

# Public Document Pack

## Cabinet

Tuesday, 19th January, 2016  
at 4.30 pm

### **PLEASE NOTE TIME OF MEETING**

Council Chamber - Civic Centre

This meeting is open to the public

#### **Members**

Councillor Simon Letts, Leader of the Council  
Councillor Daniel Jeffery, Cabinet Member for  
Education and Children's Social Care  
Councillor Mark Chaloner, Cabinet Member for  
Finance  
Councillor Satvir Kaur, Cabinet Member for  
Communities, Culture and Leisure  
Councillor Jacqui Rayment, Cabinet Member for  
Environment and Transport  
Councillor Dave Shields, Cabinet Member for Health  
and Adult Social Care  
Councillor Warwick Payne, Cabinet Member for  
Housing and Sustainability  
Councillor Christopher Hammond, Cabinet Member  
for Transformation

(QUORUM – 3)

#### **Contacts**

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## **BACKGROUND AND RELEVANT INFORMATION**

### **The Role of the Executive**

The Cabinet and individual Cabinet Members make executive decisions relating to services provided by the Council, except for those matters which are reserved for decision by the full Council and planning and licensing matters which are dealt with by specialist regulatory panels.

### **The Forward Plan**

The Forward Plan is published on a monthly basis and provides details of all the key executive decisions to be made in the four month period following its publication. The Forward Plan is available on request or on the Southampton City Council website, [www.southampton.gov.uk](http://www.southampton.gov.uk)

### **Implementation of Decisions**

Any Executive Decision may be “called-in” as part of the Council’s Overview and Scrutiny function for review and scrutiny. The relevant Overview and Scrutiny Panel may ask the Executive to reconsider a decision, but does not have the power to change the decision themselves.

**Mobile Telephones** – Please switch your mobile telephones to silent whilst in the meeting.

### **Use of Social Media**

The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair’s opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council’s Standing Orders the person can be ordered to stop their activity, or to leave the meeting

### **Southampton City Council’s Priorities:**

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

### **Executive Functions**

The specific functions for which the Cabinet and individual Cabinet Members are responsible are contained in Part 3 of the Council’s Constitution. Copies of the Constitution are available on request or from the City Council website, [www.southampton.gov.uk](http://www.southampton.gov.uk)

### **Key Decisions**

A Key Decision is an Executive Decision that is likely to have a significant:

- financial impact (£500,000 or more)
- impact on two or more wards
- impact on an identifiable community

### **Procedure / Public Representations**

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

**Fire Procedure** – In the event of a fire or other emergency, a continuous alarm will sound and you will be advised, by officers of the Council, of what action to take.

**Smoking policy** – The Council operates a no-smoking policy in all civic buildings.

**Access** – Access is available for disabled people. Please contact the Cabinet Administrator who will help to make any necessary arrangements.

### **Municipal Year Dates (Tuesdays)**

<b>2015</b>	<b>2016</b>
16 June	19 January
14 July	9 February ( <b>Budget</b> )
18 August	16 February
15 September	15 March
20 October	19 April
17 November	
15 December	

## **CONDUCT OF MEETING**

### **TERMS OF REFERENCE**

The terms of reference of the Cabinet, and its Executive Members, are set out in Part 3 of the Council's Constitution.

### **RULES OF PROCEDURE**

The meeting is governed by the Executive Procedure Rules as set out in Part 4 of the Council's Constitution.

### **DISCLOSURE OF INTERESTS**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PECUNIARY INTERESTS**

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or

b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

### **Other Interests**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

### **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and

### **BUSINESS TO BE DISCUSSED**

Only those items listed on the attached agenda may be considered at this meeting.

### **QUORUM**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the “rationality” or “taking leave of your senses” principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, ‘live now, pay later’ and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## **AGENDA**

### **1 APOLOGIES**

To receive any apologies.

### **2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

## **EXECUTIVE BUSINESS**

### **3 STATEMENT FROM THE LEADER**

### **4 RECORD OF THE PREVIOUS DECISION MAKING (Pages 1 - 2)**

Record of the decision making held on 15th December, 2015, attached.

### **5 MATTERS REFERRED BY THE COUNCIL OR BY THE OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE FOR RECONSIDERATION (IF ANY)**

There are no matters referred for reconsideration.

### **6 REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEES (IF ANY)**

There are no items for consideration

### **7 EXECUTIVE APPOINTMENTS**

To deal with any executive appointments, as required.

## **ITEMS FOR DECISION BY CABINET**

### **8 SOUTHAMPTON COMMON PLAY AREA □ (Pages 3 - 8)**

Report of the Cabinet Member for Environment and Transport regarding the regeneration of the Play Area on Southampton Common, by modernising and upgrading the area of the existing paddling pool with a contemporary wet and dry play facility which will provide an all-inclusive play destination for residents and visitors to Southampton, attached.

**9 EXPANSION OF THORNHILL PRIMARY SCHOOL FROM SEPTEMBER 2017 □**  
(Pages 9 - 54)

Report of the Cabinet Member for Education and Children's Social Care seeking to approve the permanent expansion of Thornhill Primary School, following a public consultation, from its current Published Admission Number (PAN) of 45 pupils to 60 pupils in each year group from September 2017, attached.

**10 CONFIRMATION OF THE CANTON STREET ARTICLE 4 DIRECTION (Pages 55 - 62)**

To consider the report of the Leader of the Council seeking confirmation of the Article 4 Direction for Canton Street.

**11 CONFIRMATION OF THE CAVENDISH GROVE ARTICLE 4 DIRECTION (Pages 63 - 70)**

To consider the report of the Leader of the Council seeking confirmation of the Article 4 Direction for Cavendish Grove.

Monday, 11 January 2016

Head of Legal and Democratic Services

# Agenda Item 4

## SOUTHAMPTON CITY COUNCIL EXECUTIVE DECISION MAKING

### RECORD OF THE DECISION MAKING HELD ON 15 DECEMBER 2015

#### Present:

Councillor Letts	Leader of the Council
Councillor Jeffery	Cabinet Member for Education and Children's Social Care
Councillor Kaur	Cabinet Member for Communities, Culture and Leisure
Councillor Rayment	Cabinet Member for Environment and Transport
Councillor Shields	Cabinet Member for Health and Adult Social Care
Councillor Payne	Cabinet Member for Housing and Sustainability
Councillor Hammond	Cabinet Member for Transformation

#### Apologies: Councillor Chaloner

#### 27. PROPERTY DISPOSALS

DECISION MADE: (CAB 15/16 15931)

On consideration of the report of the Leader of the Council, Cabinet agreed the following:

- i) In respect of the former Woolston School, Porchester Road to delegate authority to the Head of Property to negotiate and accept the best bid for the properties and agree the final terms of sale and carry out all ancillary matters to dispose of the properties;
- ii) In respect of Former Kennels at 131A Warren Avenue Woolston Library, Portsmouth Road Seymour House, Seymour Road (HRA) to approve the principle of the sale by auction and to delegate authority to the Head of Property (in the case of Seymour House after consultation with Head of Housing Services) to approve the reserve prices;
- iii) In the case of the properties sold at auction to confirm that the appointed auctioneer be authorised to sign the contract for sale immediately after the auction;
- iv) To approve the terms of the letting of Nutfield Court Nursery to Newsfields Gardening;
- v) To authorise the Head of Property to undertake all ancillary matters to give effect to this resolution; and
- vi) To note the estimated value of the capital receipt from these disposals has already been built into the funding of the capital programme. Any receipts that differ from the estimates will need to be considered corporately as part of any future prioritisation of resources as the intention is to use any additional capital receipts from disposals over and above those which are funding the current programme to repay long-term council borrowing.

#### 28. SALE OF VILLIERS ROAD DEPOT AND LAND AT SOUTHERN ROAD

DECISION MADE: (CAB 15/16 16074)

On consideration of the report of the Leader of the Council and having received representations from a Member of the Council, Cabinet agreed the following:

- (i) To approve the sale of the Villiers Road Depot and land at Southern Road as shown in Appendices 1 and 2;
- (ii) To delegate authority to Head of Property to agree the final price and other terms with the proposed purchasers and in the event that the offers are withdrawn or no longer remain best consideration to agree terms with an alternative purchaser and to continue such process as necessary, including re-marketing the property if necessary; and
- (iii) To authorise Head of Property to take any further action necessary to give effect to this decision.



# Agenda Item 8

<b>DECISIONMAKER:</b>	<b>CABINET</b>		
<b>SUBJECT:</b>	<b>SOUTHAMPTON COMMON PLAY AREA</b>		
<b>DATE OF DECISION:</b>	<b>19 JANUARY 2016</b>		
<b>REPORT OF:</b>	<b>CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT</b>		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	<b>Nick Yeats</b>	<b>Tel: 023 80832857</b>
	<b>E-mail:</b>	<b>Nick.yeats@southampton.gov.uk</b>	
<b>Director</b>	<b>Name:</b>	<b>Mark Heath</b>	<b>Tel: 023 80832371</b>
	<b>E-mail:</b>	<b>Mark.heath@southampton.gov.uk</b>	

<b>STATEMENT OF CONFIDENTIALITY</b>	
<b>Not Applicable</b>	
<b>BRIEF SUMMARY</b>	
The play area on Southampton Common is over 15 years old and not befitting of Southampton's premier, Green Flag Award winning, destination parks. It is therefore proposed to provide a much improved facility.	
The proposal is to provide a state of the art water and dry play area in place of the existing paddling pool and play area.	
The cost to provide such a facility is likely to be in the region of £500,000.	
<b>RECOMMENDATIONS:</b>	
(i)	To undertake a consultation for the design of the proposed Play Area at Southampton Common;
(ii)	To delegate authority to the Director, Place following consultation with the Head of Legal & Democratic Services to do anything necessary to progress the delivery of the Play Area at Southampton Common, including but not limited to entering into contracts for goods and services, obtaining consents and permissions and any other ancillary or related matters; and
(iii)	To approve the addition of up to £500,000 to the Environment & Transport (City Services) Capital Programme for the Southampton Common Play Area scheme, in accordance with Financial Procedure Rules, subject to the allocation of funding in the Capital Strategy to be approved by Council in February 2016.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	This is a key decision and before we can enter into a contract with a play area design and consultation expert a Cabinet decision is required to progress the project.
2.	Once the design phase is over, an application under section 38 of the Commons Act 2006 and a planning application will be required before the play area can be delivered. If permission is granted then authorisation to progress the project is being requested.

3.	Until the final designs have been priced it is not possible to provide an accurate figure for the total cost of the play area, the working budget is £500,000, but this may need to be adjusted once the designs are complete. If variation of the project budget is required this will be progressed under Finance Procedure Rules in accordance with the Council's Constitution.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
4.	<p><b>Option 1</b> - Use existing Section 106 developer contributions (circa £100,000) to provide a new play area adjacent to the Paddling pool.</p> <p>This would give a reasonable sized play area with moderate play value. It would be an improvement on the existing, but would fall short of providing a City wide facility of which it is an aspiration to provide for the Common. The play area would incorporate the two trees in this area for shade. The play area cost would include fencing.</p>
5.	<p><b>Option 2</b> - Spend circa £300,000 on the project and move the play facility next to the paddling pool area.</p> <p>This option would leave the paddling pool where it is, still under the management of Places for People (PfP) / Active Nation. The play area would move to the grass area to the east of the paddling pool. The play facility would be designed to accommodate the two trees and could include a moderate tree house in the design.</p>
<b>DETAIL (Including consultation carried out)</b>	
6.	It was agreed at the Cabinet Member Briefing on 16 <sup>th</sup> July 2015 that it would not be acceptable to either “do nothing” or to manage the decline of the play area at Southampton Common. Therefore, three options for the play area were further explored with Informal Cabinet on 3 <sup>rd</sup> November 2015. All involved moving the play area to a new site either adjacent to or on the existing paddling pool.
7.	All three options proposed to move the play area from its existing place to either land adjacent to the paddling pool, or to the paddling pool site itself, also utilising the land adjacent to it. The reasons for moving are that the Council would have more chance of gaining permission to fence the play area in the proposed position, this is one of the most common concerns raised about the existing play area. It would move it away from the ditch which we do receive complaints from parents about (perceived danger of children falling into it). It would open up access across the part of the Common where the existing play area is and would be closer to the Cowherds and Hawthorns Centre for toilets and refreshments.
8.	<p>The preferred <b>Option 3</b> is to spend circa £500,000 on a new play facility integrating water play and dry play onto and adjacent to the site of the existing paddling pool. The paddling pool will be decommissioned and the play area moved to the site it currently occupies. The new play facility would include state of the art water play as well as the more traditional climbing and swinging apparatus. The facility would be extended beyond the existing paddling pool footprint to include a tree house within the trees to the east. Replacing the paddling pool with water play would have the benefits of:</p> <ul style="list-style-type: none"> <li>• no further need to provide life guards</li> <li>• the facility could be open for extended periods of good weather, not just two or three months of the year</li> </ul>

	<ul style="list-style-type: none"> <li>•</li> <li>• the costs for the filtration and chlorination plant are likely to be reduced,</li> <li>• there would be no filters for newts to fall into reducing risk to the Council of breach of environmental and protected species legislation.</li> </ul> <p>There is an opportunity to provide a sustainable way to remove waste water through a reed bed system which would clean the water and return it to the ground further down the hill. This could reduce costs for waste water disposal.</p>
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## RESOURCE IMPLICATIONS

### Capital/Revenue

9.	<p>A preliminary report has been to the Council Capital Board which set out that there is funding of £100,000 from Play Area Section 106 developer contributions, which is available to fund this project. Additional funding of up to £400,000 will be identified, as part of the Capital Strategy, to be approved by Council in February 2016. Once full consultation and design has been completed, a full understanding of the overall costs to deliver the play area will be understood. If the cost of the proposed play area is within the project budget of £500,000, 'approval to spend' may be given by the Chief Officer in consultation with the Cabinet Member and the Chief Financial Officer. However, if the cost of the project exceeds £500,000, a report will go to the Council Capital Board requesting additional funding. Any addition to the budget will require approval via the appropriate Financial Procedure Rules / Constitutional arrangements. 'Approval to spend' over £500,000 and up to £2M would require a further report to Cabinet.</p>
10.	<p>Once this scheme has been added to the capital programme, the project manager may spend up to £50,000 (10% of the project budget), with the approval of the relevant Chief Officer following consultation with the Cabinet Member, in advance of formal 'approval to spend' on the scheme for the purpose of scheme design and costing. It is anticipated that the cost of feasibility work for this scheme will be no more than £25,000.</p>
11.	<p>There would be no dedicated resource available for this project so it would be carried out within other duties of Officers within the Parks and Play Services. The Council would also look to use the Friends Group Coordinator provided by Groundwork South to build capacity around consultation, hopefully getting members of a Friends group to volunteer their time to help consult on the ideas. Regeneration projects such as this have always been considered to be outside of the SSP with Capita and therefore a consultant will be procured to provide play area design and consultation expertise which would provide the Council with all the necessary documentation to make both the Planning and Commons Act applications.</p>

### Property/Other

12.	<p>The 1844 Marsh Act changed Southampton Common into public recreation land. Southampton Corporation Acts of 1910, 1931 and 1971 detailed the byelaws that govern public use of The Common, vehicle use and closures for events to 50 acres and 21 consecutive days to a maximum of 60 in any year. The Hampshire Act and Law of Property Act also restrict use of the Common. Southampton Common is registered common land and therefore subject to Commons Act 2006. There is also a Special Site of Scientific</p>
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	Interest (SSSI) in place on Southampton Common The notification of most of Southampton Common as a SSSI requires the council to cease to undertake any operations likely to damage the special interest without specific consent from English Nature in advance. There will therefore be a need to undertake an Environmental Impact Assessment as part of the design and consent procedures.
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## LEGAL IMPLICATIONS

### Statutory power to undertake proposals in the report:

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| 13. | Works on the Common of the nature proposed would require prior consent under S38 of the Commons Act 2006. This protects registered commons from being inappropriately developed. It typically takes 3 to 4 months for a simple application to be considered by the Planning Inspectorate (PINs). If objections are raised then this timescale will increase. Prior public consultation is essential to making the application so that objections are kept to a minimum however historically previous applications for the installation of the paddling pool and play areas and even like for like works restricted within existing park footprints on the Common have generated substantial public interest and a steady level of objections. Objections can result in the requirement to hold a Public Inquiry, the associated delays would affect the proposed timetable and potentially increase costs. Advance work with the known amenity and historical societies may reduce the likelihood of substantial objections but these cannot be ruled out due to the nature and sensitivity of the site. |
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### Other Legal Implications:

- |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| 14. | All works will be required to be procured in accordance with the Council's Contract Procedure Rules. The design, construction and management of the new play area will be subject to the provisions of the Equalities Act 2010 (including the need to equality impact assess both the proposals and the scheme design), s17 Crime & Disorder Act 2010 to design out potential for anti-social behaviour and property crime / damage and other pervasive legislation. Planning consents will be sought under the Town & Country Planning Act 1990 and associated primary and secondary legislation. |
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## POLICY FRAMEWORK IMPLICATIONS

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|-----|----------------------------------------------------------------------------------------------------------------------------------------------------|
| 15. | There is a Council commitment to improve play areas within the Executive Commitments – 9. 'Invest in Play Equipment' Decision Ref CAB 14/15 13650. |
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<b>KEY DECISION?</b>	Yes
<b>WARDS/COMMUNITIES AFFECTED:</b>	All Wards
<u>SUPPORTING DOCUMENTATION</u>	
<b>Appendices</b>	
1.	None

### **Documents In Members' Rooms**

1.	None
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<b>Equality Impact Assessment</b>		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		<b>Yes/No</b>
<b>Privacy Impact Assessment</b>		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		<b>No</b>
<b>Other Background Documents</b>		
Other Background documents available for inspection at:		
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>	
<b>1.</b>		
<b>2.</b>		

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# Agenda Item 9

<b>DECISION-MAKER:</b>	<b>CABINET</b>		
<b>SUBJECT:</b>	<b>EXPANSION OF THORNHILL PRIMARY SCHOOL FROM SEPTEMBER 2017</b>		
<b>DATE OF DECISION:</b>	<b>19 JANUARY 2016</b>		
<b>REPORT OF:</b>	<b>CABINET MEMBER FOR EDUCATION AND CHILDREN'S SOCIAL CARE</b>		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	<b>David Cooper</b>	<b>Tel: 023 8091 7501</b>
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<b>Director</b>	<b>Name:</b>	<b>Kim Drake</b>	<b>Tel: 023 8083 4899</b>
	<b>E-mail:</b>	<b>Kim.drake@southampton.gov.uk</b>	
<b>STATEMENT OF CONFIDENTIALITY</b>			
<b>None</b>			
<b>BRIEF SUMMARY</b>			
<p>Following a statutory consultation, this paper seeks the approval of Cabinet for the expansion of Thornhill Primary School from 315 pupils to 420 pupils from 1 September 2017. The Published Admission Number (PAN), the number of Year R pupils admitted in each academic year, will rise from 45 (1.5 Forms of Entry (FE)) to 60 (2FE) from the same date and in subsequent years until the new capacity is fully achieved.</p>			
<b>RECOMMENDATIONS:</b>			
	(i)	To note the outcome of statutory consultation as set out in this report;	
	(ii)	To approve the increase in pupil numbers at Thornhill Primary School to 420, increasing the PAN of the school to 60 (2FE) from September 2017; and	
	(iii)	To delegate authority to the Service Director, Children and Families Service, following consultation with the Cabinet Member for Education and Children's Social Care, to give effect to the recommendations in this report.	
<b>REASONS FOR REPORT RECOMMENDATIONS</b>			
1.	Southampton has seen a significant increase in pupils entering Year R since 2010. The rise was forecast to peak in admissions for September 2015. The Council responded by expanding schools in the Primary sector. The majority of these expansions were permanent to ensure sufficient places for the general rise in the school population in Southampton.		
2.	In total, since September 2010, 4,810 places have been added to the Primary sector (in all years) in Southampton. At Year R, 825 extra places (27.5FE) have been provided for the forecast peak year of 2015.		
3.	From September 2016 the forecast total number of children requiring a Year R place in Southampton is set to fall slightly. However, an increase in the number of completed and proposed housing developments in the east of the		

	City, combined with an increase in pressure on nearby Hampshire schools, means there will continue to be pressure in the east planning area (as designated by the School Capacity Survey) in the coming years.
4.	The current forecast suggests that 30-60 places will be required in the east of the City in 2016. There will also be increasing pressure on school places in all Primary year groups in this part of the City until 2019.
5.	The LA therefore intends to raise the PAN at Thornhill Primary School, expanding the school as part of a wider strategy to ensure sufficient places for all children who require one.
6.	Thornhill Primary School is currently rated Good by Ofsted (November 2012) and the provision has been oversubscribed in recent years. There is a presumption, as outlined in the School Organisation Guidance (Jan 2014), in favour of expanding good and/or popular schools.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
7.	The Council could decide not to increase pupil numbers at Thornhill Primary School but the current forecast suggests it would therefore not be able to fulfil its statutory duty to provide a school place to all those who require one.
8.	Expansion at other Primary schools was considered and many have already expanded in recent years as part of the Primary review begun in 2010. The current forecast suggests the required demand for 2016 and beyond will be in the Bitterne, Peartree and Harefield Wards. Therefore the proposed expansion at Thornhill, combined with a proposed bulge class at St Monica Primary School, provides school places in the right area.
<b>DETAIL (Including consultation carried out)</b>	
9.	A statutory consultation has taken place (following the guidance in the School Admissions Code (December 2014) (attached)). Four weeks of pre-publication consultation began on 1 September 2015 and ran until 12 October 2015. This was followed by a statutory consultation (representation) period from 19 October 2015 to 1 December 2015, (to take account of term time) following the publication of a notice in the Daily Echo on 19 October 2015 and at the school's main entrances. Key stakeholders (including Head Teachers, Local Councillors, Local MPs and Trade Union Representatives) were notified via email. A web page with full details of the proposal, including a copy of the formal statutory notice, was published on the SCC website from 19 October 2015.
10.	The consultation documents and all responses can be found in appendices 2 and 3.
11.	The detailed submission and responses are enclosed (as referred to above). However key issues raised during the consultation (in the context of in principle support for the proposals) included queries around the need for increased space in this location as opposed to, say, Woolston arising out of the Centenary Quay development; the use of the former Woolston secondary school site and careful consideration of retention of green play and sport space, particularly in light of the adjacent Springwell expansion.
12.	The current forecast, which takes account of local housing developments, including Centenary Quay, suggests that there will be a surplus of places in the Weston area and a falling overall roll until at least 2019. Therefore,



	providing another bulge class in this area would only add to the current surplus and could negatively affect admissions at smaller schools (1 or 1.5 FE). Permanent provision (i.e. at Woolston secondary's site) would not be in line with the falling roll in the area and would also impact negatively on current provision.
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## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

13.	The school was a 2FE entry Primary school up until 2007, when the PAN was reduced in response to lower birth rates in the area. The school therefore already has sufficient class bases (14) to allow for this expansion.
14.	Changes to the curriculum and school's needs will mean the LA will seek to support the school in the provision of suitable learning spaces throughout the school to assist with this rise in population.
15.	Based on the Net Capacity Assessment the school has made available space for the expansion but now lacks provision for small group and breakout classes. A bid for £30,000 for Thornhill expansion has been agreed by the Council Capital Board to assist the school in creating such spaces in order to ensure the continued level of education provided by the school. This will go through February 2016 Cabinet as part of the capital update.
16.	Any revenue cost will be expected to be managed within the allocated Dedicated Schools Grant (DSG) so there will be no pressure on General Fund (GF).

### **Property/Other**

17.	As in Paragraph 11 (above) no changes to the school property are planned at this time.
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## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

18.	Local Authorities have a statutory duty under Section 14 of the Education Act 1996 to secure that sufficient school places are available in their area.
19.	Section 14 of the Education Act 1996 also requires that Local Authorities secure diversity in the provision of schools and increase opportunities for parental choice in the provision of primary and secondary education.
20.	Proposals to make prescribed alterations to a Community School are published under Section 19(1) of the Education and Inspections Act 2006 and take account of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
21.	Statutory Guidance on bringing forward proposals entitled "School Organisation-Maintained School. Guidance for Proposers and decision makers" applies, which requires publication of statutory notices followed by a prescribed representation period which must take part predominantly within School term time to meet the requirements of full, open, fair and accessible consultation with those most likely to be affected (pupils, parents and staff often being on vacation or otherwise unavailable during school holiday periods). Any representations made during this period must be considered by Cabinet who are responsible for determining whether or not to approve the proposals as advertised. Minor modifications and / or statutory conditions can

	be applied to proposals in limited prescribed circumstances but are not proposed in this case.
<b><u>Other Legal Implications:</u></b>	
22.	In bringing forward School Organisation proposals the Council must have regard to the need to consult the community and users, the statutory duty to improve standards and access to educational opportunities, the statutory special educational needs improvement test, observe the rules of natural justice, the provisions of the Human Rights Act 1998, Article 2 of the First Protocol (right to education) and the Equalities Act 2010. The Council is satisfied the proposals in this report fully conform to the legislative framework and are necessary to meet a pressing social need in the local authority area
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
23.	This proposal is in line with Southampton's School Organisation Plan 2014-2024

<b>KEY DECISION?</b>	<b>Yes</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>	<b>Harefield, Bitterne, Peartree</b>
<u>SUPPORTING DOCUMENTATION</u>	
<b>Appendices</b>	
1.	Copy of the statutory notice.
2.	Copy of the full consultation document
3.	Comments on / Objections to the proposal and responses
4.	Equality and Safety Impact Assessment
5.	School Organisation Guidance 2014

**Documents In Members' Rooms**

	<b>None</b>
<b>Equality Impact Assessment</b>	
<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>	<b>Yes</b>
<b>Privacy Impact Assessment</b>	
<b>Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.</b>	<b>No</b>
<b>Other Background Documents</b>	
<b>Title of Background Paper(s)</b>	
	<b>None</b>

Wording to be included in Daily Echo, 19 October, 2015

### **Expansion Proposals (Thornhill Primary School)**

Notice is given in accordance with section 19(1) of the Education and Inspections Act 2006 that Southampton City Council intends to make prescribed alterations (enlargement of premises) to Thornhill (Community) Primary School.

Under this proposal Thornhill Primary School would expand from 345 to 420 pupils (1.5FE Form Entry (FE) to 2 FE) permanently from 1<sup>st</sup> September 2017. The Published Admission Number for the school (the number of pupils admitted in Year R) would rise from 45 to 60 from the same date and in subsequent years until the new capacity is fully achieved. The school currently admits 60 pupils in Year R having accepted bulge classes in 2014 and 2015.

Admission and transport arrangements for pupils attending the school will not be affected by these proposals.

This notice is an extract of the complete proposal. Copies of the complete proposal can be obtained from [www.southampton.gov.uk/schools-learning/school-consultations/](http://www.southampton.gov.uk/schools-learning/school-consultations/) or by writing to:

**Thornhill Primary School Expansion**  
**School Organisation and Strategy Manager**  
Children and Families Service  
Southampton City Council  
Civic Centre (Ground Floor, North)  
Southampton, S014 7LY

Within four weeks of the date of publication of these proposals, any person may object to or make comments on the proposal by writing to the address above or via email to [School.Organisation@southampton.gov.uk](mailto:School.Organisation@southampton.gov.uk).

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Prescribed Alterations (Maintained School)  
Statutory Consultation on Proposals to Expand  
**Thornhill Primary School**



## **Proposals for Prescribed Alterations (Maintained School)**

### **Published under Section 19(1) of the Education and Inspections Act 2006 and The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2013**

This proposal takes account of The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, the School Organisation Maintained Schools Statutory Guidance for Proposers and Decision Makers (January 2014) and the Education and Inspections Act 2006.

#### **In respect of the LEA Proposal: School and Local Authority details:**

##### **The name and address of the School:**

**Thornhill (Community Primary) School** (URN: 132117)  
(DfE Establishment Number 852/202)  
Byron Road  
Thornhill  
Southampton  
SO19 6FH

##### **The name and address of the Local Authority:**

###### **Southampton City Council**

Civic Centre  
Southampton  
SO14 7LY

##### **Implementation and any proposed stages for implementation:**

Pre-Publication Consultation on this proposal took place between Monday, 1 September and Monday, 12 October, 2015.

A final proposal based on this consultation is published here.

There will be four Weeks of Statutory Consultation from the date of publication (Tuesday, 20 October, 2015) to Tuesday, 1 December, 2015, to take account of the October half-term.

A final decision should be made on the proposal by 19 January, 2016.

The additional places should be available for September 2017.

## Description of Alterations:

As part of a wider strategy to ensure sufficient places for all children who require one (and to take account of parental preference) we are proposing that Thornhill Primary School should expand from 315 pupils (345 with current bulge classes) to 420 pupils (1.5 Form Entry (FE) to 2 FE) from 1 September 2017. The Published Admission Number for the school (the number of pupils admitted in Year R) would rise from 45 to 60 from the same date and in subsequent years until the new capacity is fully achieved.

Thornhill Primary School had a PAN of 60 prior to 2006/7 and therefore no building work is currently planned to physically enlarge the school beyond its current net capacity.

Admission and transport arrangements for pupils attending the school will not be affected by these proposals.

## Evidence of Demand:

There has been an increase in the number of children requiring a school place in Southampton over the past few years. The main reason for this is the increase in the number of children being born in the City. We know this from the following data:

- Southampton Birth data, provided by the Primary Care Trust;
- Child Benefit data, provided by the Department for Work and Pensions.

While the City has maintained a small surplus of Year R places across the City, which is in line with Department for Education recommendations, a shift in parental preferences indicates that for September 2016 an additional 30-60 places will be required in Year R in the east of the City. There will be increasing pressure on school places in all Primary years in this part of the City until at least 2019.

Primary Places			2016/17		2017/18		2018/19	
	<b>Current Pan</b>		<b>3,105</b>		<b>3,135</b>		<b>3,135</b>	
	<b>Forecast</b>		3,072		2,841		2,923	
	<b>+5%</b>		<b>3,199</b>		<b>2,984</b>		<b>3,070</b>	
	<b>Current PAN</b>			surplus		surplus		surplus
<b>West</b>		<b>945</b>	917	28	879	66	883	62
<b>Central</b>		<b>945</b>	878	67	781	164	850	95
	<b>(Hope) Free School</b>							
<b>East</b>		<b>1275</b>	1,277	-2	1,181	94	1,190	85

As the population increases, these additional places will allow the Local Authority to maintain a surplus which allows for in-year access for pupils coming to the City outside of the normal admissions structure and to allow for parental preference.

It is proposed that 15 of these extra places be provided at Thornhill Primary School, returning it to its original Published Admission Number. The Local Authority is in discussion with several schools about possible expansion and the provision of bulge classes in order to ensure we continue to provide sufficient places for all children who require one.

Further details about forecasting school places and school planning can be found in the Southampton City Council School Organisation Plan.

<http://www.southampton.gov.uk/schools-learning/school-organisation-plan.aspx>

### **Objectives:**

The Local Authority is under a statutory duty to ensure that there are sufficient school places in the City, promote high educational standards, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential.<sup>1</sup>

The Education Act 1996 requires that Local Authorities secure diversity in the provision of schools and increase opportunities for parental choice.

The expansion at Thornhill Primary School is intended to continue to provide children in the area with a high quality education and to provide parents with a choice of schools within the City.

There is a presumption for the expansion of successful and popular schools (in all sectors). Southampton believes that all places in the Primary sector should be of high quality provision at schools judged to be Good or Outstanding.

Thornhill Primary School was rated Good with Outstanding features by Ofsted in November 2012 and was oversubscribed as a school of first choice preference for September 2015.

### **Project Costs:**

Thornhill Primary School had a PAN of 60 prior to 2006/7 and was originally planned to hold the 420 pupils now proposed. Therefore no building work is currently planned to physically enlarge the school beyond its current net capacity.

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<sup>1</sup> School Organisation Maintained Schools Guidance January 2014



## **Consultation:**

Pre-Publication Consultation on this proposal took place between Tuesday, 1 September and Monday, 12 November, 2014.

All representations made under the pre-publication phase of consultation were taken into consideration when producing this proposal.

Previous consultation on City wide secondary expansion has been ongoing and has also included Head Teachers, School Governors and Key Councillors

The Local Authority will comply with all statutory requirements in relation to the proposal, including consulting all interested parties.

All relevant stakeholders will be sent an email and/or letter notifying them of the consultation and providing information including a link to the consultation website and where to obtain copies of the full proposal. Copies were made available at the school and by request from the Local Authority.

## **Copies of this proposal may be obtained from:**

**[www.southampton.gov.uk/schools-learning/school-consultations/](http://www.southampton.gov.uk/schools-learning/school-consultations/)**

or by writing to:

### **Thornhill Primary School Expansion School Organisation and Strategy Manager**

Children and Families Service  
Southampton City Council  
Civic Centre (Ground Floor, North)  
Southampton  
S014 7LY

Any person may object to or comment on these proposals. Any objections and comments can be sent to the above address or to [School.Organisation@southampton.gov.uk](mailto:School.Organisation@southampton.gov.uk)

The final date for submission of representations, objections and comments under this consultation is **Tuesday, 1 December, 2015.**<sup>2</sup>

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<sup>2</sup> For the purposes of section 21(2) (f) The Education and Inspections Act 2006 the Local Authority is prescribed as the person who (subject to the provisions of Schedule 3 of The School Organisation (prescribed Alterations to Maintained Schools) (England) Regulations 2013) must consider and determine the proposals.

Proposal for Prescribed Alterations (Maintained School)  
Consultation to Expand  
**Thornhill Primary School**



**Consultation Response Form**

Your views on the proposals are important to us. Please let us know what you think by completing the form below.

**I am a (Please tick the relevant box):**

**Parent/Carer**

**Governor**

**Member of staff**

**Member of the local community**

**Other (please specify)**

**Please name the school you are involved with**

**Do you support the proposal of expanding Thornhill Primary School?**

**YES**

**NO**

**Don't Mind**

Any person may object to or comment on these proposals.

You may have your view on this proposal to expand Thornhill Primary School. We would welcome any suggestions you may have for adding extra school places in the City. It is entirely up to you how you respond.

Any objections and comments should be sent to the address given in the consultation booklet or via email to [School.Organisation@southampton.gov.uk](mailto:School.Organisation@southampton.gov.uk).

The final date for submission of objections and comments under this pre-statutory stage of consultation is **1 December, 2015**.

Proposal for Prescribed Alterations (Maintained School)  
Consultation to Expand  
**Thornhill Primary School**



**Additional Comments:**

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### **Responses received for the pre-statutory consultation:**

**Thornhill Primary School – October 2015**

Two responses were received over the course of the pre-statutory consultation period.

#### **Received via Email on 02/09/2015 from Local Councillor**

**Support indicated: IN PRINCIPLE**

#### **Comments:**

I would support the expansion of this school as it is a well rated school with good facilities. However, I am surprised that the council are experiencing a particular increase in demand in this part of the East. The major development in the East is in Centenary Quay, Woolston. Although it is possible to travel between Woolston and Thornhill, it is hardly the easiest journey. Have the Council explored Woolston expansion options or even the potential for a new school in that locality?

The former Woolston Secondary School site on Porchester Road is still lying empty and although this site was deemed lacking in playground facilities for a secondary school, it might well suit a primary school. Of course this option would come with significant funding requirements, however, with the significant uplift in pupil numbers in this area, it might provide a more sustainable option into the future.

#### **Response sent:**

Thank you for your reply with reference to the proposed expansion of Thornhill Primary School.

The Local Authority are exploring all options for expansion of schools where required and our latest forecasting takes into account the developments at Centenary Quay and at other key sites across the City.

While we experienced a larger than expected number of admissions in the East (particularly the Weston/Woolston) area of the City for 2015/16, this coincided with our forecast peak year of admissions across the City.

In the following years we are forecast to see a slight drop in the numbers of children requiring a Year R place in Southampton. However, our most recent forecasting shows there will still be a small amount of pressure in the north-east of the City for 2016/17 before numbers fall.

For this reason a permanent expansion of Primary numbers in the south-east at this time would leave us with a significant surplus of places from September 2017 and this could have a detrimental effect on some Southampton schools.

We are therefore proposing a small increase at Thornhill Primary School (to match their current bulge classes (2014/15 and 2015/16)) from a published admission number (PAN) of 45 to a PAN of 60. At the same time we are exploring the need for further temporary bulge classes in the north-east of the City and across Southampton to ensure the DfE recommended 5% surplus is maintained to allow for parental preference.

The sale of the former Woolston Secondary School site has been put on hold while we consider all the options around expansion in this part of the City and its use as a possible site for Primary expansion has formed part of our considerations and options for expansion in the Primary sector.

We will be keeping a close eye on the developments at Centenary Quay and elsewhere, both within the City and on our borders, to ensure we continue to fulfil our statutory duty to provide school places for all those who require one.

**Received via Email on 02/09/2015 from Local Councillor**

**Support indicated: IN PRINCIPLE**

**Comments:**

As a ward councillor, I am writing briefly about the proposals to expand Thornhill Primary School.

I've been impressed by Thornhill Primary throughout my time as a ward councillor, and recall that the school achieved National Recognition as the MOST IMPROVED school in England two or three years ago.

I believe that the best plan for expansion will be to create new classrooms on some of the green space around the school. Obviously, the siting for this will need careful consideration, particularly since the adjacent school, Springwell, also needs to expand.

It is important that as much of the green space as possible is retained for recreational and sport requirements. This is especially relevant as so many of the pupils of both schools live in high-rise flats and do not, therefore, benefit from secure domestic garden facilities.

I look forward to seeing your detailed proposals once you have developed these.

**Response Sent:**

Thank you for your reply with reference to the expansion of Thornhill Primary School. The school currently operates at a published admission number (PAN) of 45 and it is proposed that they rise to a PAN of 60 in each year group from 2017. The school currently has two bulge classes (2014/15 and 2015/16) which has seen the school admit 60 pupils in YrR for each of these years.

As class sizes at infants are limited to 30 pupils, maximum, the school already operates two classes in each year. The rise to 60 would continue to see them operate two classes in each year, therefore expansion could theoretically take place within the current buildings and without the loss of recreation space.

However, we will be working with our colleagues in school improvement and in dialogue with the school about the teaching and learning implications for the pupils at Thornhill to ensure that capital works are considered where they are necessary. More detailed proposals for the physical expansion of the school, if needed, will then be shared.

**Responses received for the statutory consultation:  
Thornhill Primary School – December 2015**

One response was received over the course of the statutory consultation period.

**Received via Email on 02/09/2015**

**Support indicated: IN PRINCIPLE**

**Comments:**

I am wholly in favour of the proposed expansion but in doing so class sizes should not increase and more teaching staff must be employed as well as support and administration staff.

**Response Sent:**

Thank you for your reply to the current proposals for prescribed changes to Southampton Schools. Your comments will be passed to the School Organisation and Strategy Manager. If your reply has been received by the published date for final submissions, it will be included in the information passed to Council Officers and Councillors and will help them make their next decisions.

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The **public sector Equality Duty** (Section 149 of the Equality Act) requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people carrying out their activities.

The Equality Duty supports good decision making – it encourages public bodies to be more efficient and effective by understanding how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people’s needs. The Council’s Equality and Safety Impact Assessment (ESIA) includes an assessment of the community safety impact assessment to comply with section 17 of the Crime and Disorder Act and will enable the council to better understand the potential impact of the budget proposals and consider mitigating action.

<p><b>Name or Brief Description of Proposal</b></p>	<p><b>Expansion of Thornhill Primary School September 2017</b></p>
<p><b>Brief Service Profile (including number of customers)</b></p>	<p><b>Children and Families Service</b>                  Head of Service – <b>Kim Drake</b>                  Principal Officer – Education and Early Years – <b>Jo Cassey</b>                  School Organisation and Strategy Manager – <b>David Cooper</b>                  Provision of support to children and young people including the provision of school places across the City.</p>
<p><b>Summary of Impact and Issues</b></p>	<p>If approved, this proposal would expand the number of places at Thornhill Primary School from 315 to 420 pupils (1.5 FE to 2 FE) from 1<sup>st</sup> September, 2017. The Published Admission Number for the school (the number of pupils admitted in Year R) would rise from 45 to 60 pupils from the same date and in subsequent years until the new capacity is fully achieved.                  The expansion will enable the Local Authority to meet its statutory duty to provide a school place to all children and young people who require one.                  Should this proposal not be approved the LA will be unable to meet its statutory duty.</p>

<b>Potential Positive Impacts</b>	More children will be able to access the (Ofsted rated) Good with Outstanding features education offered by Thornhill Primary School. As the school is currently oversubscribed this will also have a positive impact on parental choice in the area.
<b>Responsible Service Manager</b>	Kim Drake
<b>Date</b>	7 December, 2015

<b>Approved by Senior Manager</b>	
<b>Signature</b>	
<b>Date</b>	

### Potential Impact

<b>Impact Assessment</b>	<b>Details of Impact</b>	<b>Possible Solutions &amp; Mitigating Actions</b>
<b>Age</b>	Thornhill Primary School accommodates 5 -11 year olds in mainstream Primary provision.	The current forecast for pupil numbers in 2016/17 means expansion is imperative if the LA is to meet its statutory duty
<b>Disability</b>	The provision provided to existing students will not be affected by this proposal. New buildings will have a positive impact on future provision.	The school has sufficient class bases to enable this expansion and the LA will seek to maintain the number of learning spaces within the school
<b>Gender Reassignment</b>	N/A	N/A
<b>Marriage and Civil Partnership</b>	N/A	N/A
<b>Pregnancy and Maternity</b>	N/A	N/A

<b>Race</b>	N/A	N/A
<b>Religion or Belief</b>	N/A	N/A
<b>Sex</b>	N/A	N/A
<b>Sexual Orientation</b>	N/A	N/A
<b>Community Safety</b>	N/A	N/A
<b>Poverty</b>	N/A	N/A
<b>Other Significant Impacts</b>	N/A	N/A

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Department  
for Education

# **School Organisation**

## **Maintained Schools**

**Guidance for proposers and decision-makers**

**January 2014**

# Contents

Chapter 1: Summary	3
About this guidance	3
What legislation does this guidance refer to?	4
What previous guidance does this replace?	4
Transitional arrangements	5
Chapter 2: Significant changes: expansion, age range changes and adding boarding provision	6
Governing Bodies	6
Local Authorities	7
Expanding onto an additional site ('satellite schools'/split site schools)	7
Chapter 3: Significant changes: prescribed alterations	9
Statutory process	10
Chapter 4: Establishment of new provision	15
Academy presumption	15
New maintained schools	15
Chapter 5: School closure	17
Who can close a school?	17
Statutory process	18
Closure of rural schools	21
'Amalgamations/mergers'	22
Schools wishing to acquire, change or lose a Religious Character	22
Two years notice of closure – voluntary and foundation schools	22

[Annex A](#): Further information for proposers

[Annex B](#): Guidance for Decision-makers

[Annex C](#): Foundation and Trust proposals

# Chapter 1: Summary

## About this guidance

This guidance accompanies new School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and (Establishment and Discontinuance of Schools) Regulations 2013 that came into force on 28 January 2014. It provides information on the processes involved in making significant changes to maintained schools (e.g. expansion), establishing new provision and school closure. Three annexes give further information for proposers, guidance for decision-makers and, guidance on foundation and Trust proposals.

A governing body, local authority (LA) or the Schools Adjudicator must have regard to this guidance when exercising functions under the Prescribed Alterations Regulations and the Establishment and Discontinuance Regulations. There are also a number of provisions in the Education and Inspections Act 2006 requiring bodies to have regard to guidance. Where bodies are so required, this guidance sets out (either in the paragraph or footnote) the requirement.

The new School Organisation regulations support the government's aim of increasing school autonomy and reducing bureaucracy. They allow schools to have more control when making decisions about their size and composition and therefore enable them to be more responsive to the needs of parents and local communities.

This guidance is relevant to all categories of maintained schools unless explicitly stated. Separate advice is available on making significant changes to an academy at: <https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>.

## Review date

This guidance will be reviewed in January 2015.

## Who is this guidance for?

This guidance is for those proposing to open, close or make changes to schools (e.g. governing bodies and LAs), decision-makers (LAs, the Schools Adjudicator and governing bodies), and for information purposes for those affected by a proposal (dioceses, trustees, parents etc.).

## What legislation does this guidance refer to?

This guidance primarily relates to the 2013 School Organisation Regulations (which replace the 2007 Regulations of the same name):

- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#) (“Prescribed Alterations Regulations”); and
- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#) (“Establishment and Discontinuance Regulations”).

It also relates to:

- [The Education and Inspections Act 2006](#), as amended by the [Education Act 2011](#) (“EIA 2006”) and (“Education Act 2011”);
- [The School Standards and Framework Act 1998](#), as amended by the [Education Act 2002](#) (“SSFA 1998”) and (“Education Act 2002”);
- [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#) (“Removal Regulations”);
- [The School Organisation \(Requirements as to Foundations\) \(England\) Regulations 2007](#) (“Requirements Regulations”);
- [School Governance \(Constitution\) \(England\) Regulations 2012](#) (“Constitution Regulations”);
- [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#) (“Procedures Regulations”); and
- [School Premises \(England\) Regulations 2012](#) (“School Premises Regulations”).

## What previous guidance does this replace?

This guidance replaces the following departmental documents:

- Making Changes to a Maintained Mainstream School;
- Closing a Maintained Mainstream School;
- Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form;
- Changing School Category to Foundation;
- Removal of a school’s Trust and reduction in the number of governors appointed by the Trust;
- Trust School Proposals;



- Deciding Statutory Proposals for Maintained Schools;
- Changing to a Foundation School - Decision Makers Guidance; and
- Changing to a Trust School - Decision Makers Guidance.

## Related guidance

The following advice relates to this guidance:

- [Making Significant Changes to an Existing Academy \(2014\)](#);
- [Academy/Free School Presumption – departmental advice \(2013\)](#); and
- [Establishing New Maintained Schools – departmental advice for local authorities and new school proposers \(2013\)](#).

## Transitional arrangements

Proposals published after the 28 January 2014 should follow the requirements and process set out in the new 2013 Regulations. Proposers who have published proposals before 28 January 2014 will need to continue the process set out in the 2007 Prescribed Alterations Regulations and Establishment and Discontinuance Regulations until they have been implemented unless the proposal has been withdrawn or revoked (as the case may be).

## Chapter 2: Significant changes: expansion, age range changes and adding boarding provision

### Governing Bodies

1. As a consequence of the changes introduced by the 2013 Regulations, governing bodies of all categories of mainstream school can now make the following changes to their schools without following a formal statutory process:

- Expansion (enlargement of premises);
- Alteration of upper or lower age limit by up to two years (except for adding or removing a sixth-form); and
- Adding boarding provision<sup>1</sup>.

2. Before making any changes governing bodies should ensure that:

- they have secured any necessary capital funding;
- they have identified suitable accommodation and sites;
- they have secured planning permission and/or agreement on the transfer of land where necessary<sup>2</sup>;
- they have the consent of the site trustees or, other land owner where the land is not owned by the governing body;
- they have the consent of the relevant religious authority (as required); and
- the admissions authority is content for the published admissions number (PAN) to be changed where this forms part of expansion plans, in accordance with the School Admissions Code.

3. Although governing bodies are no longer required to follow a statutory process for the alterations set out in paragraph 1, they are nevertheless required to adhere to the usual principles of public law: they must act rationally; they must take into account all relevant considerations; and they must follow a fair procedure. The department expects that in making the changes set out in paragraph 1 governing bodies will:

- liaise with the LA and trustees/diocese (if any) to ensure that, where possible, a proposal is aligned with wider place planning/organisational arrangements, and that any necessary consents have been gained; and

---

<sup>1</sup> Governing bodies will need to ensure that boarding schools comply with other relevant legislation – see paragraph 10 of [Annex A.1](#).

<sup>2</sup> Including, where necessary, approval from the Secretary of State for change to the use of playing field land under Section 77(1) of the SSFA 1998.

- ensure effective consultation with parents and other interested parties to gauge demand for their proposed change(s) and to provide them with sufficient opportunity to give their views.

4. **Once proposed changes have been implemented, the governing body must<sup>3</sup> inform the Secretary of State by ensuring that the department’s Register of Educational Establishments (EduBase) is updated. Guidance on how schools and LAs can update EduBase is available at:**

<http://www.education.gov.uk/edubase/faq.xhtml>

## Local Authorities

5. Local authorities have a duty<sup>4</sup> to ensure sufficiency of school places. They can also propose all of the changes outlined in paragraph 1 for community schools, and can propose expansion for foundation and voluntary schools. When doing so they must follow a streamlined statutory process as set out in the Prescribed Alterations Regulations (see chapter 3 for further information).

6. Expansions at a mainstream school that do not require a physical enlargement to the premises of the school are not covered by the Prescribed Alterations Regulations. An increase in pupil numbers may be achieved solely by increasing the PAN in line with the School Admissions Code.

## Expanding onto an additional site ('satellite schools'/split site schools)

7. Where proposers seek to expand onto an additional site they will need to ensure that the new provision is genuinely a change to an existing school and not a new school. Decisions will need to be taken on a case-by-case basis, but proposers will need to consider this non-exhaustive list of factors:

- The reasons for the expansion
  - What is the rationale for this approach and this particular site?
- Admission and curriculum arrangements
  - How will the new site be used (e.g. which age groups/pupils will it serve)?
  - What will the admission arrangements be?
  - Will there be movement of pupils between sites?

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<sup>3</sup> Section 538 of the Education Act 1996 imposes an obligation on governing bodies of maintained schools to provide information to the Secretary of State that he may require for the purpose of the exercise of his education functions. Section 29(5) of the Education Act 1996 requires LAs to publish information at such times and in such manner as may be required by regulations in respect of their arrangements relating to primary or secondary education.

<sup>4</sup> Under section 14 of the Education Act 1996.

- Governance and administration
  - How will whole school activities be managed?
  - Will staff be employed on contracts to work on both sites? How frequently will they do so?
  - What governance, leadership and management arrangements will be put in place to oversee the new site (e.g. will the new site be governed by the same governing body and the same school leadership team)?
- Physical characteristics of the school
  - How will facilities across the two sites be used (e.g. sharing of the facilities and resources available at the two sites, such as playing fields)?
  - Is the new site in an area that is easily accessible to the community that the current school serves?

The purpose of considering these factors is to determine the level of integration between the two sites; the more integration, the more likely the change can be considered as an expansion. Where a LA considers there is a need for a new school to address a basic need for school places it must<sup>5</sup> seek proposals to establish an academy/free school under the academy presumption (see chapter 4).

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<sup>5</sup> Under section 6A of the Education Act 2006.

## Chapter 3: Significant changes: prescribed alterations

8. The other significant changes that governing bodies and LAs may propose by following a statutory process are the following prescribed alterations<sup>6</sup>:

- Alteration of upper or lower age limit by 3 years or more;
- Adding/removing a sixth-form;
- Removing boarding provision;
- Single sex school becoming co-educational or vice versa;
- Transferring to a new site;
- Closure of one site in a split site school;
- Removing selective admission arrangements at a grammar school;
- Changes of category (excluding changes of category to foundation<sup>7</sup>);
- Establishing/removing/altering SEN provision at a mainstream school;
- Alteration of upper or lower age limit at a special school;
- Increasing/decreasing pupil numbers at a special school; and
- Changing the types of needs catered for by a special school

Further information on these categories of changes can be found at [Annex A.1](#). The 'Who Can Do What?' table at [Annex A.5](#) shows exactly which changes can be proposed by LAs and governing bodies at each type of school.

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<sup>6</sup> Regulations 4 and 5 of the Prescribed Alterations Regulations set out which alterations can be made by governing bodies and LAs in respect of each type of school.

<sup>7</sup> Changes of category to foundation follow a different process (see [Annex C](#)).

## Statutory process

9. The statutory process for making significant changes to schools has four stages:

Stage 1	<b>Publication</b>	Statutory proposal published – 1 day.
Stage 2	<b>Representation (formal consultation)</b>	Must be 4 weeks, as prescribed in regulations.
Stage 3	<b>Decision</b>	The decision-maker (usually the LA) must decide proposals within 2 months of the end of the representation period or decision defaults to Schools Adjudicator (OSA) <sup>8</sup> .  Any appeal to the adjudicator must be made within 4 weeks of the decision.
Stage 4	<b>Implementation</b>	No prescribed timescale, but must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker.

10. Although there is no longer a prescribed 'pre-publication' consultation period for prescribed alterations, there is a strong expectation on schools and LAs to consult interested parties in developing their proposal prior to publication as part of their duty under public law to act rationally and take into account all relevant considerations. Schools will also need to ensure that they have the consent of the site trustees and other relevant religious authorities<sup>9</sup> (where necessary).

11. It is best practice to take timing into account when considering a significant change or prescribed alteration to a school. For example, by holding consultations and public meetings – either formal or informal – during term time, rather than school holidays. The location of any public and stakeholder meetings should also be planned to maximise response. The admissions cycle should also be taken into account, for changes that will impact on the school's admission arrangements.

## Publication

12. A statutory proposal must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change. [Annex A.2](#) sets out the minimum that this should include. The proposal should be accessible to all interested parties and should therefore use 'plain English'.

<sup>8</sup> For further information on the Schools Adjudicator see: <http://www.education.gov.uk/schoolsadjudicator>

<sup>9</sup> Including under the CofE Diocesan Board of Education (DBE) Measure 1991.

13. Where the proposal for one change is linked to another, this should be made clear in any notices published. Where a proposal by a LA is 'related' to a proposal by other proposers (e.g. where one school is to be enlarged because another is being closed) a single notice could be published.

14. The full proposal must be published on a website (e.g. the school or LA's 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; and
- the address to which comments (objections or support) should be submitted.

15. A brief notice (including details on how the full proposal can be accessed e.g. the website address) must be published in a local newspaper and in a conspicuous place on the school premises and at all of the entrances to the school.

16. Within one week of the date of publication on the website, the proposer must send a copy of the proposal and the information set out at paragraph 14 to:

- the governing body/LA (as appropriate);
- the parents of every registered pupil at the school - where the school is a special school;
- if it involves or is likely to affect a school which has a religious character:
  - the local Church of England diocese;
  - the local Roman Catholic diocese; or
  - the relevant faith group in relation to the school; and
- any other body or person that the proposer thinks is appropriate.

Within one week of receiving a request for a copy of the proposal the proposer must send a copy to the person requesting it.

17. There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation. However, proposers will be expected to show good reason (for example an authority-wide reorganisation) if they propose a timescale longer than three years.

## **Representation (consultation)**

18. The representation period starts on the date of the publication of the proposal and must last four weeks. During this period, any person or organisation can submit comments on the proposal to the LA to be taken into account by the decision-maker. It is

also good practice for representations to be forwarded to the proposer to ensure that they are aware of local opinion.

## Decision

19. The LA will be the decision-maker for all proposals outlined in paragraph 8 except where a proposal is 'related' to another proposal that must be decided by the Schools Adjudicator<sup>10</sup>.

20. Decisions must be made within a period of two months of the end of the representation period or they must be referred to the Schools Adjudicator.

21. The department does not prescribe the exact process by which a decision-maker carries out their decision-making function. However, the body or individual that takes the decision must have regard to the statutory 'Decision-makers Guidance' (at [Annex B](#)).

22. When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with modifications, having consulted the LA and/or governing body (as appropriate); or
- approve the proposal – with or without modification – subject to certain prescribed events<sup>11</sup> (such as the granting of planning permission) being met.

23. A proposal can be withdrawn by the proposer at any point before a decision is taken. When doing so the proposer must send written notice to the LA and the governing body (as appropriate) and the Schools Adjudicator (if the proposal has been sent to them). A notice must also be placed on the website where the original proposal was published.

24. Within one week of making a determination the decision-maker must arrange (via the proposer as necessary) for their decision and the reasons for it to be published on the website where the original proposal was published. They must arrange for notification of the decision and reasons for it to be sent to:

- the LA (where the Schools Adjudicator is the decision-maker);
- the governing body/proposers (as appropriate);
- the trustees of the school (if any);
- the local Church of England diocese;
- the local Roman Catholic diocese;

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<sup>10</sup> For example where a change is conditional on the establishment of a new school under section 10 or 11 of the EIA 2006 (where the Schools Adjudicator may be the default decision maker).

<sup>11</sup> The prescribed events are those listed in paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations.



- the parents of every registered pupil at the school – where the school is a special school; and
- any other body that they think is appropriate (e.g. other relevant faith organisation).

## Rights of appeal against a decision

25. The following bodies may appeal to the Schools Adjudicator against a decision made by a LA decision-maker, within four weeks of the decision being made:

- the local Church of England diocese;
- the local Roman Catholic diocese; and
- the governors and trustees of a foundation, foundation special or voluntary school that is subject to the proposal.

On receipt of an appeal, a LA decision-maker must then send the proposal, representations received and the reasons for its decision to the Schools Adjudicator within one week of receipt. There is no right of appeal on determinations made by the Schools Adjudicator.

## Implementation

26. The proposer must implement a proposal in the form approved, taking into account any modifications made by the decision-maker.

27. **Once proposed changes have been implemented, the proposer must<sup>12</sup> inform the Secretary of State by ensuring that the department's Register of Educational Establishments (EduBase) is updated. Guidance on how schools and LAs can update EduBase is available at: [www.education.gov.uk/edubase/faq.xhtml](http://www.education.gov.uk/edubase/faq.xhtml).**

## Modification post determination

28. If it proves impossible to implement a proposal as approved, the proposer can seek modifications (e.g. to the implementation date) from the decision-maker before the approved implementation date. However, proposals cannot be modified to the extent that new proposals are substituted for those that have been published.

## Revocation

29. If the proposer cannot implement an approved proposal because circumstances have changed so that implementation would be inappropriate or implementation of the proposal would be unreasonably difficult, the proposer must publish a revocation

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<sup>12</sup> Under paragraph 13(2) of Schedule 3 to the Prescribed Alternations Regulations.

proposal, to be determined by the decision-maker, to be relieved of the duty to implement. A revocation proposal must contain:

- a description of the original proposal as published;
- the date of the publication of the original proposal; and
- a statement as to why the duty to implement the original proposal should not apply.

The department does not prescribe any further details on the exact content of a revocation proposal.

30. The proposer must publish the revocation proposal on the website and a brief notice of the proposal in a local newspaper. Details of what must be included in this notice are the same as in paragraph 15.

31. Where the proposer is the governing body it must send the revocation proposal to the LA within one week of the date of publication on the website. Where the original proposal was decided by the Schools Adjudicator the LA must refer the revocation proposal together with any comments or objections within two weeks of the end of the representation period to the Schools Adjudicator.

32. The LA decision-maker must determine the revocation proposal within two months of the end of the representation period. It must then arrange for the revocation determination to be published on the website where the original proposal and revocation proposal were published. The LA decision-maker must also arrange for the following persons to be notified of the revocation decision together with reasons:

- the local Church of England diocese;
- the local Roman Catholic diocese; and
- the governors and trustees of a foundation, foundation special or voluntary school that is subject to the proposal.

The same persons also have the right of appeal to the Schools Adjudicator (within four weeks of determination of the revocation proposal) if they disagree with the decision to revoke the original proposal.

## Chapter 4: Establishment of new provision

### Academy presumption

33. Where a LA considers there is a need for a new school<sup>13</sup> in its area it must<sup>14</sup> seek proposals to establish an academy/free school (or act in accordance with paragraph 36 below). The LA is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening costs. All new academy/free school proposals require the Secretary of State's approval and it is the Secretary of State who will enter into a funding agreement with the academy trust/sponsor.

34. In deciding the proposer with whom he will enter into a funding agreement, the Secretary of State will consider the assessments and preferences of the LA carefully. However, he reserves the right to put in place a sponsor of his own choice. The intention is to ensure that the school is always established by the best proposer possible. This is intended as a summary only – full guidance on the academy presumption process can be found in: '[Academy/Free School Presumption – Departmental Advice \(2013\)](#)'.

### New maintained schools

35. If the academy presumption does not result in a suitable academy/free school proposal, a statutory competition can be held with the consent of the Secretary of State (known as a section 7 case<sup>15</sup>). This will not require a separate application for consent, since the Secretary of State will indicate to the LA that a competition can be held. Academy/free school proposals and proposals for foundation, voluntary-controlled, voluntary-aided and foundation special schools can be submitted into the competition. Where an academy/free school proposal is entered into a competition by the specified deadline, the Secretary of State must consider these proposals first. If an academy/free school proposal is deemed suitable, the competition ends and the proposer works with the department and local authority to progress its proposal. If an academy/free school proposal is not considered suitable, or no academy/free school proposal is received, the competition continues and it is for the local authority to decide which maintained school proposal wins (unless they are involved in the Trust of a proposed foundation school). For competitions there is no right of appeal.

36. It is also possible to publish a proposal for new schools outside of academy presumption and competitions in a limited number of circumstances<sup>16</sup>. The Secretary of

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13 In considering the need for a new school LAs should factor in any free school projects that are due to open.

14 Under section 6A of the EIA 2006.

15 Under section 7(1) of the EIA 2006.

16 This will require a five-stage statutory process as set out in the Establishment and Discontinuance Regulations and the EIA 2006.

State's consent is required for this to happen (section 10 cases)<sup>17</sup>, except in a very limited number of special cases (known as section 11 cases)<sup>18</sup>. The special cases are:

- a new community or foundation primary school to replace a maintained infant and a maintained junior school;
- a new voluntary-aided school;
- a new foundation or voluntary school resulting from the reorganisation of existing faith schools in an area, including an existing faith school losing or changing its religious designation;
- a new foundation or community school, where suitable academy/free school proposals have not been identified and a competition has been held but did not identify a suitable provider;
- a former independent school wishing to join the maintained sector; and
- a new LA maintained nursery school.

37. For section 10 and 11 cases the Schools Adjudicator will decide LA proposals (and cases where the LA are involved in the Trust of a proposed foundation school). The LA will decide proposals from other proposers.

38. Further information on section 7, 10 and 11 proposals can be found in the Decision-makers Guidance (at [Annex B](#)) and '[Establishing New Maintained Schools - departmental advice for LAs and new school proposers \(2013\)](#)'.

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<sup>17</sup> Under section 10 of the EIA 2006.

<sup>18</sup> Under section 11 of EIA the 2006.

## Chapter 5: School closure

39. Local authorities are under a statutory duty to ensure that there are sufficient school places in their area, promote high educational standards, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential. To help them meet these duties and restructure local provision they have the power to close all categories of maintained schools.

40. Where a LA publishes proposals to close a school the department has no direct role in the decision-making process. All decisions related to school closures are taken locally following a statutory process to allow those directly affected by the proposals to feed in their comments.

41. The department recognises that school closure is a sensitive issue and the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2013 therefore retain the established five-stage statutory process for closing a school.

42. All determinations on school closure proposals must be based on the factors outlined in the Decision-makers Guidance (at [Annex B](#)).

### Who can close a school?

43. A LA can propose the closure of any category of maintained school, including community, community special, foundation, foundation special, voluntary-aided, voluntary-controlled and nursery schools, following a five-stage statutory process.

44. The governing body of a voluntary, foundation, or foundation special school may also publish proposals to close its own school following a statutory process. Alternatively, it may<sup>19</sup> give at least two years' notice of its intention to close the school to the Secretary of State and the LA (see paragraph 68 and 69).

45. The Secretary of State may direct a LA to close a maintained school requiring special measures (under section 68 of EIA 2006). This will usually be done only where there is no prospect of the school making sufficient improvements and where there is a sufficient supply of alternative school places in the area. Prior to making the direction, the Secretary of State must consult with the LA, the governing body, and – in the case of a voluntary or foundation school – the diocese or other appointing authority. Such a direction will not require the publication of a statutory proposal for the school's closure but a proposal may be required for the opening of a new school<sup>20</sup> or for alterations to an existing school as a consequence of the directed closure.

46. Reasons for closing a maintained mainstream school include where:

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<sup>19</sup> Under section 30 of the SSFA 1998.

<sup>20</sup> See guidance on the academy/free school presumption in chapter 4.

- it is surplus to requirements (e.g. as a result of an area-wide reorganisation and/or there are sufficient places in neighbouring schools to accommodate displaced pupils);
- it is to be 'amalgamated'/'merged' with another school (see paragraph 66);
- it is failing and there is no viable sponsored academy solution;
- it is to acquire, lose or change religious character (see paragraph 67); or
- it is being replaced by a new school.

47. Where a school will temporarily cease operations on a site due to a rebuild a proposal to close the school is not required. Where a school operating over multiple split sites seeks to cease operations on one (or more) of its sites the proposal will be for a prescribed alteration and not a school closure (see paragraph 21 of [Annex A.1](#)).

## Statutory process

48. The statutory process for closing a school has five stages:

Stage 1	<b>Consultation</b>	No prescribed timescale (minimum of 6 weeks recommended; school holidays should be taken into consideration and avoided where possible). Likely to be no longer than 12 months.
Stage 2	<b>Publication</b>	1 day
Stage 3	<b>Representation</b>	Must be 4 weeks  (this is prescribed in legislation and cannot be shortened or lengthened).
Stage 4	<b>Decision</b>	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator.  Where permitted appeals must be made within 4 weeks of the decision.
Stage 5	<b>Implementation</b>	No prescribed timescale – but must be as specified in the published notice, subject to any modifications agreed by the decision-maker.

## Consultation

49. Except where the school is a rural school or a special school where there are prescribed consultees (as set out at [Annex A.3](#)), proposers of a school closure must<sup>21</sup> consult bodies they feel to be appropriate. In doing so they must have regard to the Secretary of State's statutory guidance on school closure consultations which is contained at [Annex A.3](#) and [A.4](#) to this guidance. The information that must be included in a closure proposal is set out at [Annex A.4](#).

50. Where a LA or governing body carries out preliminary (informal) consultation to consider a range of options for a possible reorganisation, this would not be regarded as a statutory consultation as set out in legislation<sup>22</sup>. The statutory consultation would need to cover the specific closure proposal of the school in question.

51. How statutory consultation is carried out is not prescribed in regulations and it is for the proposer to determine the nature of the consultation and its length (although a minimum of six weeks is recommended). It is best practice for consultations to be carried out in term time to allow the maximum amount of people to respond.

52. If the need for the closure arises from an area-wide reorganisation (e.g. as a result of long-term LA planning), any related proposal should be consulted on at the same time. Notices for related proposals should be published at the same time and specified as 'related' so that they are decided together.

## Publication

53. A proposal should be published within 12 months of consultation being concluded so that it can be informed by up-to-date feedback. A proposal must contain the information specified in Schedule 2 of the Establishment and Discontinuance Regulations (see [Annex A.4](#) for further details).

54. The full proposal must be published on a website (e.g. the school or LA's 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; and
- the address to which objections or comments should be submitted.

55. On the day of publication the proposer must send a copy of the proposal to the governing body/LA (as appropriate), and a brief notice (including details on how the full proposal can be accessed e.g. a website address) must be published in a local newspaper.

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<sup>21</sup> Under section 16(2) of the EIA 2006.

<sup>22</sup> Under section 16(2) of the EIA 2006.

56. Within one week of the date of publication on the website, the proposer must send a copy of the proposal and the information set out at paragraph 54 to:

- the Secretary of State (via: schoolorganisation.notifications@education.gsi.gov.uk);
- the parents of every registered pupil at the school - where the school is a special school;
- the local Church of England diocese;
- the local Roman Catholic diocese; and
- any other body or person that the proposer thinks is appropriate (e.g. relevant faith group).

Within one week of receiving a request for a copy of the proposal the proposer must send a copy to the person requesting it.

## Representation

57. The representation period is identical to that for making significant changes as outlined in paragraph 18. The representation period is set at four weeks.

## Decision

58. The LA will be the decision-maker on a school closure proposal, unless the closure proposal is 'related' to another proposal that is to be decided by the Schools Adjudicator<sup>23</sup>.

59. The decision-making process for school closure is the same as that for making significant changes (as outlined in paragraphs 20 to 24) with two exceptions:

- the prescribed events upon which the decision-maker can grant a conditional approval for school closures are different from the events for conditional approvals for other types of changes<sup>24</sup>; and
- the Secretary of State must be notified of decisions in addition to the persons listed in paragraph 24(via: schoolorganisation.notifications@education.gsi.gov.uk).

## Rights of appeal against a decision

60. The process for appealing a decision is the same as that outlined in paragraph 25 for significant changes.

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<sup>23</sup> For example the establishment of a new school under section 10 or 11 of the EIA 2006.

<sup>24</sup> The events relevant to closure proposals are listed in regulation 16 of the Establishment and Discontinuance Regulations.



## Implementation

61. The implementation (including modification and revocation) process for school closure is the same as that for making significant changes (as outlined in paragraphs 26 to 32) except that, in addition to the bodies listed in paragraphs 32, revocation proposals and decisions on them must also be sent to the Secretary of State (via: [schoolorganisation.notifications@education.gsi.gov.uk](mailto:schoolorganisation.notifications@education.gsi.gov.uk)).

## Closure of rural schools

62. 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 a proposal clearly in the best interests of educational provision in the area.

63. When formulating a proposal, the proposer must carefully consider<sup>25</sup>:

- the likely effect of the closure of the school on the local community;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- the availability, and likely cost to the LA, of transport to other schools;
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase; and
- any alternatives to the closure of the school.

64. When deciding a proposal for the closure of a rural primary school, the decision-maker must refer to the [Designation of Rural Primary Schools \(England\) Order](#) to confirm that the school is a rural school. It is for the decision-maker to determine whether or not a *secondary school* should be considered as rural. The academy presumption (as outlined in Chapter 4) will not apply in cases where a rural infant and junior school on the same site are being closed to establish a new primary school<sup>26</sup>.

65. In order to assist the decision-maker, the proposer of a rural school closure should provide evidence to the decision-maker to show that it has carefully considered:

- alternatives to closure including the potential for federation with another local school or conversion to academy status and joining a multi-academy trust or umbrella trust to increase the school's viability; the scope for an extended school to provide local community services; and facilities e.g. child care facilities, family and adult learning, healthcare, community internet access etc.;
- transport implications; and
- the overall and long term impact on local people and the community of closure of the village school and of the loss of the building as a community facility.

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<sup>25</sup> Under section 15(4) of the EIA 2006.

<sup>26</sup> This is a section 11 special case under the EIA 2006.

## **‘Amalgamations/mergers’**

66. There are two ways to 'merge' or 'amalgamate' two or more existing maintained schools<sup>27</sup>:

- The LA or governing body (depending on school category) can publish a proposal to close two (or more) schools and the LA or a proposer other than the LA (e.g. diocese, faith or parent group, Trust) depending on category, can publish a proposal to open a new school or academy (see chapter 4 - Establishment of new provision). This results in a new school number being issued.
- The LA and/or governing body (depending on school category) can publish a proposal to close one school (or more) and enlarge/change the age range/transfer site (following a statutory process as/when necessary) of an existing school, to accommodate the displaced pupils. The remaining school would retain its original school number, as it is not a new school, even if its phase has changed.

## **Schools wishing to acquire, change or lose a Religious Character**

67. It is not possible<sup>28</sup> to make any change in the religious character of a school. To make such a change the LA or governing body would need to publish a proposal to close the school, and a faith organisation (as proposers) would need to bring forward a 'related' proposal to establish a new voluntary school with a religious character – either after gaining the Secretary of State's approval under section 10 or as a special case under section 11 of EIA 2006.

## **Two years notice of closure – voluntary and foundation schools**

68. Instead of following the statutory process for closure as outlined above, the governing body of a voluntary or foundation school may (subject to specified provisions<sup>29</sup> give at least two years' notice of their intention to close the school, to the Secretary of State (via: [schoolorganisation.notifications@education.gsi.gov.uk](mailto:schoolorganisation.notifications@education.gsi.gov.uk)) and the LA.

69. The trustees of a foundation or voluntary school must give their governing body at least two years notice if they intend to terminate the school's occupation of its site. The minimum two years' notice allows the LA and/or governing body time to make alternative arrangements for pupils.

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<sup>27</sup> Federation cannot be used to merge/amalgamate schools.

<sup>28</sup> Under section 18(4) of the EIA 2006.

<sup>29</sup> As outlined in section 30 of the SSFA 1998, and including those in the DBE Measure 1991.



Department  
for Education

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<b>DECISION-MAKER:</b>	<b>CABINET</b>		
<b>SUBJECT:</b>	<b>CONFIRMATION OF THE CANTON STREET ARTICLE 4 DIRECTION</b>		
<b>DATE OF DECISION:</b>	<b>19 JANUARY 2016</b>		
<b>REPORT OF:</b>	<b>LEADER OF THE COUNCIL</b>		
<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>	
N/A	
<b>BRIEF SUMMARY</b>	
<p>The Canton Street Article 4 Direction was made by the Council, and went out to public consultation on 23<sup>rd</sup> January 2014, coming into force on 1<sup>st</sup> May 2014. The Canton Street Article 4 Direction was included within the review of the Carlton Crescent Conservation Area Appraisal and Management Plan, which was part of the same report. The order must be confirmed within two years from 23<sup>rd</sup> January 2014. This reports asks Cabinet to confirm the Order. Under the Constitution Cabinet are required to confirm such Orders, regardless of whether Cabinet has previously agreed to the Article 4 Direction.</p>	
<b>RECOMMENDATIONS:</b>	
	(i) To confirm Article 4 Direction for Canton Street, removing permitted development rights for the properties set out in Appendix 1.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	To enable the Council to manage change inside the Conservation Area within a clear framework.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
2.	Not to confirm the Order, in which case the Article 4 Direction will lapse.
<b>DETAIL (Including consultation carried out)</b>	
3.	At their meeting on 19 November 2013 Cabinet agreed to make an Article 4 Direction for Canton Street, which (at the same meeting) was included within the Carlton Crescent Conservation Area.
4.	This Order has to be confirmed within two years of the serving of the Order (22 January 2014), otherwise it will lapse, and the area will no longer be subject to the article 4 Direction.
5.	Should the Order lapse, the Council will no longer be able to control alterations affecting the front elevation of properties in Canton Street. This will lead to a gradual degradation of the area and loss of historic significance.
6.	There were no objections to the Order.

	<b><u>Legal Procedure</u></b>
7.	Once Cabinet give approval for confirming the Order the Council must then Seal the Order, serve notice locally and notify the Secretary Of State.
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
8.	There are no capital implications arising from this report. There are revenue implications, which are that there will be a confirmation process in which the Council will have to advertise the Confirmation of the Order locally, and send letters to residents. A copy of the Order will also need to be sent to the Secretary of State for Communities and Local Government. The revenue costs will be met from existing planning service budgets.
<b><u>Property/Other</u></b>	
9.	There are no property implications for the Council arising from the recommendations contained within this report.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
10.	The Town and Country Planning (General Permitted Development) (England) Order 2015.
<b><u>Other Legal Implications:</u></b>	
11.	Before confirming the Order the Council must consider any objections or representations made during the consultation period.
12.	In some circumstances and subject to a time limit the Council may be liable to pay compensation when a planning application is refused or granted subject to conditions resulting from an Article 4 Direction. The claim must relate to abortive expenditure or other loss or damage directly attributable to the withdrawal of the permitted development rights. A claim must be made within 12 months of the date on which the application is determined; for certain rights a claim can only be made within 12 months of the direction being made. English heritage guidance advises that compensation claims have been extremely rare.
13.	The Council must be satisfied that any Article 4 Direction conforms to the requirements of the Human Rights Act 1998, in particular Article 1 of the First Protocol in relation to the Protection of Property. Any interference with property rights (including restricting development opportunities, etc.) must be necessary and proportionate in order to control the use of property in accordance with the general public interest.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
14.	The recommendations set out in the Carlton Crescent Conservation Area Appraisal and Management Plan are based on and complement the existing policies set out in the Core Strategy and the saved policies of the City of Southampton Local Plan Review.

<b>KEY DECISION?</b>	No	
<b>WARDS/COMMUNITIES AFFECTED:</b>	Bargate	
<b><u>SUPPORTING DOCUMENTATION</u></b>		
<b>Appendices</b>		
1.	Sealed Article 4 Direction	
2.	Cabinet Report 19 November 2013 <a href="http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=126&amp;MId=2478&amp;Ver=4">http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=126&amp;MId=2478&amp;Ver=4</a>	
<b>Documents In Members' Rooms</b>		
1.	None	
<b>Equality Impact Assessment</b>		
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?		No
<b>Privacy Impact Assessment</b>		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		No
<b>Other Background Documents</b>		
<b>Equality Impact Assessment and Other Background documents available for inspection at:</b>		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None	
2.		

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**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)  
ORDER 1995 AS AMENDED**

**DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5 APPLIES**

**CANTON STREET**

**WHEREAS** Southampton City Council, being the appropriate local planning authority within the meaning of article 4(4) of the Town and Country Planning (General Permitted Development) Order 1995 (“the Order”), is satisfied that it is expedient that development of the descriptions set out in the First Schedule below should not be carried out on the land set out in the Second Schedule below, and shown edged blue on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended,

**NOW THEREFORE** the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the descriptions set out in the Schedules below:

## **FIRST SCHEDULE**

### **DEVELOPMENT FOR WHICH PLANNING PERMISSION WILL NOW BE REQUIRED**

- a) The enlargement, improvement or other alteration of a dwellinghouse where any part of the enlargement, improvement or other alteration would front a highway, waterway or public open space, being development comprised within Class A of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- b) The enlargement of a dwellinghouse consisting of an addition or alteration to its roof where any part of the enlargement would front a highway, waterway or public open space, being development comprised within Class B of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- c) Any other alteration to the roof of a dwellinghouse where any part of the alteration would front a highway, waterway or public open space, being development comprised within Class C of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- d) The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse, being development comprised within Class G of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- e) The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse where the microwave antenna would front a highway, waterway or public open space, being development comprised within Class H of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- f) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure where the gate, fence, wall or other means of enclosure would front a highway, waterway or public open space, being development comprised within Class A of Part 2 of Schedule 2 to the Order and not being development comprised within any other class;
- g) The painting of the exterior of any building or work where the exterior would front a highway, waterway or public open space, being development comprised within Class C of Part 2 of Schedule 2 to the Order and not being development comprised within any other class;

- h) Any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure where the gate, fence, wall or other means of enclosure would front a highway, waterway or public open space, being development comprised within Class B of Part 31 of Schedule 2 to the Order and not being development comprised within any other class;
- i) The installation, alteration or replacement of solar PV or solar thermal equipment on a dwellinghouse where the solar PV or solar thermal equipment would front a highway, waterway or public open space, being development comprised within Class A of Part 40 of Schedule 2 to the Order and not being development comprised within any other class;
- j) The installation, alteration or replacement of solar PV or solar thermal equipment on a building other than a dwellinghouse where the solar PV or solar thermal equipment would front a highway, waterway or public open space, being development comprised within Class A of Part 43 of Schedule 2 to the Order and not being development comprised within any other class.

## SECOND SCHEDULE

### LAND TO WHICH THIS DIRECTION RELATES

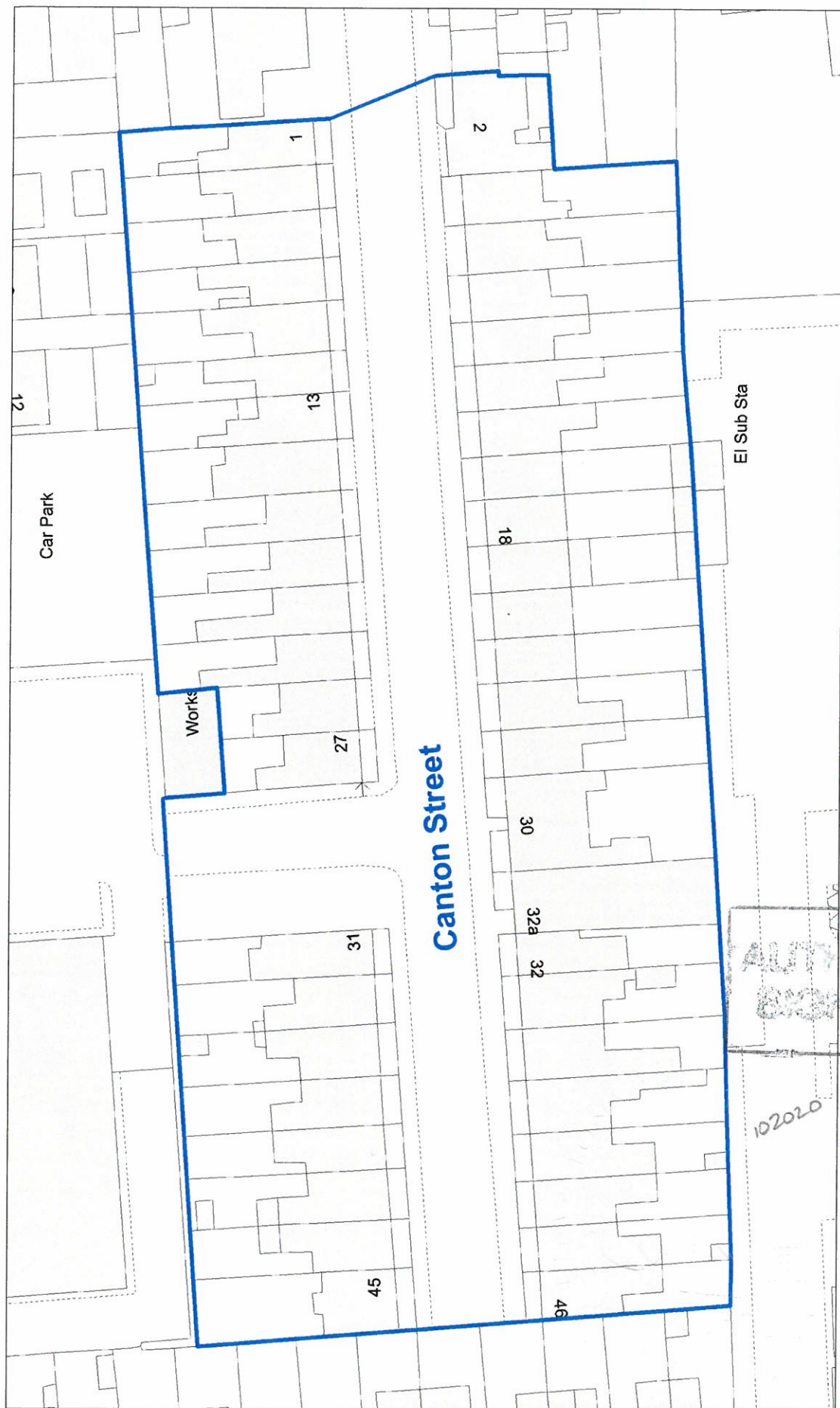
1 – 46 Canton Street, Southampton (all properties)

Made under the Common Seal of Southampton  
City Council this 22<sup>nd</sup> day of January 2014

The Common Seal of the Council was affixed to  
this Direction in the presence of

  
*C. J. Trumble*

.....  
Authorised Signatory



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*C. Townshend*

102020  
 ALTERNATIVE EXHIBIT

<b>DECISION-MAKER:</b>	<b>CABINET</b>		
<b>SUBJECT:</b>	<b>CONFIRMATION OF THE CAVENDISH GROVE ARTICLE 4 DIRECTION</b>		
<b>DATE OF DECISION:</b>	<b>19 JANUARY 2016</b>		
<b>REPORT OF:</b>	<b>LEADER OF THE COUNCIL</b>		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	<b>Kevin White</b>	<b>Tel: 023 8083 3192</b>
	<b>E-mail:</b>	<b>Kevin.white@southampton.gov.uk</b>	
<b>Director</b>	<b>Name:</b>	<b>Mike Harris</b>	<b>Tel: 023 8083 2882</b>
	<b>E-mail:</b>	<b>Mike.d.harris@southampton.gov.uk</b>	

<b>STATEMENT OF CONFIDENTIALITY</b>	
N/A	
<b>BRIEF SUMMARY</b>	
<p>The Cavendish Grove Article 4 Direction was made and went out to public consultation by the Council on 23<sup>rd</sup> January 2014 and came into force on 1<sup>st</sup> May 2014. The order must be confirmed within two years from 23<sup>rd</sup> January 2014. This reports asks Cabinet to confirm the Order.</p> <p>Under the constitution Cabinet are required to confirm such Orders, regardless of whether Cabinet has previously agreed to the Article 4 Direction.</p>	
<b>RECOMMENDATIONS:</b>	
(i)	To confirm Article 4 Direction for Cavendish Grove, removing permitted development rights for the properties set out in Appendix 1.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	To enable the Council to manage change inside the Conservation Area within a clear framework.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
2.	Not to confirm the Order, in which case the Article 4 Direction will lapse
<b>DETAIL (Including consultation carried out)</b>	
3.	At their meeting on 19 November 2013 Cabinet agreed to make an Article 4 Direction for Cavendish Grove, which is part of the Avenue Conservation Area.
4.	This Order has to be confirmed within two years of the serving of the Order (22 January 2014), otherwise it will lapse, and the area will no longer be subject to the article 4 Direction.
5.	There have been no objections to this proposal.
	<b><u>Legal Procedure</u></b>
6.	Once Cabinet give approval for confirming the Order. The Council must then Seal the Order and serve notice locally and notify the Secretary Of State.

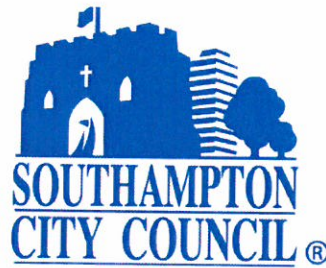
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
7.	There are no Capital implications arising from this report. There are Revenue implications, which are that there will be a confirmation process in which the Council will have to advertise the Confirmation of the Order locally, and send letters to residents. A copy of the Order will also need to be sent to the Secretary of State for Communities and Local Government. The revenue costs will be met from existing planning service budgets.
<b><u>Property/Other</u></b>	
8.	There are no property implications for the Council arising from the recommendations contained within this report.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
9.	The Town and Country Planning (General Permitted Development) (England) Order 2015.
<b><u>Other Legal Implications:</u></b>	
10.	The Town and Country Planning (General Permitted Development) (England) Order 2015.
11.	In some circumstances and subject to a time limit the Council may be liable to pay compensation when a planning application is refused or granted subject to conditions resulting from an Article 4 Direction. The claim must relate to abortive expenditure or other loss or damage directly attributable to the withdrawal of the permitted development rights. A claim must be made within 12 months of the date on which the application is determined; for certain rights a claim can only be made within 12 months of the direction being made. Historic England guidance advises that compensation claims have been extremely rare.
12.	The Council must be satisfied that any Article 4 Direction conforms to the requirements of the Human Rights Act 1998, in particular Article 1 of the First Protocol in relation to the Protection of Property. Any interference with property rights (including restricting development opportunities, etc.) must be necessary and proportionate in order to control the use of property in accordance with the general public interest.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
13.	The recommendations set out in the Avenue Conservation Area Appraisal and Management Plan are based on and complement the existing policies set out in the Core Strategy and the saved policies of the City of Southampton Local Plan Review.

<b>KEY DECISION?</b>	No
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<b>WARDS/COMMUNITIES AFFECTED:</b>		Freemantle
<b><u>SUPPORTING DOCUMENTATION</u></b>		
<b>Appendices</b>		
1.	Sealed Article 4 Direction	
2.	<a href="http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=126&amp;MId=2478&amp;Ver=4">http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=126&amp;MId=2478&amp;Ver=4</a>	
<b>Documents In Members' Rooms</b>		
1.	None	
<b>Equality Impact Assessment</b>		
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?		No
<b>Privacy Impact Assessment</b>		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		No
<b>Other Background Documents</b>		
<b>Equality Impact Assessment and Other Background documents available for inspection at:</b>		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None	

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**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)  
ORDER 1995 AS AMENDED**

**DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5 APPLIES**

**CAVENDISH GROVE AREA**

**WHEREAS** Southampton City Council, being the appropriate local planning authority within the meaning of article 4(4) of the Town and Country Planning (General Permitted Development) Order 1995 ("the Order"), is satisfied that it is expedient that development of the descriptions set out in the First Schedule below should not be carried out on the land set out in the Second Schedule below, and shown edged blue on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended,

**NOW THEREFORE** the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the descriptions set out in the Schedules below:

## **FIRST SCHEDULE**

### **DEVELOPMENT FOR WHICH PLANNING PERMISSION WILL NOW BE REQUIRED**

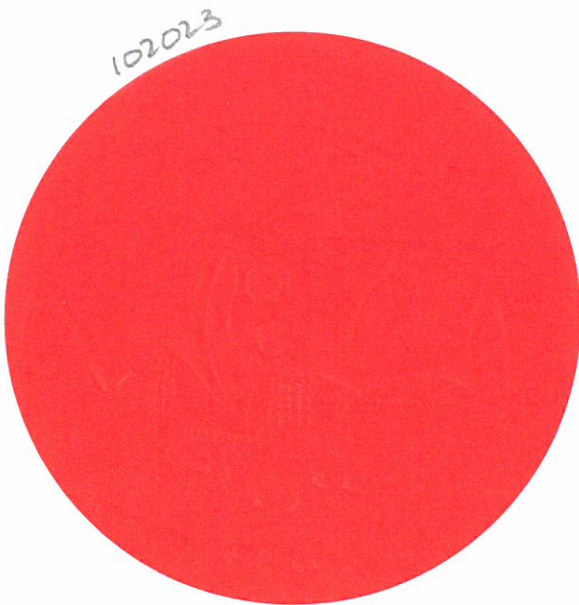
- a) The enlargement, improvement or other alteration of a dwellinghouse where any part of the enlargement, improvement or other alteration would front a highway, waterway or public open space, being development comprised within Class A of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- b) The enlargement of a dwellinghouse consisting of an addition or alteration to its roof where any part of the enlargement would front a highway, waterway or public open space, being development comprised within Class B of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- c) Any other alteration to the roof of a dwellinghouse where any part of the alteration would front a highway, waterway or public open space, being development comprised within Class C of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- d) The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse, being development comprised within Class G of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- e) The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse where the microwave antenna would front a highway, waterway or public open space, being development comprised within Class H of Part 1 of Schedule 2 to the Order and not being development comprised within any other class;
- f) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure where the gate, fence, wall or other means of enclosure would front a highway, waterway or public open space, being development comprised within Class A of Part 2 of Schedule 2 to the Order and not being development comprised within any other class;
- g) The painting of the exterior of any building or work where the exterior would front a highway, waterway or public open space, being development comprised within Class C of Part 2 of Schedule 2 to the Order and not being development comprised within any other class;

- h) Any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure where the gate, fence, wall or other means of enclosure would front a highway, waterway or public open space, being development comprised within Class B of Part 31 of Schedule 2 to the Order and not being development comprised within any other class;
- i) The installation, alteration or replacement of solar PV or solar thermal equipment on a dwellinghouse where the solar PV or solar thermal equipment would front a highway, waterway or public open space, being development comprised within Class A of Part 40 of Schedule 2 to the Order and not being development comprised within any other class;
- j) The installation, alteration or replacement of solar PV or solar thermal equipment on a building other than a dwellinghouse where the solar PV or solar thermal equipment would front a highway, waterway or public open space, being development comprised within Class A of Part 43 of Schedule 2 to the Order and not being development comprised within any other class.

## SECOND SCHEDULE


### LAND TO WHICH THIS DIRECTION RELATES

- i. 1 – 19 Cavendish Grove
- ii. 1 – 4 Cavendish Mews



Made under the Common Seal of Southampton City Council this 22<sup>nd</sup> day of January 2014

The Common Seal of the Council was affixed to this Direction in the presence of

  
.....

Authorised Signatory



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