Scottish Ministers called in the Council's decision for further investigation under section 17(2)(a) and (b) of the Schools (Consultation) (Scotland) Act 2010.

From the representations received, the Scottish Ministers were initially concerned that Angus Council may not have fulfilled its statutory obligations with regard to notifying consultees of the consultation process. In addition, the Scottish Ministers also wanted to be assured that the Council had fulfilled its obligations in giving sufficient regard to the material consideration of road safety and traffic management. The decision to call-in the closure proposals was based on their concerns. Although the Scottish Ministers had received representations to the effect that the Council's assessment of the condition of Muirfield was wrong, there was nothing to substantiate these contentions at that time. However, before the Scottish Ministers were able to reach a decision on the closures, further information was brought to their attention in December 2011 following a report by the Scottish Information Commissioner on a Freedom of Information Request to the Council about condition and suitability surveys of the schools.

My letter of 22 December indicated that Ministers wished to receive and reflect upon the Council's comments on this latest information before reaching a decision on the proposed closures. The Council's comments were received on 13 January 2012.

The Scottish Ministers have now considered carefully all the information given to them and have reached the following view.

First, they are satisfied that the Council is able to provide evidence to demonstrate that it has taken all reasonable steps to notify consultees of its proposals.

Second, they note that the Council's proposals about how it intends to deal with the road safety aspects associated with the closures are, at this stage, not clear and lack detail.

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However, while they were concerned about this, they accept that these details could be developed as the design of the proposed new school progresses.

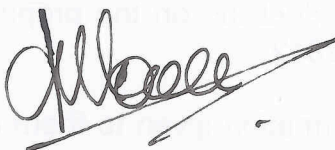
Third, they consider that the condition ratings of the schools proposed for closure is a material consideration in relation to the decision to proceed with this proposal. It is important, therefore, that there should be confidence in not only the accuracy of the information being provided as part of the consultation process but also clarity as to how it has been derived. In this case, while the Council has maintained a database on the condition rating of the schools with reference to the Government's guidance on assessing and reporting the condition rating of schools – ("The Condition Core Fact; Building our Future: Scotland's School Estate") – Ministers note that there does not appear to be an auditable process in place to explain how records have been derived or a record of why and how changes have been made.

In addition, Ministers note that the Council's School Estate Management Plan for Muirfield is unclear and the way information has been presented could lead to some confusion in the minds of readers. The summary table shown at paragraph 2.3.1 of the SEMP shows the overall rating as "C". However, if a calculation is carried out in line with the Condition Core fact Guidance and using the condition categories listed, this could lead to an overall rating of 60.75, which is a "B". Also, there appears to be some inconsistency in the rating for External Walls etc, which in the SEMP narrative is described as "D" but shown as "C" in the summary table..

In this case, Ministers are of the view that the consultation has been flawed, due to apparent inaccuracies in how the condition rating has been derived and a lack of supporting evidence to demonstrate how certain decisions about the condition of the school have been arrived at. There is a lack of an audit trail on the condition assessment and no documentary evidence to confirm that a visit to inspect mechanical services in March 2009 was undertaken.

Ministers are of the view that it is important the consultees are able to rely on information provided to them and when this is challenged, Councils must be able to demonstrate clearly how the information has been derived. In this case, Ministers have concluded the Council has failed in this regard and are not confident that the information presented in support of the case for closure is both clear and accurate. Ministers are of the view that the Council's consultation has not been fully transparent and that the information presented has not been wholly accurate. They therefore conclude that the Council has failed to fulfil its statutory obligations under section 17(2)(a) of the 2010 Act and consent to close Muirfield and Timmergreens Primary Schools is refused.

Yours sincerely



JONATHAN MOORE
Head of Schools Infrastructure Unit