

Democratic Services

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Date: 4 October 2011

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To: All Members of the Cabinet

Councillor Paul Crossley	Leader of the Council
Councillor Nathan Hartley	Deputy Leader of the Council and Cabinet Member for Early Years, Children and Youth
Councillor David Bellotti	Cabinet Member for Community Resources
Councillor Simon Allen	Cabinet Member for Wellbeing
Councillor Tim Ball	Cabinet Member for Homes and Planning
Councillor Cherry Beath	Cabinet Member for Sustainable Development
Councillor David Dixon	Cabinet Member for Neighbourhoods
Councillor Roger Symonds	Cabinet Member for Transport

Chief Executive and other appropriate officers
Press and Public

Dear Member

Cabinet: Wednesday, 12th October, 2011

You are invited to attend a meeting of the **Cabinet**, to be held on **Wednesday, 12th October, 2011** at **6.30 pm** in the **Council Chamber - Guildhall, Bath**.

The agenda is set out overleaf.

Yours sincerely

Col Spring
for Chief Executive

The decisions taken at this meeting of the Cabinet are subject to the Council's call-in procedures. Within 5 clear working days of publication of decisions, at least 10 Councillors may signify in writing to the Chief Executive their wish for a decision to be called-in for review. If a decision is not called-in, it will be implemented after the expiry of the 5 clear working day period.

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Col Spring who is available by telephoning Bath 01225 394942 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays, notice must normally be received in Democratic Services by 4.30pm the previous Friday but Bank Holidays will cause this to be brought forward).

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must normally be received in Democratic Services by 4.30pm the previous Friday but Bank Holidays will cause this to be brought forward). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting Col Spring as above.

- 3. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Col Spring as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

For Councillors and Officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

- 7. Officer Support to the Cabinet**
Cabinet meetings will be supported by the Director's Group.
- 8. Recorded votes**
A recorded vote will be taken on each item.

Cabinet - Wednesday, 12th October, 2011

in the Council Chamber - Guildhall, Bath

A G E N D A

1. WELCOME AND INTRODUCTIONS

2. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 6

3. APOLOGIES FOR ABSENCE

4. DECLARATIONS OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1972

To receive any declarations from Members/Officers of personal or prejudicial interests in respect of matters for consideration at this meeting. Members who have an interest to declare are asked to:

- a) State the Item Number in which they have the interest;*
- b) The nature of the interest;*
- c) Whether the interest is personal, or personal and prejudicial.*

Any Member who is unsure about the above should seek advice from the Monitoring Officer prior to the meeting in order to expedite matters at the meeting itself.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

6. QUESTIONS FROM PUBLIC AND COUNCILLORS

At the time of publication, no items had been submitted

7. STATEMENTS, DEPUTATIONS OR PETITIONS FROM PUBLIC OR COUNCILLORS

At the time of publication, no items had been notified

8. MINUTES OF PREVIOUS CABINET MEETING 14TH SEPTEMBER 2011 (Pages 5 - 16)

To be confirmed as a correct record and signed by the Chair

9. CONSIDERATION OF SINGLE MEMBER ITEMS REQUISITIONED TO CABINET

This is a standard agenda item, to cover any reports originally placed on the Weekly list for single Member decision making, which have subsequently been the subject of a Cabinet Member requisition to the full Cabinet, under the Council's procedural rules

10. CONSIDERATION OF MATTERS REFERRED BY POLICY DEVELOPMENT AND SCRUTINY BODIES

This is a standing agenda item (Constitution rule 21, part 4D – Executive Procedure Rules) for matters referred by Policy Development and Scrutiny bodies. The Chair(person) of the relevant PDS body will have the right to attend and at the discretion of the Leader to speak to the item, but not vote

11. SINGLE MEMBER CABINET DECISIONS TAKEN SINCE PREVIOUS CABINET MEETING (Pages 17 - 18)

This report lists the Cabinet Single Member decisions taken since the previous meeting

12. DETERMINATION OF THE STATUTORY NOTICE TO REVOKE THE NOTICE TO CLOSE CULVERHAY SCHOOL (Pages 19 - 118)

The Council has published a legal notice proposing to be relieved of its duty to implement the proposal to close Culverhay School and a decision is required to determine the proposal

13. DRAFT NATIONAL PLANNING POLICY FRAMEWORK (Pages 119 - 128)

The Government has published for consultation a draft Draft national Planning Policy Framework. Once adopted this will supersede all existing national planning policies. This could have significant implications for B&NES because planning decisions B&NES must reflect national policy. This report proposes a response to the Government on the NPPF.

14. BATH COMMUNITY ENERGY COOPERATION AGREEMENT (Pages 129 - 146)

Bath Community Energy (BCE) is a community enterprise which develops renewable energy and energy efficiency projects. Their local ownership model and community fund enable energy revenues to stay local and be recycled into future energy projects. The Cooperation Agreement is a framework for us to work with BCE to help deliver our carbon reduction targets

15. TOURIST INFORMATION CENTRE REFURBISHMENT (Pages 147 - 150)

The Bath Tourist Information Centre is badly in need of refurbishment as little has been done to this council owned building for over 13 years. The capital cost of improvements is £186k, which includes transferring the Festivals Box Office from its current site in Abbey Green into the TIC premises.

The Committee Administrator for this meeting is Col Spring who can be contacted on 01225 394942.

Agenda Item 8

BATH AND NORTH EAST SOMERSET

CABINET

Wednesday, 14th September, 2011

The decisions contained within these minutes may not be implemented until the expiry of the 5 working day call-in period which will run from 16th to 22nd September. These minutes are draft until confirmed as a correct record at the next meeting.

Present:

Councillor Paul Crossley	Leader of the Council
Councillor Nathan Hartley	Deputy Leader of the Council and Cabinet Member for Early Years, Children and Youth
Councillor David Bellotti	Cabinet Member for Community Resources
Councillor Simon Allen	Cabinet Member for Wellbeing
Councillor Tim Ball	Cabinet Member for Homes and Planning
Councillor Cherry Beath	Cabinet Member for Sustainable Development
Councillor Roger Symonds	Cabinet Member for Transport

49 WELCOME AND INTRODUCTIONS

The Chair was taken by Councillor Paul Crossley, Leader of the Council.

The Chair welcomed everyone to the meeting.

50 EMERGENCY EVACUATION PROCEDURE

The Chair drew attention to the evacuation procedure as set out in the Agenda.

51 APOLOGIES FOR ABSENCE

Apologies had been received from Councillor David Dixon

52 DECLARATIONS OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1972

Councillor Nathan Hartley declared a personal, non-prejudicial interest in Item 16, as a Director of the Norton Radstock Regeneration Company.

Councillor Simon Allen declared a personal, non-prejudicial interest in Item 16, as an owner of a property in Radstock.

53 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

54 QUESTIONS FROM PUBLIC AND COUNCILLORS

There were 12 questions from the following people: Councillors Malcolm Hanney (2), Eleanor Jackson, Vic Pritchard (2), Martin Veal, Tony Clarke (3), Geoff Ward; and from members of the public: Ian Barclay (2).

[Copies of the questions and responses, including supplementary questions and responses if any, have been placed on the Minute book as Appendix 1 and are available on the Council's website.]

55 STATEMENTS, DEPUTATIONS OR PETITIONS FROM PUBLIC OR COUNCILLORS

A number of speakers had registered before the meeting and all spoke at item 16, Radstock Regeneration Traffic Regulation Orders.

56 MINUTES OF PREVIOUS CABINET MEETING 10TH AUGUST 2011

On a motion from Councillor Paul Crossley, seconded by Councillor David Bellotti, it was

RESOLVED that the minutes of the meeting held on Wednesday 10th August 2011 be confirmed as a correct record and signed by the Chair.

57 CONSIDERATION OF SINGLE MEMBER ITEMS REQUISITIONED TO CABINET

The Chair announced that proposals for HGV restrictions on the A36 Cleveland Bridge in Bath had originally been a single Member decision but Councillor Roger Symonds had referred the matter to Cabinet under the Council's procedural rules, and that the issue would be considered at item 12 on the agenda

58 CONSIDERATION OF MATTERS REFERRED BY POLICY DEVELOPMENT AND SCRUTINY BODIES

There were none

59 SINGLE MEMBER CABINET DECISIONS TAKEN SINCE PREVIOUS CABINET MEETING

The Cabinet agreed to note the report.

60 NORTON-RADSTOCK REGENERATION TRAFFIC REGULATION ORDERS

Councillor Eleanor Jackson made a statement [*a copy of which is attached to the Minutes as Appendix 2 and can be seen on the Council's website*] in which she appealed to Cabinet to defer consideration of the TRO until after planning permission for the whole scheme had been determined, when it would be known whether the road would be needed.

Amanda Leon (Radstock Action Group) made a statement [*a copy of which is attached to the Minutes as Appendix 3 and can be seen on the Council's website*] in which she urged the Cabinet not to adopt the proposals but to consider more carefully the impact they would have on the town of Radstock.

Gary Dando (Radstock Action Group) made a statement [*a copy of which is attached to the Minutes as Appendix 4 and can be seen on the Council's website*] in which he explained his disagreement with the Council's response to the consultation objections; and pointed out that adopting the order would be premature because the land assembly had not yet been completed and planning permission had not yet

been gained. He presented a petition to Cabinet expressing opposition to the proposals to divert a road through the centre of Radstock.

The Chair referred the petition to Councillor Roger Symonds, for his response in due course.

John Sprateley made a statement as an HGV driver. He felt that the proposals would oblige HGV drivers to mount the pavement to navigate the small roundabout, risking injury to pedestrians and causing damage to pavements and tyres.

Deborah Porter made a statement [*a copy of which is attached to the Minutes as Appendix 5 and can be seen on the Council's website*] observing that the report submitted to Cabinet had not given due weight to the comments made during the consultation relating to social inclusion, safety and sustainability. She further observed that the data analysis provided for consultation was out of date and that more recent data, from 2009, had not been properly considered. Finally, she felt that there were no net benefits of the scheme and appealed to Cabinet not to adopt the traffic order.

Heather Chipperfield made a statement in which she said that there was massive local opposition to the scheme; she asked why local businesses had not been consulted; and asked the Cabinet to listen to the views of the people of Radstock.

George Bailey made a statement [*a copy of which is attached to the Minutes as Appendix 6 and can be seen on the Council's website*] in which he referred to section 5 of the report. He felt strongly that local business would be negatively affected; congestion would be badly increased; air pollution would not be reduced; and vehicle vibration would cause damage to buildings and cellars.

Other members of the public made *ad hoc* statements, appealing to Cabinet in every case not to adopt the proposals.

Councillor Roger Symonds, introducing the item, said that the Cabinet was committed to the regeneration of Radstock. He said however that his proposal to Cabinet would not be the recommendations from the report, but that he was moving that Cabinet should defer consideration of the order until a future date.

Councillor Cherry Beath seconded the proposal and thanked the members of the community who had taken the trouble to speak to the Cabinet.

Councillor Tim Ball also thanked the speaker for engaging with Cabinet on this issue. He observed that the regeneration had been mooted for over 11 years but had not been moved forward. He felt however that the traffic order proposals needed to be looked at in further detail, particularly since the planning application had not yet been resolved.

Rationale

The Cabinet wishes to take further opportunities to listen to representations from the community and to consider the available survey data. Deferral will not prejudice the intention to regenerate Radstock.

Other Options Considered

A number of alternative options were evaluated as part of the planning process, which will all be taken fully into account when the item returns to Cabinet.

On a motion from Councillor Roger Symonds, seconded by Councillor Tim Ball, it was

RESOLVED (unanimously)

(1) To DEFER consideration of the Traffic Regulation Orders until a future date

61 A36 CLEVELAND BRIDGE, BATH - HGV RESTRICTION

Councillor Tim Warren made an *ad hoc* statement in which he agreed that Bath had a congestion problem, but said that the current proposals would not help.

Councillor Martin Veal made an *ad hoc* statement in which he said that he had fought for a partial ban for a number of years. He felt that vehicles should use the A350, but was disappointed that Wiltshire would not help. He pointed out the link between HGV traffic and the damage to cellars along their route.

Cate Le Grice-Mack FRSA, (chair of the Norton Radstock Regeneration Company) made an *ad hoc* statement in which she appealed to the Cabinet not to approve the proposals, which she felt would damage Radstock.

Councillor Roger Symonds, in proposing the item, said that the proposals were for an 18-month trial period only, but would be a start after years of suffering the consequences of heavy traffic on this route. He said that some research had been done on destination analysis; The Council was in discussions with Wiltshire, although they objected to some proposals. He felt that most of the problems were not being caused by Bath traffic, but by traffic which wanted to pass through the city and the proposals were long overdue.

Councillor Symonds responded to Councillor Veal's comment about the damage to cellars by saying that there was a weight limit in force to protect cellars, but it was not effectively enforced by the police. If the council had this responsibility, it would enforce the limit more rigorously.

Councillor Paul Crossley seconded the proposal and said that the proposals were an experiment, which would inform the debate when long-term solutions were being discussed. He felt that ministers should be made aware that many lorry drivers use sat navs designed for use by car drivers, the effect of which is that they take inappropriate routes.

Councillor Tim Ball said that the problem had been repeatedly deferred and he felt that now was the time to hold this 18-month experiment because the council must find a way to deter heavy vehicles from using the city as a through route.

Councillor Symonds summed up by saying that Bath was a World Heritage City – the only whole city awarded that status in the UK – and it must be protected. If the 18-month ban proved successful, he would want to move to a full ban on Cleveland Bridge.

Rationale

The proposals will reduce congestion and pollution on the A4 and A36 through Bath by reducing through HGV traffic movements. An experimental Traffic Regulation Order will allow before and after monitoring to take place to establish the impact of the weight restriction before a final decision is made.

Other Options Considered

The Bristol to South Coast Study considered options for building a link road between the A46 and the A36 to remove through traffic from Bath, and, whilst there are significant benefits for road users, the cost and environmental impact of a link road are also significant and should be considered as a last resort.

On a motion from Councillor Roger Symonds, seconded by Councillor Paul Crossley, it was

RESOLVED (unanimously)

(1) To AGREE that subject to consultation with affected local highway authorities, the police, the Highway Agency, Freight Transport Association and Road Haulage Association:

i) A local experimental environmental 18 tonne weight restriction be made for a period not exceeding 18 months under Section 1 of Traffic Regulation Act 1984 on the A36 Primary Route in the left hand turning lane on the A36 Bathwick Street approach to the A36 Beckford Road junction and in the central right turning lane on the A36 Beckford Road approach to the A36 Bathwick Street with an exemption for emergency services;

ii) An experimental 'U' turn prohibition be made for a period not exceeding 18 months under Section 1 of Traffic Regulation Act 1984 on the A36 Primary Route on Darlington Street and Pulteney Road for a distance of ¼ mile in a southbound direction from the junction of Darlington Street with Sydney Place with an exemption for emergency services;

(2) To DELEGATE authority to the Group Manager, Planning and Transport Policy to modify or suspend the operation of the order, or any part of it, in accordance with Section 10 Traffic Regulation Act 1984 in consultation with the Cabinet Member for Service Delivery.

62 YOUTH JUSTICE PLAN 2011-12

Councillor Anthony Clarke made an *ad hoc* statement in which he said that the Conservative Group supported the proposals.

Councillor Nathan Hartley, in proposing the item, said that the Youth Justice Plan was a statutory requirement. He paid tribute to the Council's Youth Offending Team, which played a critical role in family intervention, restorative justice, deterrence and increasing participation by young people.

Councillor David Bellotti seconded the proposal.

Councillor Cherry Beath endorsed the proposals. She particularly appreciated the emphasis on assessment and planning.

Rationale

Submission of a Youth Justice Plan is a statutory requirement under Section 40 Crime and Disorder Act 1998 and the plan is part of part of the Council's Policy and Budget Framework. The work programme contained within the plan contributes to making Bath and North East Somerset a safer place and to helping young people involved in offending to work towards more positive outcomes.

Other Options Considered

None.

On a motion from Councillor Nathan Hartley, seconded by Councillor David Bellotti, it was

RESOLVED (unanimously)

(1) To AGREE that the Youth Justice Plan fulfils the requirements of the Crime and Disorder Act 1998;

(2) To RECOMMEND the Youth Justice Plan to Council as part of the Council's Policy and Budget Framework.

63 WINTER SERVICE POLICY

Councillor Tim Warren in an *ad hoc* statement welcomed the changes to the policy, particularly the snow warden scheme. He was concerned that community volunteers were worried about possible liability and asked the Cabinet for assurances about this.

Peter Duppa Miller (Secretary of the Town and Parish Councils Association) made an *ad hoc* statement in which he expressed support for the snow wardens pilot scheme, as laid out in paragraph 5.10 of the report. He referred to paragraph. The Association also supported the proposal in the policy that grit bins in rural areas would be either yellow or green.

Councillor Vic Pritchard made an *ad hoc* statement in which he observed that the scheme had previously been weak in rural areas, and he was concerned that these areas should not be excluded from the proposed scheme.

Councillor Roger Symonds, in proposing the item, said that a further report would be brought to Cabinet at a later date about the snow wardens scheme and in response to Councillor Warren's observations about personal liability, he said that the issue would be fully addressed in that report. In response to Councillor Pritchard, he explained that although the Council was able to keep the main roads clear, it was not possible to cover all roads, so volunteers were needed in rural areas, supported by grit bins.

Councillor Cherry Beath in seconding the proposal said that she applauded the trial which would be in place in time for the coming winter. She observed that it would be important to provide training so that volunteers did not use more than the required amount of salt.

Councillor Paul Crossley thanked Councillor Symonds, and Kelvin Packer (Service Manager - Highways Networks Management) for the hard work they had put into improving the scheme. He recognised that there would be high demand during the winter, but felt that the pilot scheme was the way forward.

Councillor Nathan Hartley thanked Councillor Symonds for meeting with Peasedown St John Parish Council in July. He hoped that Peasedown could be a pilot area.

Councillor Symonds summed up by saying that the Highways Service Manager would consider additions to the gritting rounds, but this would be difficult to achieve.

Rationale

The Winter Service Policy is based upon nationally recognised standards set out in Well Maintained Highways – A code of Practice. The Council's Winter Service Policy is a good standard of service to provide for the residents and the travelling public. An increase in standards would require significant extra investment for relatively rare snowfall events. Any reduction in standards of service would be very unpopular with the residents and users of the highway network, as well as increasing the potential for claims against the Council.

Other Options Considered

None.

On a motion from Councillor Roger Symonds, seconded by Councillor Cherry Beath, it was

RESOLVED (unanimously)

(1) To APPROVE the Winter Service Policy as the Highway Authority's policy for winter maintenance in Bath and North East Somerset;

(2) To ASK for a separate report to Cabinet on the outcome of the Community Snow Warden Pilot scheme, following Winter 2011.

64 DETERMINATION OF THE STATUTORY NOTICE TO EXPAND THE AGE RANGE OF ST. GREGORY'S CATHOLIC COLLEGE TO ADD A SIXTH FORM

Councillor Anthony Clarke made an *ad hoc* statement in which he urged the Cabinet to support the proposals.

Raymond Friel (Head Teacher, St Gregory's Catholic College) made an *ad hoc* statement thanking the Cabinet for their support and urging them to adopt the proposals. He reminded the Cabinet that in an earlier consultation in March, there had been 100 responses in addition to those made in August.

Councillor Nathan Hartley, in proposing the item, thanked Raymond Friel and Councillor Clarke. He pointed out that the Council had supported the confederation of St Mark's and St Gregory's, and that the Cabinet's policy was to support both coeducational schooling and the provision of faith based education in the area. Despite the concerns over numbers, he was convinced that young people must be offered the choice to go on to sixth form without having to go outside the area.

Councillor Tim Ball seconded the proposal and said that it would be a very important step for local children. The Council had a duty to provide alternatives to the long journeys for young people making their sixth form choices.

Councillor David Bellotti offered his warm support. He believed that some young people had been missing out on sixth form because of the transport problems. He advised the school to contact the Divisional Director (Tourism, Leisure & Culture) who might be able to agree to the use of playing fields.

Rationale

i) The proposal will contribute to the Council's strategy for secondary provision and as agreed by the Cabinet in July 2010;

ii) The proposal has the support of pupils at St. Gregory's, parents of pupils at the school, parents of pupils at St Mark's and parents of primary age pupils who have expressed their desire for a sixth form at St Gregory's via the consultation process and the representation period. The nine comments on the proposal received during the representation period as outlined in Appendix 1 were all in support of the proposal. There were no objections to the proposal. All representations received during the representation period have been taken into consideration as a part of the overall decision making process;

iii) The proposal will add to diversity of provision by the addition of Christian faith based post-16 places in the Local Authority and in Bath;

iv) There is a strong case for approval on parental preference and standards grounds and evidence suggests that there is sufficient demand for Christian sixth form places at the expanded school for the additional provision to be sustainable;

- v) There is strong evidence to suggest that the provision will be of high quality and will have a positive impact on standards and school improvement in the Authority;
- vi) The 'condition to be met' dates set out in the recommendations are believed to be achievable; however they can be varied at the request of the proposer (the school) if it looks as if the condition will not be met by that date. If a condition cannot be met the proposal will go back to the Decision Maker (the Cabinet) for fresh consideration.

Other Options Considered

None.

On a motion from Councillor Nathan Hartley, seconded by Councillor Tim Ball, it was RESOLVED (unanimously)

(1) To AGREE that the age range at St Gregory's Catholic College should be expanded to add a sixth form on 1 September 2013, subject to the following conditions being met by the dates specified:

(a) Detailed Planning Permission being granted for the additional school accommodation by 31 June 2012. (The Governing Body has been granted Outline Planning Permission for the additional building that will be required as a result of the proposal);

(b) The acquisition of the site required for the implementation of the proposals by 31 December 2011.

65 POLICY STATEMENT - ACADEMIES AND FREE SCHOOLS

Councillor Anthony Clarke made an *ad hoc* statement offering his support and pointing out that the proposals were in line with government policy.

Councillor Nathan Hartley, in proposing the item, observed that governments had been giving increasing autonomy to schools since 1988. The Local authority retained many responsibilities, and must have a strategy on how to fulfil its role. He thanked the education officers for their work, and particularly thanked Councillor Dine Romero for her advice and support over this issue. He referred to clause (2) of the proposals, which would ensure that the policy would be reviewed periodically to ensure that it remained current.

Councillor Tim Ball seconded the proposals.

Councillor Roger Symonds said that he was supportive of Academies but was suspicious of Free Schools because although some were excellent, others were not so. He supported the proposals.

Councillor David Bellotti said that government would only approve a Free School when there were existing empty places, and in fact had only approved 24 Free Schools across the country last year.

Councillor Nathan Hartley confirmed that government was very cautious about approving Free Schools.

Rationale

The Government's approach to the development of academies is a 'permissive' one, which allows schools (subject to certain conditions) to apply directly to the Department for Education (DfE) to be allowed to convert. Equally, any group which believes there is demand for a new free school can put forward proposals to DfE. Whilst the Council may choose to express a view about an application for an academy or a free school, the decision to approve rests with the Secretary of State.

The authority retains a number of statutory responsibilities for specific functions relating to academy pupils as well as an overall responsibility towards all children and young people in the area. It is appropriate for the authority to have a proactive and coherent approach to these developments and to its evolving role.

Other Options Considered

None.

On a motion from Councillor Nathan Hartley, seconded by Councillor Tim Ball, it was RESOLVED (unanimously)

(1) To ADOPT the policy statement regarding the Council's proposed approach to the development of academies and free schools and to the evolving role of the Council in working with schools;

(2) To ASK the lead member to review this policy statement periodically to ensure it remains current and reflects changes and developments in our local context.

66 MEDI VEND PLACEMENT AT PEASEDOWN YOUTH CENTRE

Councillor Anthony Clarke made an *ad hoc* statement expressing his support for the proposals. He felt that, at some point, the evidence base should be presented for the claimed benefits. He asked whether the costs would be met by the Council or by the PCT Social Enterprise. He also asked that the Policy Development and Scrutiny Panel should be involved in any proposals to develop the provision.

Councillor Nathan Hartley said that he would approach the Chair of the relevant Policy Development and Scrutiny Panel about future involvement. He felt that the proposals demonstrated that the Council was serious about caring for young people.

In proposing the item, Councillor Hartley added a third clause, the effect of which was to agree that further installations could take place at other locations.

Councillor Simon Allen seconded the proposal. He emphasised the need for young people to get good quality advice and support.

Councillor Tim Ball thanked Councillor Hartley for bringing the proposals to Cabinet. He said it was a shame that the previous Medi vend, installed at Southside Youth Centre, had not been discussed openly by the previous administration before being installed. In the light of this, he asked Councillor Hartley if he would accept an additional clause, the effect of which would be to ratify in retrospect the previous installation of a Medi vend at Southside Youth Club.

Councillors Hartley and Allen readily agreed to the request..

Rationale

The medi-vend is a tool for enabling young people to access safe confidential sexual health services, offering good quality information and advice this will lead to the improvement of good sexual health for young people, reduction in teenage pregnancy and abortion rates. The medi-vend adds to the services already provided at Peasedown and is complimentary to the delivery program.

Other Options Considered

None.

On a motion from Councillor Nathan Hartley, seconded by Councillor Simon Allen, it was

RESOLVED (unanimously)

(1) To AGREE that Medi-Vend machine will increase the range and quality of sexual health services available to young people and it will enhance delivery and the service provided by Youth Workers, in an area of greatest need;

(2) To AGREE that it will help to protect young people from sexuality transmitted diseases, reduce teenage pregnancy as well as providing information about drugs.

(3) To AGREE that further Medi-Vend machines may be installed around the local authority in locations where there is a need, in agreement with senior Children's Service and Youth Service staff.

(4) To RATIFY the existing installation of a Medi-Vend machine at Southside Youth Centre.

[Clause (4) above was included at the request of Councillor Tim Ball, after the mover and seconder had agreed to adopt it as part of the substantive motion]

67 REVIEW OF HACKNEY CARRIAGE TARIFF RATES

Councillor Roger Symonds, in proposing the item, observed that no objections had been received during the consultation period.

Councillor Paul Crossley seconded the proposal.

Rationale

In the 1980's Bath City Council adopted a formula to calculate a "fair" increase in the tariff rate. With only one or two exceptions this formula has been used every year to calculate the percentage increase. The adopted formula used for calculating the proposed tariff rate is one-half of the percentage increase in the Average Earnings Index plus one-half of the percentage increase in the cost of motoring. Using the formula the proposed increase calculates as 5.64%. The formula is based on the annual increase between the 1st April and the 31st March the following year.

However, since the last review there has been a sharp rise in the price of fuel which has made a substantial increase in the running costs of Hackney Carriage vehicles. The proposed increase is in line with the formula that the Council uses to calculate an increase and is based on current information from the Office of National Statistics.

Other Options Considered

None.

On a motion from Councillor Roger Symonds, seconded by Councillor Paul Crossley, it was

RESOLVED (unanimously)

(1) To AGREE an increase of 5.64% on the current Hackney Carriage fares for time and distance.

68 REVENUE AND CAPITAL BUDGET MONITORING, CASH LIMITS AND VIREMENTS - APRIL 2011 TO JULY 2011

Councillor David Bellotti, in proposing the item, observed that in clause (1) of the proposals, Strategic Directors would be asked to keep within their budgets, and below budget where possible. He referred to paragraph 4.1 of Appendix 1, and corrected the statement by saying that there was now evidence that the New Homes Bonus Grant was being used.

He asked that the wording in paragraph 1.13 of the appendix, referring to Keynsham Regeneration, should be amended from “the scheme” to “a scheme”.

Councillor Paul Crossley seconded the proposal.

Rationale

The report is presented as part of the reporting of financial management and budgetary control required by the Council.

Other Options Considered

None.

On a motion from Councillor David Bellotti, seconded by Councillor Paul Crossley, it was

RESOLVED (unanimously)

- (1) To ASK Strategic Directors to continue to work towards managing within budget in the current year for their respective service areas, and to manage below budget where possible by not committing unnecessary expenditure, through tight budgetary control;
- (2) To NOTE this year’s revenue budget position as shown in the report;
- (3) To NOTE the capital expenditure position for the Council in the financial year to the end of January and the year end projections detailed in the report;
- (4) To AGREE the revenue virements listed for approval in the report;
- (5) To NOTE the changes in the capital programme listed in the report.

The meeting ended at 8.45 pm

Chair _____

Date Confirmed and Signed _____

Prepared by Democratic Services

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Bath & North East Somerset Council

Cabinet Single-Member Decisions

published 9-Sep-11 to 30-Sep-11

Further details of each decision can be seen on the Council's Single-member Decision Register at <http://democracy.bathnes.gov.uk/mgDelegatedDecisions.aspx?&DM=244X>

Date	Decision Maker
Reference	Title

02-Sep-11 Cllrs Tim Ball, Simon Allen, David Bellotti

E2112 Capital Projects Approval - Disabled Facilities Grant Budget 2011/12

The Cabinet Members approved the Disabled Facilities Grant capital budget as proposed in the report

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Bath & North East Somerset Council		
MEETING:	Cabinet	
MEETING DATE:	12 October 2011	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2303
TITLE:	Determination of the Statutory Notice to Revoke the Notice to Close Culverhay School	
WARD:	All but specifically Southdown, Odd Down, Twerton	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Appendix 1 Representation Responses Report</p> <p>Appendix 2 The Future of Culverhay School</p> <p>Appendix 3 Equalities Impact Assessment</p>		

1 THE ISSUE

1.1 The Council has published a legal notice proposing to be relieved of its duty to implement the proposal to close Culverhay School in Bath and a decision is now required to determine the proposal.

2 RECOMMENDATION

2.1 The Cabinet agrees to revoke the decision to close Culverhay School, Bath to enable the school to remain open.

3 FINANCIAL IMPLICATIONS

- 3.1 In preparation for the Cabinet meeting of the 14 July, an analysis of the revenue and capital implications associated with the option of keeping Culverhay School open was undertaken including an externally commissioned study.
- 3.2 The study identified that a staffing restructure is essential in order to provide a balanced budget in the short to medium term. Current staffing and school running costs exceed projected income which is primarily generated from pupil numbers. A one-off sum of £400,000 has been identified from the revenue budget contingency to support the required restructure.
- 3.3 The opportunity costs of keeping Culverhay open have been assessed as approximately £530,000 per year. If Culverhay School were to close this resource would be freed up to be allocated by the School's Forum to its priorities. If the resource were allocated to schools it would equate to approximately £24 per pupil. The £530,000 represents 0.469% of the £113m total funding available for schools through the Dedicated schools Grant
- 3.4 Further economies of scale would be generated by the Age Weighted Pupil Funding (AWPF). This funding would follow the pupils currently in the school who would attend other schools. This funding is estimated at £968,000. The receiving schools would be able to accommodate the pupils in more efficient larger classes.
- 3.5 In order for Culverhay School to be viable and to meet local parental preference for more co-educational places, essential capital works and improvements will be required. This will be provided by a one-off revenue contribution to capital of £300,000 which has been identified from the revenue budget contingency.
- 3.6 The specific arrangements for the governance and release of corporate headroom (which includes any amounts for which the purpose has not been specified in the budget report in relation to transfers to revenue budget contingency, the ongoing headroom allocations and the one off headroom allocations) are delegated to the Council's Section 151 Officer in consultation with the Cabinet Member for Resources and the Chief Executive together with the Chair of the CPR Overview & Scrutiny Panel.
- 3.7 The allocations set out above will be made from funding available within the Revenue Budget Contingency. This reserve will remain above its base line funding level of £1m after these allocations have been made.

4 CORPORATE PRIORITIES

- Improving life chances of disadvantaged teenagers and young people
- Improving school buildings
- Addressing the causes and effects of Climate Change

5 THE REPORT

- 5.1 The background to the review of Bath secondary schools and previous decisions made including the proposal to close Culverhay School, together with information on the main issues and risks associated with the retention of Culverhay School as part of secondary school provision in Bath are set out in Appendix 2 'The Future of

Culverhay School'. The Cabinet will need to consider this information in reaching their decision.

5.2 A statutory notice proposing to revoke the notice to close Culverhay School was published on 28 July 2011 in line with the Department for Education (DfE) requirements for revocation of a previous decision. The representations received during the statutory notice representation period are contained in Appendix 1 Representations Responses Report. These include comments from the Schools Forum. Appendix 1 takes the form of an analysis of the main themes contained in the representations and officer comment on them (pages 1 to 3) and the full text of the representations at pages 3 onwards.

5.3 There are both advantages and disadvantages to revoking the notice to close Culverhay School. Not revoking the notice so that the school closes would:

- Reduce surplus places once the school closed at the end of August 2013.
- Enable the small school support funding and AWPf to be directed to other schools.
- Possibly release capital from the sale of the parts of the site that could be disposed of for housing, employment or commercial uses etc. which could be directed to other school buildings. The whole site does not lend itself to disposal for the above purposes as it is within the green belt and the playing fields would have been retained. If the Secretary of State was to approve a Free School on this site, the site would not be available for disposal and there would be no capital receipt.
- Likely to result in higher redundancy costs compared to the redundancy and restructuring costs of reducing the staffing level down to that required to run a smaller school.
- Result in no secondary school provision on the Culverhay site with longer journeys to other schools for some pupils.
- Lead to dissatisfaction by the local community that a school had not been kept on the Culverhay site.

5.4 Revoking the notice to close the school so that it remains open would have the following advantages and disadvantages:

- Likely to result in lower redundancy costs compared to the costs involved in closing the school.
- Allows pupils to continue to receive secondary school provision on this site without the need to travel to another school further away.
- Avoids disruption to existing pupil's education as they would not have to move to a new school or go through the transition process leading to closure.
- Preserves more surplus places in the city to meet anticipated future demand.
- No possibility of any capital receipt from the disposal of part of the site.

- No possibility of re-directing revenue to other schools.
 - Requirement to carry out building improvements and capital works to adapt the school to co-educational provision
- 5.5 The school and the local community are strongly in favour of retaining a secondary school on this site and for it to be able to admit both boys and girls. The school has been very clear for over 15 years that its aim was to become co-educational. This could be achieved either by Culverhay becoming an Academy and then becoming co-educational or by a co-educational Free School occupying the site. The school and community have had an opportunity to make applications to the Secretary of State to this effect and a Free School proposal has been submitted and Culverhay School Governing Body has submitted an Academy proposal. It is for the Secretary of State to decide whether the secondary school on this site should be a Free School or an Academy and both of these proposals are currently under consideration.
- 5.6 There are currently approximately 1,300 places in the city that are not filled by pupils living in the Greater Bath Consortium catchment area (GBC) or in the wider catchment area for St. Gregory's Catholic College. Approximately 540 of these places are filled by pupils who do not live within the area stated above. These pupils are choosing to be educated in Bath and North East Somerset and the places they take up are not considered to be surplus places in the same way as the remaining 760 unfilled places.
- 5.7 The remaining 760 unfilled places are considered to represent an acceptable level of surplus within the city. It is necessary to have a number of unfilled places across the city to ensure that there is some parental choice. In the future, more places than are currently required will be needed in order to meet the anticipated increase in demand from new housing developments and higher numbers of secondary age pupils as a result of recent increases in birth rates, which will serve to reduce the number of unfilled places.
- 5.8 If these unfilled places are retained, the need to add more places to other schools in future years will be reduced.
- 5.9 The proposal to keep the school open is expected to contribute to the five areas of Every Child Matters by helping children to be healthy, stay safe, enjoy and achieve, make a positive contribution and achieve economic well-being.
- 5.10 The proposal is expected to have a positive impact on community cohesion by ensuring that secondary school provision will continue to be delivered on this site and this will be further enhanced once the school becomes co-educational. It is intended that a school on this site will be at the heart of its community, promoting community cohesion, sharing facilities with other schools and the wider community and providing a venue for the delivery of community and extended services.
- 5.11 The proposal will provide the school with an opportunity to improve educational standards and learner satisfaction and raise participation rates for 16 – 19 year olds by the involvement of a strong Academy sponsor with a proven track record in raising standards.

5.12 For a number of years, parents have expressed a strong demand for more co-educational non-denominational places in Bath. The proposal will aid choice and diversity by the creation of additional non-denominational co-educational places in the city. This is in addition to non-denominational single sex provision for boys and for girls, Church of England and Catholic co-educational provision and two other schools offering co-educational non-denominational provision in the city.

6 RISK MANAGEMENT

6.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

6.2 If the decision to close Culverhay School is revoked there would be more places available for boys than girls at single sex schools in Bath. The duty is to ensure that sufficient numbers of single sex places are available to meet the demand for them, not to provide an equal number of places and a mere difference in the number of single sex places available for boys and girls is not an act of sex discrimination. Officers consider that on the basis of current and anticipated demand for single sex places, the duty will still be met if the closure is revoked. It is intended that the school will become co-educational at the earliest opportunity, leaving one single sex school for girls and one single sex school for boys in Bath.

6.3 There will continue to be higher capital maintenance costs if seven schools need to be maintained rather than just six, however if the school becomes an Academy, this would cease to be the responsibility of the Local Authority.

6.4 If the school stays open but is unable to increase pupil numbers and therefore income to the level necessary, this will result in unsustainable running costs.

6.5 If the school stays open but is unable to raise educational standards this will lead to poor educational outcomes.

6.6 If the school closes, revenue could fall as pupil numbers decline during the transition period leading to closure, resulting in a significant deficit budget. Also, should the school contract in size more rapidly than planned this could cause the school to become very small and unable to maintain a viable curriculum.

7 EQUALITIES

A proportionate equalities impact assessment has been carried out using corporate guidelines. This is attached as Appendix 2.

7.1 This proposal is not expected to have an impact on the equality areas of age, transgender, race, disability, sexual orientation, and rural communities.

7.2 The proposal is expected to have a positive impact on the equality areas of:

- Gender (including pregnancy and maternity) - if the school was to stay open and then become co-ed this would result in the loss of single sex places for boys. However there would be other places available for boys in the city both at one remaining single sex school and at four other co-educational schools. The remaining single sex school for boys (Beechen Cliff Academy) is located towards the centre of the city, ensuring equality of access to all pupils living in the GBC area. The single sex school for girls (Hayesfield Academy) is also centrally

located. Girls living in the SW Bath area of the city currently have to travel out of the immediate area to access a school place and therefore the travel distances for boys and girls would be of a similar length if the school became co-educational. There would be more places available for boys than girls at single sex schools in Bath in the short term before the school becomes co-educational, however Officers consider that demand from both genders can still be met if the closure is revoked.

- Socio-economic disadvantage – the involvement of a strong Academy sponsor with a record of high educational achievement should benefit pupils at the school by raising standards and attainment which should in turn lead to higher achievement and improved life chances for children who are socio-economically disadvantaged.
- Religion or belief - if the school stays open as a co-educational non-denominational school it will serve to provide more non-denominational co-educational school places in the city.

8 RATIONALE

8.1 Revoking the decision to close Culverhay School to enable the school to remain open is the best way to deliver the Council's main priorities for Culverhay School, which are:

- To ensure excellent educational provision for all children in the area;
- To allow girls to attend the school;
- To address the school budget deficit.
- To encourage the school to collaborate with other schools to enhance educational standards and to narrow the attainment gap between those pupils who are achieving good results and those who do not currently reach the same level, by improving outcomes for lower achieving pupils.

8.2 Keeping the school open will allow the Governing Body to pursue Academy status and to become co-educational at the earliest possible opportunity.

8.3 Keeping the school open on this site will aid accessibility for local pupils, particularly those living in south west Bath who may otherwise have had to travel further to attend another school.

8.4 Additional funding has been made available to make modifications to the school buildings, to support the school in addressing overstaffing and restructuring and to allow the school to pursue the option of becoming an academy and then becoming co-educational. An externally commissioned study has shown that a relatively small school with a pupil centred curriculum can be viable. The additional flexibilities and benefits of becoming an academy in partnership with a strong sponsor experienced in raising pupil attainment and achievement support the ambitions of the school and therefore closure of the school is now inappropriate.

8.5 The representations received during the statutory notice representation period have been taken into consideration in making the recommendation to revoke the notice to close Culverhay School.

9 OTHER OPTIONS CONSIDERED

9.1 To close the school. This option was rejected as the school and the local community wish to keep the school open and for it to become co-educational in order to provide more co-educational secondary school places in this area of the city. Closing the school would serve to increase home to school travel distances for some pupils. There could be higher redundancy costs if Culverhay was closed and a negative impact on community cohesion if a school was not provided in the local community. Closure would result in less places being available to facilitate parental choice and in preparation for anticipated increased future demand. The Governing Body wish the school to become an academy and keeping the school open will allow the Governing Body to pursue this option with the Secretary of State.

9.2 For the school to remain open as a boys school. It is not a realistic option for the school to remain single-sex as there is insufficient demand for single sex places for boys to support two boys only schools in the city. Also this would create a permanent imbalance of boys single sex places to girls single sex places in Bath. It is accepted that there will be a temporary imbalance of boys and girls single sex places until the school becomes co-educational. It is intended that the school will become co-educational at the earliest opportunity, leaving one single sex school for girls and one single sex school for boys in Bath.

9.3 For the school to remain open as a Local Authority Community or Foundation school. Since the school has already applied for Academy status, there is no realistic option for the school to remain in the Local Authority as a Community or Foundation school. There are financial benefits to the school becoming an Academy as it would have access to funds from central government that would not be available to the school if it was to remain as a maintained Community or Foundation school. If Culverhay School was an Academy it would also be able to benefit educationally via the involvement of a high performing Academy sponsor.

9.4 As the new Department for Education (DfE) requirement is for all secondary schools to ensure that at least 50% of pupils achieve a minimum of 5 A*-C GCSEs including English and Maths, it should be noted that as Culverhay School does not meet this requirement, the DfE would have pressed the Authority and the school Governing Body to become a sponsored academy had they not already expressed an interest in doing so.

10 CONSULTATION

10.1 Ward Councillor; Cabinet members; Trades Unions; Overview & Scrutiny Panel; Staff; Other B&NES Services; Service Users; Stakeholders/Partners; Section 151 Finance Officer; Chief Executive; Monitoring Officer.

10.2 Extensive consultation on the original proposal to close the school was carried out with service users, stakeholders, trades unions, Ward Councillors, other local authorities and staff at the school via meetings held in the local area and consultation documents that were made available in hard copy or electronically.

10.3 The Headteacher at Culverhay School kept staff at the school informed of the Cabinet decision to publish a notice to revoke the decision to close the school.

10.4 The Council wrote to stakeholders and partners such as the Church of England and Roman Catholic diocesan boards, all schools and colleges and Children's Services staff to inform them of the Cabinet decision to publish a notice to revoke the decision to close the school.

10.5 A number of objections were received during the representation period and these have been considered as part of the consultation process (see Appendix 1).

11 ISSUES TO CONSIDER IN REACHING THE DECISION

11.1 Social Inclusion; Sustainability; Human Resources; Property; Young People; Corporate; Health & Safety; Impact on Staff; Other Legal Considerations

12 ADVICE SOUGHT

12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Helen Hoynes 01225 395169
Sponsoring Cabinet Member	Councillor Nathan Hartley
Background papers	Statutory Notice: Proposal to Revoke the Notice to Close Culverhay School, Bath E2233R Reconsidered Decision - Statutory Notice to Close Culverhay School E2289 Culverhay - Next Steps
Please contact the report author if you need to access this report in an alternative format	

Appendix 1

Report of Representation Responses

Determination of the Statutory Notice to Revoke the Notice to Close Culverhay School

28 July – 8 September 2011 Representation Period

Key Points Raised in Representations

These representations have been addressed in the Cabinet report:

There cannot be a future for a small single sex boys Community school.

Representations have not been taken into account in reaching the decision.

Comments by Schools Forum on 5th July were not reported to Cabinet.

There should have been wider consultation with other schools and the Schools Forum on the proposal to become co-educational.

There has been inadequate consultation about revoking the closure decision.

The notice was published over the school holidays and was flawed.

Surplus places at Culverhay School and at other schools in Bath.

Revenue and capital funding implications for other schools as a result of Culverhay staying open - no capital receipt and revenue cannot be re-distributed.

The viability report indicating that a small school could be viable influenced the decision to revoke the closure of the school but it was misleading.

These representations are not relevant to the issue the Cabinet is being asked to decide.

The Council does not have a decision making function in relation to the issue of the Academy or Free School. It is for the Secretary of State to determine whether an Academy or Free School will occupy the Culverhay School site and as he has already received proposals regarding both options. This decision has not yet been made by the Secretary of State.

The Call-in should not have been delayed until after the local elections.

The Cabinet decision to revoke the decision to close the school should have been subject to Call-in.

The closure decision should still stand because there have been procedural errors in the Call-in process.

The Cabinet decision on 14 July to publish a notice to propose the revocation of the closure decision was based on incomplete information.

The Call-in was no longer valid once a preference for a Free School or an Academy was identified.

The Council was not advised that upholding the Call-in would preclude a Free School.

An Academy or Free School on the site require the closure of Culverhay School.

The Free School proposal is dependent upon being given the Culverhay site when the school closes.

The Cabinet could not reasonably support a Free School or an Academy because relevant information was not made available to them.

There should have been more consultation about keeping a small boys' academy.

The Council should consult on and decide on whether to have an academy.

The Cabinet should have had more information about the transfer of land to an Academy or a Free School and the land should come back to the Local Authority if the Academy does not succeed.

The decision for an Academy was made in advance of due and proper process and did not include the Free School option.

The Secretary of State should not decide between a Free School and an Academy as the site would not be available if revocation is completed as Culverhay School would continue to occupy the site.

The validity of the proposed curriculum for the Academy in the context of need in Bath should have been part of the decision-making.

The Council should be able to consider the business plans for an Academy and a Free School.

The scrutiny processes of the Council should have had more information to weigh up the Academy or Free School alternatives.

The Secretary of State would be making a premature decision if a decision regarding an Academy is made before the revocation of the closure decision has been completed.

The notice only referred to replacement by an Academy despite the fact that no decision had been made to support this option over a Free School.

Discussions with the Department for Education (DfE) about revoking the closure decision prior to the Call-in were improper and should have been disclosed to Council and Cabinet.

The DfE had advised that the statutory closure route was the appropriate way forward, not revocation to keep school open and it was irrational for DfE to support revocation.

The educational standards at Culverhay mean that the school could be closed by the Secretary of State.

(1)

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15 August 2011
As supplemented
22 August 2011
As further
supplemented
7 September
2011

Children's Services Capital and Organisation Team
Bath & NE Somerset Council
Riverside
Temple Street
Keynsham
BS31 1LA

Dear Sirs,

Proposal to revoke the Notice to Close Culverhay School, Bath

I refer to the statutory notice published on 28 July 2011 and wish to object to the proposal and make the following representations as set out herein. Although the period for representations does

not expire until 8 September 2011, representations were made on earlier dates because I became aware on 12 August 2011 that the Secretary of State may be asked to make a decision on whether to approve a Free School or a Sponsored Academy on 18 August 2011. This position was later confirmed by a senior Council Officer. Without prejudice to further representations and / or changes to representations I have made within the representation period, it is clear that any such decision by the Secretary of State before the expiration of the statutory consultation period for revocation of closure would be unsound.

Prospective Decision by Secretary of State and Statutory Notice

1. There can be no basis for such a premature and prejudicial decision to be made by the Secretary of State when:-
 - i) the statutory proposal to close Culverhay, published on 16 December 2010, and the related Council / Cabinet decision to close made on 23 February 2011 are still in effect and
 - ii) the Council is in the process of consulting on a proposal to revoke the notice to close Culverhay and has not considered any objections or representations that may be made during the statutory period (expiring 8 September 2011) for such objections or representations.

It is, of course, quite possible, for reasons set out below that the Council / Cabinet may wish to reconsider the decision to revoke the closure of Culverhay having regard to the representations made during the statutory period.

It follows, therefore, that any such decision by the Secretary of State to decide on an Academy or a Free School before the end of the representation period and ensuring he has given due regard to the objections or representations that may be received from schools, residents and other parties and the Council's considered position upon review of same would be irrational, unreasonable and made with procedural impropriety. [*Prospective Grounds for Judicial Review (JR) 1*]

In this connection the Department for Education (DfE) was already aware and had apparently advised the Council that the statutory closure route was the most appropriate way forward (rather than revocation of closure) in terms of proceeding with a co-ed academy or a Free School. [*Prospective Grounds for JR 2*] See File Note of 4 July 2011 within FOI information released by the DfE under Case Reference 2011/0053641 on 11 August 2011 and attached to this letter. 'Likely that statutory closure route would best suitbut note sensitivity as it will imitate the recent closure process now to be revoked.' It is not clear who exactly it would best suit as the name for the time being has not been provided by the DfE but the effect of closure being revoked would be that a Free School could not proceed. (It may also be that Closure would have given greater surety in the case of a prospective Academy as to a co-ed directly (rather than boys' initially and then conversion to co-ed after further and necessary consultation and with uncertain outcome - see below) and / or result in a lower cost to other schools in terms of the impact on the DSG-related funding).

The Council has acknowledged in a press statement to the Bath Chronicle on 24 August 2011 that 'Past practice has been to close under-performing schools and open a new sponsored academy on the existing school site.' It is therefore irrational for a revocation of

closure to be progressed by the Council and implicitly / explicitly supported by the DfE.

It is noted (from information released on 17 August 2011 under an FOI request to the Council made on 20 July 2011) that Robert Back of the DfE had been in touch with the Council about Culverhay and he had advised (as per e-mail from Ashley Ayre (B&NES) dated 25 June 2011) ‘that the DfE had decided against intervention into Culverhay i.e. making it an academy purely because we [the Council] had been about to close it....In essence the school is on the radar for the DfE due to its low level of attainment in comparison to our other schools, also it is viewed as having less chance of attaining the new benchmark of 50% [5 A*-C including English and Maths]. (Current benchmark is 35%)’ This information was not advised to Council on 14 July 2011 or detailed in the Cabinet public papers yet it is highly relevant to educational standards at the school and in B&NES - one of the principal purposes of the Bath Secondary Review and the related Culverhay closure decision. Council should have been advised of the DfE’s position and its view of Culverhay School and, if they had been, they may have taken a different decision as regards upholding the purported call-in referral. In this connection it is noted that Culverhay’s educational performance had been the subject of much debate during the closure process given the undue emphasis being placed by the Governing Body and others on Contextual Value Added. The clarity of the DfE’s position would have been very helpful and possibly critical in terms of confirming the school’s underperformance and the inevitable intervention there would have been had it not been decided to close the school in February 2011. [*Prospective Grounds for JR 3*]It appears to be irrational now for the DfE to be supporting the revocation of closure of Culverhay School in such circumstances and to use public resources in relation thereto just so as to create an additional Academy that would not otherwise be required (and as is so evidenced by the Bath Secondary Review). In this connection it is noted that Ashley Ayre’s record on 25 June 2011 of the conversation with Robert Back indicated that ‘the relevant sponsor will receive £300-400k from the DfE to help develop the school too.’ [*Prospective Grounds for JR 4*]

There is further correspondence between the Council and the DfE regarding the discussions with possible sponsors including an e-mail from Maggie White (B&NES) to Richard Thomson (Culverhay Head) of 6 July 2011 (11.16) ‘I think Robert [Back] wants this set up by the end of July so the Statement of Intent can be written and submitted to Ministers in August.’ It is, of course, important to note that as of 6 July 2011 the Council had not even made a decision on the call-in and yet there is a high level of activity and indeed undue haste by the Council and DfE. There is clear intent at this stage by both the Council and the DfE to make a decision on an Academy before the statutory period for revocation of closure would have expired and representations and objections properly considered by the Council and the DfE. As an aside, one might ask why the DfE was not itself supporting the Closure given its views on the school as recorded above. However, this collusion may help explain the background as to why the Statutory Officers’ advice was changed as regards a call-in of any decision by Cabinet at its meeting on 14 July 2011 - see below - i.e. when there was a realisation that any such period of proper scrutiny would mean the Cabinet’s and DfE’s timetable could not be met.

Council was also not advised at its meeting on 14 July 2011 that a decision to uphold the call-in and a subsequent decision by Cabinet to propose and proceed with the revocation of closure would preclude the Free School possibility. To the extent that the consideration of the call-in by Council had any validity - for which see below - then key and necessary information was withheld from Council. [*Prospective Grounds for JR 5*] It is noted that the Minutes of Council refer to one of the reasons for upholding the call-in being ‘the results of

the parent survey, which showed that a co-educational school would attract significantly more pupils'. Such a comment or observation is inconsistent with precluding a Free School (whose proponents conducted the parent survey) and / or supporting a 'small' Academy as indicated in the Statutory Notice.

For the Secretary of State now to proceed to a decision as between an academy and a Free School would be improper particularly as any such decision would explicitly or implicitly consider the availability of the site which would clearly not be available if the revocation proceeds. [*Prospective Grounds for JR 6*] The Secretary of State must await the expiry of the statutory objection and representation period and the Council's consideration of objections and representations.

The DfE's correspondence and activities as related to Sirius Wood, as set out below, are also germane.

This letter and copy to the Secretary of State serves as notice of an Objection and of representations that are or may be made by interested parties in relation to the statutory process of revocation of closure.

2. The statutory notice for the proposal to revoke the notice to close Culverhay is flawed:-

i) The Council (through its Cabinet) resolved on 14 July 2011 'To agree that its preferred option for Culverhay School would be for the school to become co-educational, either as an Academy or as a Free School.' The Statutory Notice seeks to justify the inappropriateness of closure of the school on the basis that 'an externally commissioned study has shown that a relatively small school with a pupil centred curriculum making use of flexibilities as an academy can be viable.'

It is clear from the FOI information from the DfE attached that subsequent to the Cabinet meeting on 14 July 2011 the Cabinet's decision was advised to the DfE - see e-mail dated 20 July 2011. The DfE's response was that 'a maintained school cannot become a Free School so I take it that means you are working with the Governing Body to pursue conversion to a sponsored academy.'

Following that correspondence (which confirmed what was already known by Council Officers prior to 14 July 2011 - see Maggie White's e-mail of 28 June 2011 released under FOI and quoted below), the proper action would have been for Cabinet and possibly Council to have been formally advised that proceeding with the revocation of closure would be inconsistent with the decisions made on 14 July 2011 and that a new decision was required. [*Prospective Grounds for JR 7*]

Maggie White's e-mail of 28 June 2011 (Confidential Feedback from Robert Back (DfE)) stated on page 2 'Resistance from Free School Group - once a democratic decision is made to keep school open, the use of C/H premises will no longer be available to Sirius Wood School. They will have to find alternative premises, possibly outside the locality and compete with 7 other schools for pupils.' That e-mail also recorded that 'Governors need to see likelihood of bleak future without going to academy: inspection-direct intervention-direction by SoS to become an academy.' It should be remembered here that the call-in hadn't yet even been considered by Council and further that none of this information was advised to Council or the public on 14 July 2011.

As at the date of issue of the statutory notice on 28 July 2011 no decision had been made by the Council (through its Cabinet or otherwise) to support one or other of an Academy or a Free School. It was therefore not appropriate to suggest in the Statutory Notice that only one of the options was being considered whether by the Council and / or the DfE. Furthermore, the size of the school was not mentioned at all in the Cabinet resolution. *[Prospective Grounds for JR 8]*

ii) The wording of the statutory notice had been the subject of prior clearance with the Department for Education (DfE) in exchanges as between 11 July 2011 and 14 July 2011 as per FOI information released by the DfE. The wording of the notice was not materially amended prior to publication on 28 July 2011 notwithstanding the decision of Cabinet which was not, it would appear, as anticipated in the pre-clearance correspondence. i.e. the Cabinet decided on 14 July 2011 that the Free School should remain an Option and Council itself had no reason to believe that purportedly upholding the Call-in precluded the Free School option.

It is also noted from FOI information released by the Council that on 12 July 2011 Maggie White (B&NES) sent an e-mail to Richard Thomson (Culverhay Head) requesting certain information 'I've now had a conversation with Robert Back (OSC). He has asked for the following information asap (so we can assess whether there could be a challenge from Free School group)'

(I would note that as at 11/12 July 2011, no decision had been made by the Council other than for the closure of Culverhay School. See below for comments as regards possible ultra vires expenditure and activity by the Council.)

iii) With regard to the statement referencing the externally commissioned study, the commentary is grossly misleading. The report by Mr. David Snashall (Annex II to the Cabinet's report on 14 July 2011) stated quite clearly that it was an 'Interim Independent Report'. None of the conclusions (1-14) indicated that Mr. Snashall's study 'has shown that a relatively small school with a pupil centred curriculum making use of flexibilities as an academy can be viable'. Indeed the last conclusion was 'Action on each of these points does not necessarily mean that the school will remain viable with a sustainable future when a national funding formula is introduced - however, it should move the school towards having sufficient numbers and spending patterns (that) have a significant chance of being sustainable.'

I suggest the reference to the external study within the statutory notice was grossly misleading having regard to the full content of the Interim report by Mr. Snashall. The brief to Mr. Snashall by the Council made no reference to an academy and was specifically related to 'school viability'; his conclusions and commentary made no reference to the additional flexibilities of an academy. *[Prospective Grounds for JR 9]*

iv) As part of the Council's justification (within the terms of the statutory notice) for the relief of duty to implement the closure, the Council indicates that additional funding has been made available to make modifications to the school buildings, to support the school in addressing overstaffing and restructuring and to allow the school to pursue the option of the school becoming an academy and then becoming co-educational.

Representations and concerns expressed by the Schools Forum at its meeting on 5 July 2011 (which should have been reported to Council / Cabinet) *[Prospective Grounds for JR*

10) included 'Are more co-ed places wanted in Bath? Should this be decided by the community rather than the LA?' The Schools Forum were / are suggesting that the issue of co-ed places should be a matter for the community who may conclude that there are already sufficient co-ed places given the conversion of Oldfield Girls to a co-ed Academy consequential upon the Bath Secondary Review. It would certainly be both prejudicial and unreasonable for a decision to be made by the Secretary of State to approve an Academy or a Free School without Oldfield and / or other local schools first having the opportunity to object or make representations within the statutory period and for these to be considered by the Council before implementation of the revocation of closure. *[Prospective Grounds for JR 11]*

The Council has now received notice of Objections and Representations relating to the revocation of closure notice from four schools whose Headteachers are members of the Schools Forum and from the Chair of the Schools Forum on behalf of the Schools Forum - see attached. It is noted the e-mails / letters include confirmation of the Schools Forum's original decision to support the closure of Culverhay, opposition to the proposed revocation of closure, and reference the timing of the Statutory Notice and the limitations as to opportunity for members of the Schools Forum to comment given the summer break. The Objections and Representations made by the Schools Forum must be considered by the Council before any premature and prejudicial decision by the Secretary of State.

v) Any decision to proceed with a 'small boys' academy' and substantial related public funding without any certainty as to whether the subsequent consultation (which should include other schools and the wider community affected) will support a change to co-ed would also be unreasonable and irrational. *[Prospective grounds for JR 12]* As any sponsored Academy will be benefitting from Council funds it should be for the Council to determine the extent of consultation and indeed to give due consideration to any business plan generally given the potential impact on other schools. The Council / DSG funding considerations (including but not limited to site availability as the site has an estimated value of £6-8m) must override any 'standard' arrangement for an Academy whereby any business plan does not necessarily need to be considered or approved by the Council directly. It would appear from the Council's press comment on 24 August 2011 that the Sponsored Academy application was submitted by the Culverhay Governing Body and the Council. Any such application has not been made in accordance with any proper decision of Council or Cabinet under the Council's Constitution. *[Prospective grounds for JR 13]*

Indeed, the Council, Councillors, the Schools Forum and the B&NES public have not been advised as to what exactly is proposed in terms of an Academy, what it will do, who it may involve (whether Cabot or otherwise) etc. There should have been an appropriately detailed paper going to Cabinet and / or Council and available in the public domain, particularly given the very substantial financial commitment by the Council (including but not limited to the site value of £6-8m which will presumably be transferred to Cabot) and the impact on other schools. It would appear that if the Academy is unsuccessful then the benefit of any alternative land use sale will be for the benefit of the Academy / Cabot and not B&NES schools. If the school was closed then a lease could be given to any new Academy or Free School which could be terminated in the event of any subsequent failure and thus the benefit of alternative land use value protected for B&NES / B&NES schools. *[Prospective Grounds for JR 14]* It has been suggested by Cabot and others that the curriculum proposed for any Academy will be substantially different from other B&NES secondary schools and will be vocationally focused. Council / Cabinet should have considered what evidence if any there was for such a proposal for an Academy given the information

emanating from the Bath Secondary Review, why would such a curriculum be considered appropriate for the local community near Culverhay as opposed to other areas of B&NES and why Council / Direct Schools Budget resources should be prioritized for the benefit of an Academy as opposed to other priorities as may be identified by the Schools Forum.
[Prospective Grounds for JR 15]

vi) The Schools Forum also expressed a number of other concerns at its meeting on 5 July 2011 - again not reported to Council / Cabinet on 14 July 2011 including that 'keeping Culverhay open is costing the rest of the pupils across the authority'. This is a valid concern and the statutory consultation period provides the opportunity for other schools to ask the Council to ensure Schools Funding and Capital Funding availability are not adversely affected by any decision to revoke the closure of Culverhay. i.e. other schools should be in no worse a position than would have been the case with Culverhay's closure. At the end of the consultation period the Cabinet / Council may have to consider whether it is prepared to provide the additional funding to meet any such reasonable demand by other schools (which may be significantly more than the funding currently allocated and referenced within the statutory notice and would be different depending upon the relevant option chosen and is, as yet, unquantified by the Council). Indeed the Cabinet / Council may need to consider whether proceeding with closure will result in a lower cost to the Council and / or our schools than revoking the closure notice even if it subsequently decided (should it be the will of Council) to make the site available for future educational use (whether as a 'small' Academy or as a Free School).

Sirius Wood (Free School proposer) may also wish to make representations during the statutory period particularly as it would appear they have been seriously misled having regard to the FOI information released and relating to discussions as between the Council and DfE prior to and subsequent to 14 July 2011, the decision of Cabinet on 14 July 2011, and the terms of the published Statutory Notice. Their proposal for a Free School was not appropriately detailed in the Cabinet papers and the Council has not been in a position to consider the advantages and disadvantages of each of the options that should be considered - Sponsored Academy (and size), Free School, Closure, Closure with subsequent site availability for other educational options (including Academy / Free School). There are different financial and educational implications for the Council, the DSG and other schools in each case and none of these have been appropriately considered and addressed in Council / Cabinet Agenda Papers or been subject to appropriate scrutiny under the Council's processes which scrutiny should take place before not after any Secretary of State's decision as to an Academy or Free School. *[Prospective Grounds for JR 16]* It is clearly now possible that Sirius Wood may object to the revocation of closure because a Free School could not proceed on such a basis. Indeed they might support closure on the proviso that the Council gives proper consideration to a Free School vs. 'small' Sponsored Academy on the site. (While I do not agree with Sirius Wood's proposals I do believe they should be treated fairly and not deliberately misled or lied to).

In this connection the Sirius Wood website reports that they received a letter from the DfE on 25 July 2011 inviting them to an interview in London in August. I understand that meeting took place on 2 August 2011 and I received a copy of a letter from Sirius Wood on 8 August 2011 advising me as to the discussions held in London. See attached. The DfE was fully aware from correspondence that took place on 20 July 2011 and included in the FOI information released by the DfE that should the Council proceed with the revocation of closure then the Free School would not be an option. Indeed the DfE's specific response on 20 July had been that 'a maintained school cannot become a Free School so I take it that

means you are working with the Governing Body to pursue conversion to a sponsored academy.' There are, of course, other relevant references within the FOI information including Maggie White's e-mail of 6 July 2011 (referred to above) regarding a potential challenge by the Free School proponents. There is also an e-mail from Maggie White on 28 June 2011 as quoted above which refers to 'Resistance from Free School Group' and states 'Once a democratic decision is made to keep school open, the use of C/H premises will no longer be open to Sirius Wood School. They will have to find alternative premises possibly outside the locality and compete with 7 other schools for pupils.' (This gives further evidence of a) the approach by the Council as to the Free School proposal and b) that Council should have been informed that upholding the call-in would preclude a Free School).

Given Maggie White's e-mail of 6 July 2011, her file note of 28 June 2011 and the exchange on 20 July 2011, the DfE's letter to Sirius Wood received on 25 July 2011 and the subsequent meeting on 2 August 2011 would appear to have had no purpose other than to give an appearance of giving consideration to the Free School proposal when by that date the DfE was clear that no such consideration was being given. Of course, the correspondence and meeting may have been arranged with a view to lowering the risk of an aforesaid challenge by Sirius Wood although I suggest it may now have done precisely the opposite.

A premature decision made by the Secretary of State would be unreasonable (i.e. before the end of the consultation period and consideration of objections and representations) particularly given the content of the FOI information released including but not limited to the file note of 4 July 2011 referred to above, the e-mail of 30 June 2011 (which included the enigmatic wording 'The one that makes me twitchy is the proposal for the Culverhay site...assumed an Academy proposal would take precedence as the Free School would not have a site if Culverhay isn't closed. But I'm not so sure...') and the bizarre correspondence related to Sirius Wood which would have to be described as at best misleading and at worst duplicitous. [*Prospective Grounds for JR 17*]

Other Issues including matters of procedural impropriety

The validity of the statutory notice for the revocation of closure must also be seen in the context of the following :-

1. The information provided to the Council / Cabinet.

i) It is clear that the discussions that had been held with the DfE were not appropriately disclosed to Council / Cabinet / publicly on 14 July 2011 and it is noted that there was no basis for such meetings to be held until after the Call-in of the decision to close Culverhay had been determined or Council / Cabinet had otherwise formally approved a policy change on the closure and any related use of resources. Without limitation the key information withheld included the fact, nature and details of the discussions that had been held, the advice relating to Closure being the best way forward, the DfE's views on the performance of the school and that there would already have been intervention but for the Council's decision to close the school, the terms of the draft revocation notice and the fact this was already agreed with the DfE prior to 14 July 2011, the comments about the Free School proposal, the discussions related to potential sponsors, the Council advice to the DfE that it had changed its mind about closure before any such decision had been made, and the preference being expressed as regards an Academy with a strong sponsor. [*Prospective Grounds for JR 18*]

ii) As indicated above Council was not advised that upholding the call-in would preclude a Free School.

iii) Appropriate details of the business plans for a Sponsored Academy and for a Free School should have been made available to Cabinet (particularly given the scale of funding and the potential impact on other schools) to enable an informed decision on the Options and have been subject to appropriate scrutiny by the relevant Panel(s). *[Prospective Grounds for JR 19]*

iv) The Cabinet's decisions on 14 July 2011 were irrational. *[Prospective Grounds for JR 20]* The first decision (E2233R) to proceed with the revocation of closure of Culverhay precluded a Free School whereas the 'other' decision (E2289) 'agreed that its preferred option would be for the school to become co-educational either as an Academy or as a Free School.' It was the Cabinet's decision to include both options in its final resolution. The report invited the Cabinet to 'determine which of the options for a co-educational school (in Appendix 2) it wished to support.'

Indeed the 'Rationale for decision' section of the Decision Register Entry for E2233R specifically states 'The Cabinet were very conscious that the local community was strongly in favour of allowing Culverhay School to seek co-educational status either as an Academy or as a Free School and wanted to allow the school and community to make applications to the Secretary of State to this effect.' However, the Cabinet's decision 'that it wishes to REVERSE the earlier decision and to decide instead not to close Culverhay School' precluded the possibility of a Free School as clearly still intended under Rationale for decision.

The FOI information released by the Council includes an e-mail on 15 July 2011 from Richard Thomson (Culverhay Head) to Tony Parker (B&NES) referring to the Cabinet decision and raising a couple of questions:-

'1. I understood from Robert Back that as soon as the notice of closure is revoked, it is impossible for a Free School to open here because there is still a school here. If my understanding is correct, how is this reconcilable with Nathan's publicly stated position? [Cllr. Nathan Hartley, Cabinet Member with responsibility for schools]

2. Does Nathan really believe that the Free School and the Sponsored Academy are of equal value as proposals, or is this an example of a political compromise? (Obviously there is an element of self-interest here, because the Free School has apparently appointed its own Governing Body and Headteacher already.)'

The e-mail from Richard Thomson also includes a message to all staff and the following comment on the Cabinet deliberations - this element of the e-mail was omitted from the initial FOI release by the Council but was provided when challenged :-

'The Cabinet then went on to outline its policy for the future direction of the school. The member for Children's Services, Nathan Hartley, has been looking at three possible options:-

- a) LA maintained co-educational school
- b) Sponsored Academy
- c) Free School

He had come to the view that the first option was not feasible because of the prevailing

direction of travel in terms of educational policy at a local and national level. He felt that options b) and c) both had equal merit and both would be considered by the Secretary of State for Education in due course. The position of the administration seems to be that it is now for Mr. Gove to have the final decision.'

This e-mail affirms, from the school's perspective, the irrationality of the Cabinet's position. For some reason the FOI information released does not include a reply. Clearly to proceed with the revocation of closure precluded a Free School and this was known to Council Officers and Cabinet Members.

2. The Call-in was not or was no longer valid [*Prospective Grounds for JR 21*]

The call-in referred to Council was no longer valid by virtue of Rule 3 of the Call-in Procedures where there is a proviso that the period of Overview and Scrutiny shall not exceed 21 working days. The six week representation period for the Statutory Notice of Closure (published on 16 December 2010) ended on 27 January 2011. The Cabinet Member's decision was made on 23 February 2011 and was considered by the Children and Young People Overview and Scrutiny Panel on 21 March 2011 when the Panel decided to refer the matter to Council. In order to meet the 21 day requirement it would have been necessary for Council to have met and decided on the call-in (I believe the date of Council would have had to have been on or before 25 March 2011). The requirement of Rule 3 may not have been specifically advised to the Panel i.e. in terms of Officer advice but, in any event, it was the responsibility of the Panel to ensure that the call-in decision was made by the Panel or that an urgent meeting of Council was held within the stipulated 21 days overall allowed for call-in.

The Minutes of the Overview and Scrutiny Panel record Vernon Hitchman (Monitoring Officer) as stating 'that in referring the matter to Full Council the date of the meeting was for the Council and not the Panel to decide and it could be called at an earlier date than the next set meeting (May 19th 2011).' This advice was, I believe, flawed. The Constitution makes provision for Extraordinary Meetings to be called upon the request of 5 Councillors and for shorter notice to be given (than the standard 5 days). As indicated above it does not appear that the provisions of Rule 3 were addressed by the Monitoring Officer or the issue and implications considered by the Panel.

Had the call-in been decided by the Panel or referred to Council and a meeting held within the required 21 days then the decision to close Culverhay would have been confirmed (or otherwise) by the Cabinet Member on or before 28 March 2011. Not to have done so in such circumstances may have risked the intervention of the Schools Adjudicator as matters have to be referred to the Schools Adjudicator if not determined within 60 days of the end of the representation period (i.e. 27 January 2011).

3. Decision by Cabinet on 14 July 2011 to publish Statutory Notice should have been available for call-in [*Prospective Grounds for JR 22*]

The Cabinet decision to publish the notice should have been available for call-in consistent with the specific and unequivocal advice provided to me by the Council's Monitoring Officer on 13 July 2011 'I confirm that any decision which goes beyond noting the views of Council and, for example, proposes a different course of action such as revocation of the closure proposals - which is a separate legal process - would be properly subject to call-in. In my view the purpose of the rule [Rule 4] is to prevent the same issue being raised twice which would not be the case

here.'

This advice from the Monitoring Officer on which I was entitled to rely a) in respect of the right of call-and b) in terms of the Council's interpretation of Rule 4 was reversed prior to the Council Meeting. Any argument by the Council that the decision cannot be called in because it is only a step in a process is contradicted by previous validated call-ins on Culverhay that are comparable in terms of statutory processes and related consultation. There has been substantive correspondence on the matter since 14 July 2011 which will support my contention that the Cabinet decision should have been subject to call-in.

To the extent the call-in was not valid, as is my contention, in accordance with 2 immediately above, then Rule 4 would not be applicable in any event and Cabinet's decision would have been subject to call-in and not as now advised to the contrary by the Monitoring Officer.

4. Use of Resources

Any Council and / or Culverhay use of resources prior to the change of the Council's policy decision on 14 July 2011 related to evaluating or progressing alternatives to Closure (including but not limited to the commissioning of the David Snashall report) is prima facie ultra vires expenditure or alternatively is evidence that the Council was treating the Closure Decision as not having been made in which case the matter should have been referred to the Schools Adjudicator within 60 days of the end of the Representation Period i.e. by 28 March 2011. [*Prospective grounds for JR 23*]

5. Timing

The O&S process should have been concluded by 25 March 2011. It was not. Indeed there was also no attempt to ensure the call-in was referred to the next scheduled meeting of Council (i.e. 19 May 2011) at which time Council could have upheld the call-in (subject to its validity which is challenged for reasons given above) and for Cabinet to then approve expenditure in considering alternatives. Council expenditure before consideration of the call-in or a policy decision change against closure is not justifiable expenditure.

It is not now possible for the Council or the DfE to argue urgency in process or decision-making whether by the Council or the DfE having regard to the delay of over 3 months between a purported referral to Council and consideration by Council of the call-in.

I sought proper advice prior to Council which advice was given in unequivocal terms. I then properly challenged the Statutory Officers' reversal of that advice prior to and following the Council and Cabinet Meetings held on 14 July 2011. I believed it was appropriate and necessary that the Council through its Policy Development and Scrutiny Committee should have been able to call in and review the Cabinet decision to publish a notice of revocation of closure of Culverhay. I note the previous Administration's decision to close Culverhay had been subject to three separate call-ins whether of a decision to consult and / or to decide. I also note that neither Cabinet nor Council had the proper or necessary information to make a sound decision. It is now clear significant and relevant information was withheld and / or not provided and that there had been a predetermination by the Cabinet and the DfE in favour of a small sponsored academy that arguably is not the co-ed community school promised by the new Administration. It was therefore disingenuous and irrational of Cabinet, in those circumstances, to suggest a Free School was still being considered particularly given the contents of the FOI information and the terms of the draft and final statutory notice. Indeed there was no direct evidence that the Cabinet was not considering the Free School option until an answer to a question was provided at its

open meeting on 10 August 2011. I suggest that an appropriate decision in accordance with the Council's Constitution has not been made and was certainly not made transparently before, on or after 14 July 2011.

At the open meeting of Cabinet on 10 August 2011, Cllr. Hartley indicated (for the first time, as far as I am aware) in an answer to a question from Cllr. Anthony Clarke that he supported the Academy option. This was, of course, after the publication on 28 July 2011 of the Statutory Notice for the revocation of closure. Cllr. Hartley's comment was not a decision of the Cabinet or Council in accordance with the Constitution. In his answer Cllr. Hartley also stated 'At present the Department for Education have two applications to review, the Academy Application and the Sirius Wood Free School application. I am happy to wait on the Minister to decide which application should be successful.' Given the correspondence and other matters as referred to above and the terms of the Statutory Notice such a comment by Cllr. Hartley can only be described as disingenuous and deserving of contempt.

In an e-mail of 28 July 2011 I sent in response to an e-mail from Vernon Hitchman I advised that I had provided sufficient argument and information for the Council to realise it was not in a good place and that it should have sought a mutually acceptable way forward. (This would have been an agreement for review of the decision to consult by Policy Development and Scrutiny before publication of the Statutory Notice). However, it now appears that the Council had that day published a Statutory Notice which I only became aware of on release of the aforesaid FOI information from the DfE on 11 August 2011. i.e. Officers did not advise me of the publication of the statutory notice despite relevant correspondence. There were no press releases or advices to Councillors or schools - just the minimum required by legislation. It is also noted the consultation period was during the school summer break. Similarly no indication was given that the Secretary of State would be making his decision on 18 August 2011 i.e. during the statutory period for objection or consultation.

It is clear that the Cabinet's objective (and apparently also the DfE's) is / was for a decision to be made by the Secretary of State on 18 August 2011 (or perhaps rather for him to confirm what appears to have already been agreed before 14 July 2011) and:-

- i) before the consultation period for the Statutory Notice of Closure notice has concluded and objections and representations have properly been considered by the Council and indeed the DfE and
- ii) without any opportunity for appropriate scrutiny

I invite the Council and the DfE to reconsider their respective positions in the light of the foregoing:-

1. I believe the DfE should be asked to confirm that the Secretary of State will not be asked to make any decision on approval of either a sponsored Academy or a Free School until the Statutory Consultation period for the Revocation of Closure Notice has ended and the Council and the DfE have given appropriate consideration to any objections or representations which may be made.
2. I believe the Council should withdraw the Statutory Notice which was published on 28 July 2011 and issue another notice consistent with the decision it actually made on 14 July 2011 although it is difficult to see how this can now be done (or with any new decision it may make to prefer the option of a small Academy or otherwise) and without misleading / inaccurate content. Any decision including to publish such a revised notice should be available for call-in.

I do not believe there has been proper process on this or appropriate transparency. The Council and the DfE should now put things right (and are being given the opportunity so to do) rather than risk further escalation.

I would also note that we would not be in this position if the Cabinet's decision had been available for call-in as it should have been and as I had been so advised it would be by the Council's Monitoring Officer on 13 July 2011.

The Director of Children's Services wrote to me on 25 August 2011 and advised, in effect, that the Council did not intend to make a new decision and publish a revised statutory notice i.e. one that was made in accordance with a proper (and not an irrational decision) and did not contain misleading / untrue information. I responded to the Director's letter as follows in an e-mail on 30 August 2011:-

'I note the views of the Local Authority as set out in your letter but sadly consider them as irrational as the decisions made on 14 July 2011.

Without prejudice to the detailed comment in my letter of 15 August 2011 as supplemented on 22 August 2011 and by subsequent correspondence:-

1. The DfE should not be considering any proposal for a sponsored Academy until the Cabinet's determination of the revocation notice which is, in any event, flawed and needs to be reissued when the Cabinet makes a proper and rational decision if it is so capable.
2. I note your comment that the Cabinet's determination of the revocation notice may be able to be informed by the outcome of the DfE decision on the viability of an academy proposal. However, there is a valid closure in place and the DfE should not be making any decision until the Council determines the revocation notice. To do otherwise would be premature, prejudicial, and subject to challenge. I have commented in one of my recent e-mails about whether the Council should have been supporting an Academy application from Culverhay to the DfE - i.e. prior to any determination of the revocation notice - whether from a procedural basis and / or in the absence of a proper and rational Cabinet decision. I think that is a further consideration in terms of procedural impropriety to add to the long list already identified.
3. With regard to 'point 2', the Statutory Notice was not in accordance with the decision(s) made by Cabinet albeit the decisions were themselves irrational. i.e. the Statutory Notice has no validity. It was also misleading and includes a statement by the Council which is untrue but which clearly may affect / prejudice any party wishing to make an objection or representation. i.e. Having the Council state that an independent party has considered a small Academy to be viable might, for some, be appropriately reassuring. When that patently was not the case it undermines proper process and cannot be rectified except by reissuing the Statutory Notice after a proper decision.

It is also clear that there was disadvantage to Sirius Wood / the Free School by virtue of the decision to revoke closure and the references in the Statutory Notice, including in terms of consideration by DfE of their proposal where the site issue was specifically mentioned. There are also issues that affect other schools (including DSG funding) and the Council's budgetary position.'

As of 4 September 2011, the Secretary of State had not made a decision on an Academy and the Bath Chronicle reported on 1 September 2011 that the DfE had referred the issue 'back to B&NES asking for what local support there is for an Academy'. As indicated above there is no decision by Council or Cabinet properly made to support an Academy bid nor has there been appropriate information put in the public domain. I sent an e-mail on 1 September 2011 which contained the following comments inter alia:-

- '1. As the Council and Councillors, the Schools Forum and the B&NES public have not been advised as to what exactly is proposed in terms of an Academy, what it will do, and who it may involve (Cabot or otherwise), I am not sure how a proper response can be given to Government without an appropriately detailed paper going to Cabinet and / or Council and being available in the public domain. In this respect I

note that I learnt about Cabot's possible involvement by reading the Bath Chronicle and further that the Council was part of the Academy 'bid' by reading the Council's answers to questions raised by the Bath Chronicle! That is not how Council or Councillors should be advised or treated particularly when there are substantial educational and financial issues that should be properly considered for sound decision-making. I have commented separately questioning how the Council could be making such a bid with Culverhay given the current statutory position and its irrational decisions on 14 July.

So I am not sure how it can be possible for the Council to respond to the DfE early next week, if indeed that is what is planned, as to whether it has 'local support' whether specifically or in comparison to other options except on a similar basis to other decisions already made i.e. irrationally, unreasonably, without proper information and with procedural impropriety. *[Prospective Grounds for JR 24]*

In this respect I would also refer you to the comments made in other correspondence (including but not limited to my Objection and Representations Letter dated 15 August as supplemented on 22 August) regarding views of Schools Forum etc.'

Yours faithfully,

Malcolm Hanney

**Malcolm Hanney (Cllr.)
Bath & NE Somerset Council**

cc The Right Honourable Michael Gove MP, Secretary of State for Education

Free Schools correspondence

Dear - Sorry, one other thing I should have said. A maintained school cannot become a Free School, so I take it that means you are working with the Governing Body to pursue conversion to a sponsored academy.

Best wishes,

.....

Hi XXX - the proposal to revoke the closure notice will be reviewed at the Council & Cabinet meeting at 6.30 this evening - so they don't know yet, but have said they will e-mail me tomorrow. When Robert Back spoke, the official plan was to announce an intention to move to Academy status when the closure notices are withdrawn. But we can't be syre yet

Dear XXX - Sorry, one other thing I should have said. A maintained school cannot become a Free School, so I take it that means you are working with the Governing Body to pursue conversion to a sponsored academy.

-----Original Message-----

From:
Sent: 20 July 2011 15:24
To:
Subject: RE: Culverhay School

Very helpful, many thanks .

-----Original Message-----

From:
Sent: 20 July 2011 15:13
To:
Subject: Culverhay School

Dear

You rang last week and I agreed to provide an update following our Council/Cabinet meeting.

The full Council heard the 'call-in' of the decision to determine the public notice of closure of the school and resolved to refer the decision back to the cabinet (as the decision-maker) for re-consideration.

Cabinet then resolved that the original decision made by the previous administration should be changed, so that the school would not be closed.

Cabinet then considered the next steps it wished to take and resolved:-

to publish a notice of revocation to withdraw the closure decision;

that it wanted the school to become co-educational at the earliest opportunity and that it might do this as an academy or a Free School;

to instruct officers to work with the Governing Body, which has resolved to pursue conversion to a sponsored academy, to enable submission of a business plan/application at the earliest opportunity.

I trust this is helpful.

Regards

Ok - thanks, I'll let them know.

-----Original Message-----

From:
Sent: 20 July 2011 15:44
To:

Subject: RE: Culverhay School

Thanks

NB that as a maintained school cannot become a Free School this route is not available

Free Schools Group
Infrastructure & Funding Directorate
2nd Floor, Sanctuary Buildings
Great Smith Street
London SW1P 3BT

-----Original Message-----

From:

Sent: 20 July 2011 15:24

To:

Subject: RE: Culverhay School

Very helpful, many thanks.

For you might say

'The proposal was put together by a couple of members of its SMT when the low performing Culverhay School was under threat of closure and is for the FS to take over the site. However, following a change of political control the Council has changed its mind and has told the OSC that it will now wants Academy status for the school with a strong sponsor. The decision to withdraw the Culverhay closure notice was made formally at a [Council meeting on 14 July]. The FS proposal should not be progressed as the rationale for it was the planned Culverhay closure, and it is proposed that OSC should now agree an appropriate Academy solution for the school . '

Grateful if could confirm asap what the Council decides at tonight's meeting

Hi - the proposal to revoke the closure notice will be reviewed at the Council & Cabinet meeting at 6.30 this evening - so they don't know yet, but have said they will e-mail me tomorrow. When spoke, the official plan was to announce an intention to move to Academy status when the closure notices are withdrawn. But we can't be syre yet

From:
Sent: 05 July 2011 17:37
To:

Cc: Subject: RE: Action (6 July): Free School Applications 2012 - getting a more rounded view on them...

& I discussed this morning, and agreed no comment at this stage unless major issue to flag up, as we'll also have a chance to comment again later.

Do we need to add a comment on the FS app spreadsheet, just to make sure our joint meeting with OSC, FS and Academy Converters is on the radar (although FS were there and received latest update from)?

If needed could include comment to say OSC, Academy Converters, FS and SSID1 joint meeting on 21 June to discuss. OSC broker has checked latest position with DCS. The school will move to academy status, and a sponsor is being sought. The council are revoking the closure notice on 14 07 11 and are likely to announce academy ambition then.

From:
Sent: 30 June 2011 09:24
To:
Subject: FW: Action (6 July): Free School Applications 2012 - getting a more rounded view on them...

- Between you could you arrange to complete this on the shared drive, asking others in their team for any info as appropriate? The one that makes me twitchy is the proposal for the Culverhay site. assumed an Academy proposal would just take precedence, as the Free School would not have a site if Culverhay isn't closed. But I'm not so sure

From: Sent: 29 June 2011 10:05
To:
Subject: FW: Action (6 July): Free School Applications 2012 - getting a more rounded view on them...

All

Can your people pls look at the attached and add comments onto the spreadsheet, which I have saved in the data folder in the SSID shared folder – can people who add comments pls put their name next to them so that knows who to follow up with. Deadline COP 5 July.

Notes of Visit		
Date: 04 07 11 time: 1200	Location: BaNES offices Keynsham	
Purpose of visit:: Discuss Culverhay		
List of Attendees: XX OSC, XX DCS, XX HoSI, XX HoSI, Head Culverhay for part of the mtg		
key discussion points and decisions		
<p>BaNES is revoking closure notice and supporting academy option for Culverhay. LA will provide 700k for capital improvements to enable mixed intake</p> <p>RB explained process of moving to academy status for 2012. Need to seek approach which allows change of status to enable mixed intake. Likely that statutory closure route would best suit....but note sensitivity as it will imitate the recent closure process now to be revoked</p> <p>Discussion about imminent GB meeting to discuss and GB resolution. Advice given on approach to this.</p> <p>Discussion of potential sponsors...Cabot, AET, EACT. Cabot are in touch with school and LA</p> <p>Discussion of free School proposal which will not be viable if school remains open; some potential conflict with smt who have led the free school bid and are not supporting head.</p> <p>Dates agreed for visits and sponsor presentations...process of selection to complete on 25 07</p>		
Key Action points		
Action	Who	When
RB to contact potential sponsors		
MW to arrange all details of meetings visits etc and liaise with RB		

Notes of Visit

(End of Free Schools correspondence)

For the attention of:
The Secretary of State

Attached is the statutory notice for the proposal to revoke the notice to close Culverhay school, Bath as published on 28th July 2011.

Children's Services and School Organisation Manager,
Children's Service Capital and Organisation Team,
Bath and North East Somerset Council
Phone: 01225 395169
Mobile: 07980 998516
Fax: 01225 394481
Email:

Making Bath and North East Somerset an **even** better place to live work and visit.

PROPOSAL TO REVOKE THE NOTICE TO CLOSE CULVERHAY SCHOOL, BATH

NOTICE IS HEREBY GIVEN in accordance with regulation 26 of The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 that Bath and North East Somerset Council proposes to be relieved of the duty to implement the statutory proposal published on 16 December 2010.

This proposal was to discontinue Culverhay School, Rush Hill, Bath BA2 2QL, approved to come into effect from 31 August 2014.

The LEA proposes that it be relieved of its duty to implement the proposal because additional funding has been made available to make modifications to the school buildings, to support the school in addressing overstaffing and restructuring and to allow the school to pursue the option of the school becoming an academy and then becoming co-educational. An externally commissioned study has shown that a relatively small school with a pupil centred curriculum making use of flexibilities as an academy can be viable and therefore closure of the school is now inappropriate.

Within six weeks after the date of publication of this proposal,

any person may object to or make comments on the proposal by sending their representations to Children's Services Capital and Organisation Team, Bath and North East Somerset Council, Riverside, Temple Street, Keynsham, Bristol BS31 1LA.
Date: 28 July 2011
Signed: Ashley Ayre,
Director of Children's Services

Many thanks - we are just finalising the wording for the decision notification now and will send this to the Unit this week.
Best wishes,

Dear

Thank you for sending in the draft revocation notice for checking - it appears to meet all of the requirements. Our records are still showing the original proposal as 'awaiting decision'. Please can you forward us a copy of the decision on the school closure, so that when the revocation notice comes in we can update accordingly.

My advice is offered without any real contextual knowledge of local circumstances. You will appreciate that my comments are offered in good faith but they cannot be taken as an authoritative statement of the law and it is for the proposer to ensure that published notices comply with statutory requirements.

If you created this draft on the Notice Builder tool, you should now return to the Notice Builder, edit your Notice, if appropriate, then select 'Finalise Notice', which will then link you to a template download to help you prepare your 'complete' proposal (as opposed to just the published part of the proposal).

May we remind you that within one week of publication, a copy of both the published and complete proposal should be sent to the persons stated in legislation relevant to the published proposal(s). For closure proposals, the LA should also submit a copy of their published proposals to the Governing Body, and the Governing Body to the LA, on the date of publication.

Copies of both the published and complete proposal (without consultation documents) should also be sent to the Department: via email: school.organisationproposals@education.gsi.gov.uk or post: Department for Education, School Organisation & Competitions Unit, 2F Area D, Mowden Hall, Darlington DL3 9BG or - Special School Notices should be sent via email: specialschool.reorganisation@education.gsi.gov.uk or post: Department for Education, SEN, GF Area B, Mowden Hall, Darlington DL3 9BG, and in due course, details (including the date) of any subsequent decisions or modifications made and/or of conditions set/met.

From: @BATHNES.GOV.UK]
Sent: 11 July 2011 10:28
To: ORGANISATIONPROPOSALS, School
Subject: Revocation Statutory Notice for Approval

Attached is a draft statutory notice for the proposal to revoke the notice to close Culverhay School, Bath. Please could you let me know if this is OK for publication. The notice needs to be sent to the printer on Friday 15th July to be typeset.
Best wishes and many thanks,

Children's Services and School Organisation Manager,
Children's Service Capital and Organisation Team,
Bath and North East Somerset Council
Phone: 01225 395169
Mobile: 07980 998516
Fax: 01225 394481
Email:

Proposal to revoke the notice to close Culverhay School, Bath

Notice is given in accordance with regulation 26 of The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 that Bath and North East Somerset Council proposes to be relieved of the duty to implement the statutory proposal published on 16 December 2010.

This proposal was to discontinue Culverhay School, Rush Hill, Bath, BA2 2QL, approved to come into effect from 31 August 2014.

The LEA propose that a duty to implement the proposal should not apply because following local government elections, additional funding has been made available to make modifications to the school buildings, to support the school in addressing overstaffing and restructuring and most importantly to pursue the school becoming an academy. In addition, an externally commissioned study has shown that a relatively small school with a pupil centred curriculum making use of flexibilities as an Academy can be viable and therefore closure of the school is now inappropriate.

Within six weeks after the date of publication of this proposal, any person may object to or make comments on the proposal by sending their representations to Children's Services Capital and Organisation Team, Bath and North East Somerset Council, Riverside, Temple Street, Keynsham, Bristol, BS31 1LA.

Signed: Ashley Ayre, Director of Children's Services

Date: 21 July 2011

(2)

From: Anne_Hewett@BATHNES.GOV.UK
To: Richard_Morgan@BATHNES.GOV.UK, Mchanney1@aol.com
Sent: 18/08/2011 10:07:30 GMT Daylight Time
Subj: RE: School Forum - Culverhay Letter

I am aware of the pain caused in closing a school, but I write in support of the original decision to

close the school. There are other schools in Bath that could accommodate these pupils. While Culverhay will have unique and wonderful ways of meeting its pupils' needs, they are in a city and so pupils can travel more easily to alternative schools.

It concerns me when I see U turns; I fear that new people coming in will only see a few sides of the problem which has been there for many years; there are no quick fix solutions to what is a complex issue.

There are many rural schools with fragile budgets, and I fear that keeping Culverhay open will have more repercussions than most of us will realise, especially as many heads will currently be away on holiday and this email may pass them by.

Anne Hewett
Head teacher
Farmborough Church School

(3)



'Achieving excellence through the pursuit of good'

Headteacher:
Mr. K. Burnett B.A.(Hons)
Deputy Headteacher:
Mrs. J. Bradley B.Ed.

Bathwick St. Mary Church of England Primary School
Darlington Road
BATH
BA2 6NN

Tel: 01225 465654
Fax: 01225 484289/465654
E-mail: bathwickstmary_pri@bathnes.gov.uk
School web site: www.bathwick-st-mary.bathnes.sch.uk

18th August 2011

M Hannay (Cllr.)
Magna House
Battle Lane
Chew Magna
Bristol
BS40 8PX



Dear Malcolm,

Thank you for your letter to the Schools' Forum which I received by email today.

From information received through my membership of the Schools' Forum and other sources throughout the long process of consultation on Bath Secondary provision, it seems that you have summed up the current arguments for closure and the Council's choices in a very helpful way. If there are other reasons that have not been divulged, then the Council needs to make these clear.

Schools' Forum should be about the provision of funding to achieve the best possible educational outcomes for each child in every school in Bath & NE Somerset. Where the Council wishes through political reasons to make decisions that affect this position, then the Council and

not the schools should be accountable and liable to pay – both electorally and financially for its choices. For example, the recent decision over school meal prices.

The information you seem to have (and referred to in your letter) should be once again put to the Council in its deliberations and, as a Forum member, I believe you have highlighted all the reasons why the Forum had supported the original decision to close Culverhay.

Yours sincerely,

Kevin Burnett

(via e-mail)

Kevin Burnett
Head Teacher



INVESTORS
IN PEOPLE

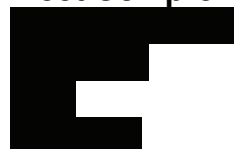


This document can be made available in a range of languages, large print, Braille, on tape, electronic and other accessible formats from:

The School Secretary Tel. 01225 465654 or e-mail bathwickstmary_pri@bathnes.gov.uk

(4)

Fleet Comprehensive



Tel:

Email:

Dear Councillor

On Friday, as part of the process through to sign off by the Secretary of State, the Sirius Wood Free School group met with the Department for Education to discuss their proposal to open Sirius Wood.

The DfE panel was impressed by the proposal; not all proposals reached this stage. The panel was particularly impressed by the community aspect of the proposal and the ability to deliver on pupil outcomes. They liked the 51 week a year provision, the extended school day and recognised the financial strength and value for money of the proposal as well as the capacity of the steering group to deliver the project.

As a member of the Schools Cooperative Society, Sirius Wood Free School will operate a co-operative model of governance. What this means is that in addition to the governing body a community forum will

be elected. Any member of the community, including elected representatives, can be a member and therefore be elected to the forum and have a voice in the future of education in the south west of Bath, unlike a sponsored academy that will dictate policy and practice. This is in addition to the community representation on the governing body.

The issue the DFE had however was whether the site would be available, possibly in view of recent discussion with regard to the alternative proposal of a sponsored academy.

We have been promised by the Liberal Democrat leadership that, should the Free School proposal gain approval from the Secretary of State the site would be made available to us. We have also been advised that it is only the fact that the community has engaged in this initiative, and that the Free School proposal has been on the table, which has resulted in a position where the Liberal Democrat administration can actually make good on their election promise to ensure a co-educational school is opened in the south west of Bath.

We are therefore asking you to press the leadership of the council for re-confirmation of the following: Firstly, are the promises and assurances we have been given with regard to availability of the site to the Free School accurate; secondly, in the event of a positive decision by the Secretary of State, the agreement by the Liberal Democrat leadership to make the Culverhay estate available to the Free School will be honoured, regardless of any other proposal on the table subsequent to the endeavour initiated by the Free School group.

This is an opportunity to make a difference not just a decision. This is an opportunity to change communities, not just open a school. Please support us by asking the leadership what their actual position is and by ensuring they meet their promise and ensure a fair and open process. Sirius Wood Free School has all the financial advantages of an academy but retains local accountability and engagement; responds to local need and above all focuses on outstanding education.
Yours faithfully

The Sirius Wood free School Steering Group

Registered in England. No: 07492056
Registered address
44 Kelston View, Whiteway, Bath, BA2 1NP

(5)

Malcolm Hanney
Battle Lane
Chew Magna
Bristol
BS40 8PX



04/09/11

Dear Malcolm,

Culverhay School

Thank you very much for your letter of 12th August. As you rightly say the statutory notice relating to Culverhay School has not been widely publicised and its timing at the start of the

schools' summer holidays is particularly unfortunate. As all B&NES schools will be directly affected by the Council's decision not to close Culverhay School I am surprised that the schools were not advised directly of the notice and period for consultation.

In my view the decision not to close Culverhay School is most regrettable. The problem of surplus secondary school places in B&NES needs to be addressed urgently. With the advent of academy schools this may be B&NES's last opportunity to do so. As you rightly say any money that is used to fund surplus places is money that could and should be used to fund the education of all pupils in B&NES. The failure to take advantage of the economies of scale that would be achieved by closing Culverhay School will be to the detriment of the education of all pupils in the authority.

The Cabinet paper "To assess the options for the future of Culverhay School" does not discuss the potential financial benefit to other B&NES schools that could be achieved by closing Culverhay School. I asked Richard Morgan what the increase in the AWPU for all B&NES secondary school pupils would be if the savings achieved by the closure of Culverhay School were redistributed through the AWPU funding. Richard estimates that this would equate to £45 - £50 per pupil, a fairly significant amount of money for every secondary school. The other Bath schools would also benefit from the nearly £1M that would follow the Culverhay pupils those schools. As the incremental costs of additional pupils are relatively small, this money would be of enormous benefit.

Should Culverhay School be closed its capital value could be realised and the income could be used to fund the improvement of school facilities across B&NES. The site, or parts of it, could be used to provide brownfield sites for employment and/or housing. If the school is to be retained additional capital expenditure will be required.

The Cabinet paper points out that, with the advent of Academy Schools, the Council's ability to address the number of surplus secondary school places is becoming limited. It is most regrettable therefore that what is probably its last opportunity to do so is being wasted. The potential benefit to all B&NES schools, but especially those in Bath, is enormous. The benefits of retaining Culverhay School are intangible to say the least. Culverhay School, because of its low pupil numbers, is already limited in its offer to pupils both pre and post 16. The school is clearly not popular and bigger schools have more to offer. With academy schools able to increase their pupil numbers the risks ever declining numbers on roll are high but difficult to quantify. The schools future viability apparently depends on a major change in curriculum and being able to retain or increase pupil numbers. Any increase in pupil numbers will be to the detriment of other Bath schools.

Keeping Culverhay School open perpetuates the problem of surplus secondary school places and the consequent waste of money. Other B&NES schools will be deprived of additional resources that would be of significant benefit to the education all B&NES pupils. There is a significant danger that even with the planned changes there will be a continued drift of pupils to bigger, more popular and more successful schools and that Culverhay will need to be closed in a few years time. Whilst the school might be kept open by ever increasing subsidies from the DSG, robbing other schools, the advent of a national funding formula will almost mean the school will close.

The Cabinet does not appear to have fully considered the substantial potential benefits to other B&NES schools and all B&NES pupils. Neither does it appear to have considered the risks of eventual closure due to migration of pupils to other schools and the likely impact of a national

funding formula. Mark Mallett and I will work with other members of the governing body to prepare a letter strongly objecting to the revocation of the decision to close Culverhay School.

Yours sincerely,

Brian.

Brian Wibberley
Chair of Governors
Chew Valley School

(6)

Dear Ashley, I am writing to you in my capacity as outgoing Chair of Governors at Ralph Allen School (although I will remain a governor and take up a vice chair position).

During last year's consultation for the secondary review I wrote to Mike Bowden expressing my concern (widely shared by colleagues across Bath) that the council was considering an application to retain Culverhay School. It appears now that, in spite of the facts, and at a time of severe financial constraints on public bodies, the council is again considering this course of action. It is clear from published documents that this is absolutely contrary to sound financial and school place planning considerations. Why on earth would the council chose to consider this application in these circumstances? Notwithstanding the negative impact on the DSG and wider school funding in BaNES, such a decision will call into question the ability of council to make reasoned and informed decisions, based on the facts. In that event, it will surely erode trust between the council and key leaders in education across the Authority at a time when collaboration and partnership are absolutely vital if we are to meet the challenges facing us. I urge you to do all you can to promote informed, vigorous and visible opposition to this plan; indeed, I believe it is our duty to do so. I would be grateful if you would forward this note to the portfolio holder.

Regards,
Matt

(7)

I would like to object to the revoking of the closure notice of Culverhay School. We had fought long and hard for a co-educational COMMUNITY school on the Culverhay site, however, the Council Officers and Councillors have made a preference of Cabot to replace Culverhay School with a Sponsored Academy, without any evidence of what community involvement (if any) there will be.

No consultation or surveys have been carried out with the communities in the South West of the City as to whether they want a Sponsored Academy and no evidence that the Sponsored Academy will provide a COMMUNITY School for the residents of the South West of Bath.

If a Sponsored Academy is opened on the site, this could mean the land lost to a company from Bristol for ever.

Regards

[Redacted signature]

(8)



6th September 2011



Ralph Allen School

Claverton Down Road, Bath BA2 7AD

Telephone: 01225 832936

Fax: 01225 832338

e-mail: enquiries@ralphallen.bathnes.org.uk

www.ralphallen.bathnes.sch.uk

**Submission to Council from Libby Lee, Headteacher Ralph Allen School
and Chair of School's Forum, on behalf of School's Forum**

Re: Revocation of Closure of Culverhay School

1. The Process

We are disappointed that the process has been so hurried through as to allow only a limited period during which representation can be made, this period covering the school's summer break and ending 6th September. It would be the preference of Forum that such an important issue for the whole school system should be subject to a consultation period allowing the voices of School Leaders and Governors.

2. The Issue of revocation of closure

School's Forum 5th July attended by councillor Nathan Hartley has been minuted, but the minutes do not fully reflect the extensive questioning that was put to Mr Hartley from Headteachers and Governors and the genuine bewilderment expressed from all School Leaders about the poverty of arguments for keeping Culverhay open.

Council have for some time been in receipt of robust data in relation to the financial impact of keeping Culverhay open and will be aware of the poor standards and difficulty in sustaining a full educational offer there. We were told that the council had commissioned ASCL to report on the

viability of keeping a small school open on that site. We were also told that money would be drawn down from the council budget to support Culverhay's estate.

We are in shock and disbelief that the current administration have so emotively attached themselves to the single issue of keeping Culverhay open without any seeming regard for the implications on the wider school system, which is drained of resources and facing a crumbling and inefficient estate, apart from limited examples such as Writhlington; Threeways or St Kenya.

It was also pointed out by Mr Hartley that until 2020 we would not really know if the system can sustain Culverhay remaining open and co-educational. Money will be put into the school, then be potentially taken over by an Academy or Free School, which will then be in the form of a gamble placed upon all schools, with at least one school likely to fail during that time. This decision seems irresponsible in monetary and human terms to say the least.

It was apparent at the meeting that the decision to keep Culverhay open was based on some very flimsy arguments. Mr Hartley argued that parents had been put off sending young people to the school because it was not co-educational. Yet we have successful single sex schooling in the city that the council are happy to keep, and additional co-educational capacity at Oldfield in September 2012. He also argued that the Liberal democrats were proud to be reversing a decision made by the Conservatives which was bordering on immoral. This argument seems politically fuelled and not based on the reality of too many school places that faces us now and in the future.

School leaders began to ask at the meeting why money could not be found in council budgets for other important school developments. The question of the small school subsidy was also raised.

These questions highlight the recklessness of making this decision in this way. We strongly urge The Liberal Democrats to refine their thinking to include some stronger arguments for the whole. At present it appears that dubious arguments are being stacked up to support a decision made in haste and in the interests of pleasing a small interest group in the electorate. All of us inherit the consequences of this decision, not just one localised community.

Yours sincerely



Libby Lee

Headteacher of Ralph Allen School & Chair of B&NES School's Forum



CHEW VALLEY SCHOOL

Chew Magna, Bristol BS40 8QB
Headteacher: Mr M Mallett LLB MA

Telephone: (01275) 332272

Fax: (01275) 333625

Email: chewvalley_sec@bathnes.gov.uk

Website: www.chewvalleyschool.co.uk

Mr A Ayre
Director of Children's Services
Bath & North East Somerset Council
Riverside
Temple Street
Keynsham
Bristol
BS31 1LA

06 September 2011

Dear Ashley,

CALL-IN OF CABINET DECISION E2233 - "DETERMINATION OF THE STATUTORY NOTICE TO CLOSE CULVERHAY SCHOOL" - Bath & North East Somerset Council

After consultation with the governors of Chew Valley School I am writing on their behalf to object to the proposal to revoke the notice to close Culverhay School. The Council has been seeking to reduce the number of excess places at secondary schools, and the consequent waste of resources, for a number of years. It is widely acknowledged that the Council's ability to limit the number of secondary school places is becoming increasingly limited with the advent of Foundation and Academy schools which can set their own admission numbers. It is regrettable that the Council appears to be wasting what is possibly its last opportunity to reduce surplus places.

The Governors of Chew Valley School believe the decision to retain Culverhay School is wrong for three main reasons.

- The potential financial and educational benefits to all other schools in B&NES that may be achieved by closing Culverhay do not appear to have been properly considered. Similarly the financial risks to other schools, particularly in Bath, of the decision to retain Culverhay also appear not to have been considered. The Cabinet paper relating to the future of Culverhay School contained no quantitative financial information on the impacts on other schools.
- Cabinet's decision to retain Culverhay School relies heavily on the Interim Independent Report by David Snashall. We believe that there are severe risks that Culverhay School will fail to survive due to failure to achieve the essential changes detailed in the report, failure to attract sufficient pupils against strong competition from academy and foundation schools, the introduction of a National Funding Formula making the school non-viable and closure by the DFE due to the school failing to achieve the Government floor targets for 5 A* to C at GCSE. (40% for 2012 versus 31%

achieved by Culverhay in 2011). No evidence is provided that the pupil's education will benefit from keeping Culverhay open.

- The potential benefits both to other schools and to the community of the release of the Culverhay site do not appear to have been properly considered. Funds from the sale of part of the site could be used to provide better community facilities with the balance being used to improve other B&NES school buildings. Instead the Council is proposing to spend £900,000 over 10 years improving the existing buildings and providing female toilets, money that will be wasted if the school fails.

1. Financial Impact on other schools.

The estimated saving of closing Culverhay School is estimated at £530,000 based on 2011/12 budgets. If this money were to be redistributed to all secondary schools through the AWPU allocation it would equate to £45 - £50 per pupil, a significant amount of money for schools with several hundred pupils. In addition there would be another £968,000 which would follow the pupils to other Bath schools. As the incremental costs for additional pupils are relatively small this money would be of enormous benefit to these schools and the education of their pupils including those transferred from Culverhay.

If Culverhay School is kept open other schools will be deprived of these extra funds and their pupils deprived of the educational benefits these funds will provide. In addition, for Culverhay School to survive, it will need to attract pupils from other Bath schools. These schools will lose the full funding for each pupil with relatively little reduction in costs to the detriment of the education of the remaining pupils.

These factors are of even more significance for school sixth forms. Small sixth forms will be very limited in the courses and subject combinations they are able to offer. Conversely by reducing the total number of school sixth forms, the increased pupil numbers will improve their financial viability and potentially allow the offer of a wider range of courses.

2. Risks to the survival of Culverhay School.

David Snashalls Interim Report states that *“Assuming fixed costs do not create too big a proportion, there is no reason a school running at 50 – 60 students per year should not be sustainable providing the funding and staffing allocation guidelines formulae are followed. However, it would be virtually impossible to do this with a conventional staffing and curriculum structure, or traditional curriculum delivery.”* This is far from a guarantee and the report is qualified with the need to gather more data. In order for Culverhay to become sustainable the report states that the school must make a number of significant changes. Non-staff costs must remain at around 20% of income in spite of income likely to be 30% lower than at present. This will not be easy to achieve. Staff numbers and management costs must be drastically reduced, a completely new teaching style and curriculum structure must be introduced, most teaching staff will need to be capable of enabling multiple subjects and the school must become coeducational and attract pupils from other schools. None of the above will be easy and the transition is likely to be difficult for both staff and pupils. Even so the report concludes that *“Action on the above points does not necessarily mean that the school will remain viable with a sustainable future when a national funding formula is introduced.”* It should also be noted that this is an interim report. David Snashall flagged 8 of the 14 paragraphs as areas as needing further work. In section 4, Financial Risks, of the Cabinet Paper even in the more optimistic Scenario 2 with intake numbers rising to 80 the school is still predicted to have an in year deficit of £23,139 in 2015/16 with a cumulative deficit of £747,831. This

is hardly a demonstration of sustainability. How is this deficit to be funded? David Snashall reported that the LA & School data on pupil numbers “may be at the higher end of expectations.” For Culverhay to achieve an intake of 80 pupils per annum would mean other Bath schools would lose around 50 pupils and well over £100,000 per annum.

At 31% this year for the 5*A-C measure Culverhay is well below next year’s floor of 40%. To move from 31% to 40% is a huge jump for any school. For one undergoing the changes listed above it is nigh on impossible.

3. The value of the Culverhay site has been estimated at around £6 – 8million. Very little analysis appears to have been done on the potential benefits to both schools and the community of realising this asset. Part, or all, of the site could be sold for housing, employment uses or both. The monies raised could be used both to provide improved community facilities and improve other school buildings in B&NES. To spend more money on under-utilised buildings which might still need to close in a relatively short time seems a very poor use of resources and a golden opportunity could be wasted.

The Governors of Chew Valley School request that the Council give further consideration to the decision to revoke the decision to close Culverhay School. We do not believe that sufficient consideration has been given to the potential financial benefits to all other B&NES schools and the education of their pupils, or the financial impact the expansion of Culverhay’s intake would have on other Bath schools. Based on the financial modelling and on the interim report, Culverhay school is most unlikely to be sustainable and we have seen no evidence that keeping the school open would be in the best interests of pupils. The potential benefits of realising the value of the site to all B&NES schools, and the immediate community, should also be considered.

Yours sincerely,

Brian Wibberley
Chair of Governors
Chew Valley School
cc.
Chris Kavanagh (Schools Capital & Organisation)
Col Spring (Democratic Services)
Cllr Malcolm Hanney
Chew Valley School Governors

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THE FUTURE OF CULVERHAY SCHOOL

OUTLINE

This document summarises the history and context of the proposal to close Culverhay School. It indicates the duties and responsibilities of the Local Authority (LA) and its strategy for educational provision for the city of Bath which includes the reduction of surplus school places.

The underpinning issue is that Bath and North East Somerset (B&NES) has carried surplus places over a long period of time and a declining secondary pupil population from 2003. Future forecasts over the next 10 years indicate that a significant increase is unlikely. The medium term pattern over the same period for the secondary school age population is expected to be similar to that of today.

A solution to this problem of over-supply of secondary school places has been difficult to find. Changes in education legislation make it increasingly difficult for the Local Authority (LA) to undertake future school place planning. As schools take up academy status they acquire powers to expand and make changes to their character without having to follow the traditional school organisation process (Statutory Proposals).

The ongoing debate, which can be traced back to 1984, produced a proposal to close Culverhay School in 2010. This paper gives a summary of the steps that led to the Statutory Proposal and the risks associated with the possible closure of Culverhay School together with the risks of retaining Culverhay School and seven secondary schools in Bath.

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1. BACKGROUND TO SCHOOL ORGANISATION AND THE PROVISION OF SCHOOL PLACES

1.1 Responsibilities

Local Authorities have a key responsibility to keep pupil places and school planning under review and to ensure that there are sufficient school places available to meet local need.

Where it is not possible to agree Statutory Proposals locally they must be referred to the Schools Adjudicator (SA) as established by the School Standards and Framework Act, 1998.

1.2 Surplus Places

From 2001, due to increasing government concerns about the efficient use of education funding, pressure to remove empty school places increased. The Audit Commission has stated that when an individual school has more than 25% surplus capacity, urgent action should be taken to reduce the number of surplus places.

The Department for Education (DfE) monitors the level of unfilled places through the annual School Places Return in which Local Authorities are required to state what action they are taking or plan to take to remove excess surplus places over 25% at individual schools.

All authorities work towards reducing excess surplus places, defined as approximately 5% -10% unused school places. However, exceptions are made. For example, in rural areas children may have to travel unreasonable distances if they cannot go to a local school and some schools may be kept open despite high numbers of surplus places. There is also a presumption against closure of some rural primary schools. In urban areas with more schools and shorter travelling distances, there are usually lower levels of surplus places at around 5%.

1.3 Changing role of the Local Authority and Academies/ Foundation Schools

As Academies are independent of the Local Authorities there is less scope for the Local Authority to set Planned Admission Numbers (PANs). Academies can make changes such as adding more places with relative ease and speed and popular schools are now encouraged to expand.

Foundation schools also have autonomy in setting PANs and the Local Authority cannot increase or reduce a PAN without the agreement of the governors. All secondary schools in the Greater Bath Consortium (GBC) except Culverhay School are Foundation schools or Academies. The Local Authority however remains legally responsible for overall place-planning ensuring there are sufficient places to meet demand.

1.4 Pupil Place Planning Methodology

It is essential for the Local Authority to understand the need for places and future demands. Forecasts of pupil numbers in Secondary school are prepared using information on birth rates, resident population data, estimates of pupil numbers to be generated from housing developments, past transfer rates of pupils moving from Year 6 into Year 7, cohort survival rates and current Numbers on Roll data.

1.5 Optimum Size of Secondary Schools

There is no statutory minimum or maximum size for a Secondary school. However there is a body of national research and advice about the optimum size of schools and sixth forms. There are also commonly accepted guidelines related to the efficient use of resources and the “critical mass” of pupil numbers needed to deliver a good curriculum and appropriate educational opportunities.

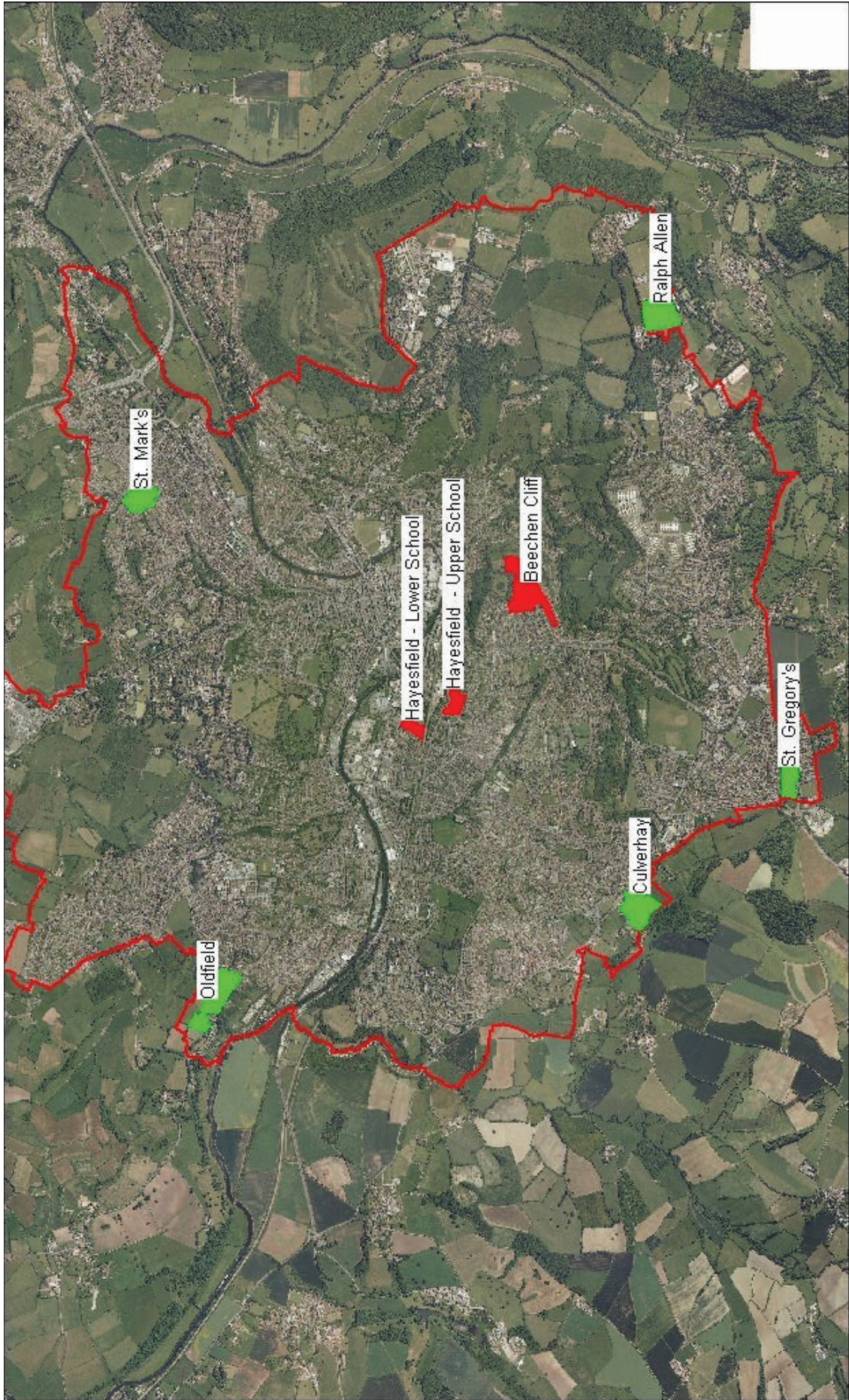
For example the National Foundation for Educational Research (NFER)(2002) found that the best education results were achieved in a secondary school which had a yearly intake of 180 - 200 children (thus producing around 900-1000 pupils aged 11-16). The lower educational results were obtained in very small or very large schools.

1.6 Current Size of Secondary Schools in Bath

The sizes of schools in the GBC (which is the area affected by the reorganisation proposals) in 2010 is given in the next table. It shows that no school in the GBC area is a large school. In fact, only one school (Hayesfield) is within the desirable range of 900-1200 pupils.

School	PAN	Places 11-16	NOR 11-16	Surplus Places
Hayesfield	180	900	920	0
Culverhay	102	510	252	258
Ralph Allen	180	900	892	8
St. Mark's	102	510	256	254
St. Gregory's	160	800	812	0
Beechen Cliff	162	810	830	0
Oldfield	192	960	745	215
Total Surplus Places				735

Footnote: number of places 11-16 is based on the most up to date PAN for each school x 5 for year groups 7 to 11. Number on roll as at the October 2010 school census.



2. DEMOGRAPHIC CHANGES AND PLANNING SCHOOL PLACES

Bath and North East Somerset has an ageing population and its need for secondary school places in the Greater Bath Consortium (GBC) has been reducing since 2003.

2.1 The School Organisation Plan 2003-2008

The starting point for the secondary reorganisation in Bath was the 2003 School Organisation Plan (SOP). At that point secondary school numbers were 5% higher than six years previously and it forecast a steady increase until 2003 before secondary pupil numbers would start falling.

This forecast was based on the decline in primary numbers which had already dropped by 4% since 1999. The same pattern in the secondary sector was expected to follow with the loss of around 555 pupils by 2008 (down to 10,500 secondary aged pupils in Bath and North East Somerset). This forecast has proved to be accurate.

2.2 Housing Developments and Pupil Numbers

Current known housing developments in the GBC area (those that are under construction or either have planning permission or are fairly advanced in the planning process) are calculated to generate approximately 7 secondary age pupils per year group in total spread over the next few years. In addition to this the Bath Western Riverside development is calculated to generate approximately 8.5 pupils per year group in total once all of the dwellings are built and occupied. The first phase of building has started and is expected to take five years to complete. Approximately 800 of the 1,900 dwellings are in Phase 1. Therefore approximately 2.5 pupils per year group are calculated to be generated in Phase 1 and the remaining six in Phase 2.

The majority of any further future new housing planned for Bath is expected to centre primarily on the three Ministry of Defence (MoD) sites in Bath at Foxhill, Ensleigh and Warminster Road. These sites are expected to deliver in the order of 1,000 new dwellings which could generate approximately 150 secondary age pupils in total, 30 per year group. Developer contributions can be sought in order to expand the existing schools in the city if projections indicate that all existing capacity will be taken up and that there will be no room for the pupils generated by the developments. If projections indicate that sufficient capacity exists in the secondary schools in the GBC then no developer contributions will be sought.

2.3 School Sizes and Surplus Places

The next table shows the size of Secondary Schools in Bath, number of places taken up and surplus places in January 2003.

GBC	Status	Net Capacity	PAN	Actual 11 - 16 Jan 2003	Actual 6th Form Jan 2003	Actual Total Jan 2003	Surplus Places Jan 2003	% Surplus Places Jan 2003
Beechen Cliff	Foundation (Boys)	1035	155	780	178	958	77	7.44%
Culverhay	Community (Boys)	837	154	487	61	548	289	34.53%
Hayesfield	Foundation (Girls)	1165	210	970	169	1139	26	2.23%
Oldfield	Foundation (Girls)	983	150	801	123	924	59	6.00%
Ralph Allen	Community (Co-ed)	1034	165	848	150	998	36	3.48%
St Gregory's	Voluntary Aided (Co-ed)	733	124	809	0	809	0	0%
St Marks	Voluntary Aided (Co-ed)	540	128	324	0	324	216	40.00%
		6327	1086	5019	681	5700	703	11.11%

In 2003 the difference between supply and demand of secondary places amounted to the equivalent of a whole school. In addition around 800 pupils travelled in to Bath from outside the Local Authority each day.

By October 2010 the situation had changed as shown below.

GBC	Status	Net Capacity	PAN	Actual 11 - 16 Oct 2010	Actual 6th Form Oct 2010	Actual Total Oct 2010	Surplus Places Oct 2010	% Surplus Places Oct 2010
Beechen Cliff	Academy (Boys)	1077	162	830	289	1119	0	0%
Culverhay	Community (Boys)	622	102	252	65	317	305	49.03%
Hayesfield	Foundation (Girls)	1184	210	920	259	1179	5	0.42%
Oldfield	Academy (Co-ed)	1015	192	745	77	822	193	19.01%
Ralph Allen	Foundation (Co-ed)	1079	175	892	214	1106	0	0%
St Gregory's	Voluntary Aided (co-ed)	800	160	812	0	812	0	0%
St Marks	Voluntary Aided (Co-ed)	513	102	256	0	256	257	50.09%
		6290	1103	4707	904	5611	760	12.08%

Surplus places had increased from 11.11% to 12.8% overall but there were marked variations between schools. Whilst four schools remained full, Culverhay School's surplus places had increased to 49% and St. Mark's had increased to 50%.

2.4 Year 7 Projection based on known numbers of children aged 0-11

Predicted Year 7 pupil numbers in Bath Secondary Schools over the next 10 years.

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Culverhay School	29	13	23	24	25	27	28	48	51	33	35
Oldfield	53	70	80	80	81	90	91	125	128	101	104
Hayesfield	172	168	168	167	167	171	171	180	180	178	179
Beechen Cliff	162	162	162	162	162	162	162	162	162	162	162
Ralph Allen	180	180	180	180	180	180	180	180	180	180	180
St. Gregory's	160	160	160	160	160	160	160	160	160	160	160
St. Mark's	40	40	42	42	43	47	47	65	67	55	57
Total	796	793	815	815	818	837	839	920	928	869	877

Key dates:

2011 – Culverhay School still boys only

2012 - First year that Oldfield can admit boys and Culverhay School still boys only

2013 - First year that Culverhay School can admit girls

The following factors and assumptions have been taken into consideration in preparing the table above showing possible pupil numbers in Bath schools over the next 10 years.

- 2.4.1. These figures are based on the assumption that Culverhay School will still be a boys only school for admissions in 2012. Also that it will become co-ed and able to admit girls from 2013.
- 2.4.2. In 2012 Oldfield will be co-ed and therefore an increase in applications is anticipated.
- 2.4.3. From 2012 Oldfield can admit boys so parents will have an additional choice alongside the traditionally popular Beechen Cliff, Ralph Allen and St. Gregory's and St. Mark's. Girls will have a choice between Oldfield and the traditionally popular Hayesfield, Ralph Allen and St. Gregory's and St. Mark's.

- 2.4.4. If Culverhay School was to become co-ed in 2013 it will be competing for pupils with the other six schools in the city at the same time as other organisational changes significantly alter the past pattern of provision in the city and present a new set of options for parents that were not available to them previously.
- 2.4.5. As Oldfield will be able to admit boys in 2012 it is anticipated that places will become available at Beechen Cliff where previously this school was oversubscribed. It is anticipated that these places will not stay empty however as pupils who may not have been able to obtain a place at this school in the past will be able to.
- 2.4.6. As a result of the federation of St. Mark's with St. Gregory's it is anticipated that places will become available at Ralph Allen where previously this school was oversubscribed. It is anticipated that these places will not stay empty however as pupils who may not have been able to obtain a place at this school in the past will be able to.
- 2.4.7. As a result of the above two factors, Beechen Cliff, Ralph Allen and St. Gregory's are expected to remain full.
- 2.4.8. Numbers at St. Mark's are expected to rise gradually due to the positive effect of the Federation with St. Gregory's.
- 2.4.9. The 2018 - 2021 figures take into account the increased number of pupils expected in reception in GBC primary schools in September 2011. In 2009 the transfer rate of GBC resident pupils leaving Y6 and going into Y7 was 89.6% and in 2010 it was 85.5%. A mid point has been used in the projection.
- 2.4.10. The total number of pupils that come in to GBC schools from outside the GBC for who the LA is obliged to provide a place due to the admission arrangements of the schools (all St. Gregory's non-GBC pupils, 10% at Hayesfield (18) and 10% at Beechen Cliff (16)) was 106 in 2009 and 97 in 2010. A mid point has been used in the projection.
- 2.4.11. These figures relate to pupils resident in the GBC and other pupils from outside the GBC for whom the LA is required to provide a place (e.g. pupils at St. Gregory's). The figures quoted could be higher at some schools – mainly at Oldfield but also possibly at other schools - due to other out of authority pupils applying for a place at the school.
- 2.4.12. The projection assumes that the higher transfer rate of births going into reception in 2011 (98%) will be continued in 2012, 2013 and 2014. However this higher rate may not continue. (It was 93% in 2008, 93.5% in 2009 and 93% in 2010). Also, if more parents than

usual have chosen a place at a maintained primary school this year due to economic factors and the economy improves, it is possible that in seven years time a higher percentage may transfer to a non-maintained secondary school at Y7.

- 2.4.13. There is a possibility that applications for places at Culverhay School from girls may take a while to build up once the school becomes co-educational as girls may be uncertain about going into a school where the majority of pupils are boys. The same might apply to applications from boys for a place at Oldfield.
- 2.4.14. Pupil numbers are projected to remain low for a number of years up to admissions in 2017. For admissions in 2018 and 2019, numbers are expected to increase for a two year period and then reduce again for admissions in 2020 and 2021.
- 2.4.15. Any pupils generated from new housing developments have not been included in the projection (see Housing Developments and Pupil Numbers above).

3. SUMMARY OF THE PROCESS LEADING TO THE DECISION TO PROPOSE THE CLOSURE OF CULVERHAY SCHOOL

The problem of surplus places in the City of Bath goes back more than 25 years. In 1984 there were proposals to reduce the number of schools in the city from seven to six providing a total PAN of 908. The following history is summarised below and a flow chart to illustrate the current process of decision making in 2010 is provided in **ANNEX I**

3.1 School Organisation Plan Set out Key Principles for Reorganisation (2003)

The key principals for secondary school re-organisation were established by the Bath & North East Somerset (B&NES) School Organisation Committee (SOC) and set out in the approved School Organisation Plan (SOP) in 2003:

- Minimum intake to a secondary school should be four forms of entry.
- No secondary school without a sixth form should have fewer than 600 pupils.
- Ideally the maximum intake should be 240 pupils per year for an 11-16 school.
- No secondary school should ideally have more than 1200 students in Years 7-11.
- School 6th forms should be within a range of 80-500 students.
- No journey to school should take a primary aged child more than 45 minutes or exceed six miles. Journeys for secondary aged pupils should not exceed one hour 15 minutes or 10 miles.
- Surplus places should be removed.

- Increases in school places will be considered in the light of local need, not merely parental demand.
- The broad balance of denominational and non-denominational places should be maintained.

3.2 Survey of parental views on the future of secondary schools in Bath (September 2004)

A survey from a private research company was commissioned to find out more about parents' views of secondary education in the area and their preferences for the future. The main findings were:

- A clear majority preferred mixed schools (60%), about a quarter (26%) preferred single sex schools.
- 33% said they would prefer a non-denominational school, 32% would prefer Church of England (CE) and 9% Catholic.
- 84% saying they preferred an 11-18 school.
- Only 55% rated the choice of secondary schools in Bath as good which indicated that there was still room for improvement.
- The most important factors in determining parents choice of school, was its reputation (74%). Academic results were the second most important factor (55%). Single sex schooling came in ninth place, polling only (11%).

3.3 Review of Secondary School provision in Bath by the Overview and Scrutiny Panel (September 2005-January 2007)

A review of secondary provision by Children and Young People Overview and Scrutiny (O&S) Panel was undertaken at the request of the Council Executive and the School Organisation Committee. Its report was considered on 8 January 2007 with the intention of informing Council policy and decisions on the future shape of secondary education across the area.

The Panel concluded that the seven secondary schools in Bath still had too many surplus places and only six schools were needed. Also there were too many single sex places. Its vision for the long term was:

- To promote high educational standards, improved attendance and standards of behaviour.
- To promote the effective use of resources.
- To seek to provide high quality facilities for young people, staff and communities.
- To make the choice of a local school the natural and easy choice for parents/carers whilst recognising the wider area served by Church schools.
- To ensure that a school is within reasonable walking or cycling distance of home and/or reasonably accessed by public transport.

The Panel also specified priorities for decision-making:

- All children should have a local, easily accessible, high-performing school.
- Pupils should be able to walk/cycle or easily use public transport to attend their school/college as far as possible.
- To retain sufficient denominational places for pupils who wish it.
- To respond to unmet demand for co-educational places within the Greater Bath Consortium (as identified in the 1999 and 2004 survey of parents), whilst retaining some single sex schools.

3.4 Strategy for Change agreed by Cabinet and Council 2008

Much discussion and debate by stakeholders followed. This resulted in the overall Strategy for Change. This was agreed unanimously by full Council in March 2008 and the Cabinet then approved specific proposals for Bath in May 2008. These included the proposed closure of Culverhay School but with the school being replaced by a co-educational school or academy on the existing site (south of the city). It was also proposed that both Oldfield and St Mark's schools should close to be replaced by a new co-educational school on one of the existing sites (north of the city).

3.5 Statutory Consultation on Closing Three Schools and Opening Two New Schools (March to May 2010)

The statutory consultation was launched on 31 March 2010 with 13,000 copies of the document being sent out to parents, staff and other stakeholders. It included forecasts for the next ten years which indicated that the GBC would require a maximum of 958 school places per year in six not seven schools (this figure included places for pupils from outside Bath and enough surplus capacity for any short-term variations). This would release around £1.5 million per year from 1500 empty places and increase co-educational places.

The consultation process closed on 28th May 2010. 72% of the respondents were in favour of reducing seven schools to six. However, some new developments occurred that were to have an impact and limit the scope for further options. Using new school legislation, Oldfield School had declared an interest in becoming an academy, which would remove it from local authority control. St. Mark's Church of England School and St. Gregory's Catholic College announced plans to federate and form shared post-16 provision (co-educational).

3.6 Cabinet Decision to Consult on Closure of Culverhay School (18th August 2010)

The Cabinet of the Council resolved to:

1. Support the Oldfield School to become a co-educational academy. This would increase co-educational provision and retain a school that had achieved an outstanding rating from OFSTED.
2. Support the federation of St. Gregory's Catholic College with St. Mark's School and create a joint sixth form. This would encourage higher educational standards and pupils retain access to co-educational faith provision.
3. Consult on the closure of Culverhay School without replacing it. This would remove a substantial amount of the surplus places and balance out the boys' places at Oldfield School.

3.7 Statutory Consultation on the closure of Culverhay School (24th September to 29th October 2010)

The proposal to close Culverhay School with no replacement school on the site was the specific subject of the formal consultation during this time. Respondents were also invited to put forward alternative options to closing Culverhay School.

Meanwhile, implementation of the Oldfield, St. Gregory's and St. Mark's decisions proceeded.

Of those people who responded to the consultation, 47% supported and 53% opposed the Council's broad approach to addressing the challenges in Bath, which included reducing the numbers of schools from seven to six. However, the majority of respondents were opposed to the particular proposal for closing Culverhay School (74%). Only 26% were in favour of Culverhay School closing.

3.8 Cabinet Decision to Close Culverhay School (25th November 2010)

Two other options emerged from the consultation process. One came from a parent group which proposed the retention of all seven schools in Bath but with each taking fewer pupils. This was not thought to be realistic since it did not meet the criteria of the secondary strategy and it could affect the ability of the other six schools to remain viable. It would also require the co-operation of their governing bodies to reduce their PANs as the LA was not the admissions authority for any of them.

The other came from Culverhay School which proposed that the school be converted into an all-through school for children aged 3-19 years old. Insufficient substance was provided for this option and it was not clear how

a two-form intake to the secondary phase could be viable. This proposal did not meet the strategy criteria and there was no evidence of endorsement from the relevant primary schools.

The Cabinet concluded that the only option that could address the key challenges was the closure of Culverhay School. It was agreed that a Public Notice of Closure should be issued and the responsible Cabinet member for Children's Services could determine the Notice after the six week representation period that was to follow.

3.9 Public Notice to Close Culverhay School (December 2010)

A public notice to close Culverhay School was issued on 16th December 2010. It included the specific steps that would be taken to close Culverhay School in a staged and managed way over three years including arrangements for alternative schools for pupils and smooth transfers. The Representation period finished on 27th January 2011 and the Cabinet Member considered all the representations on 23rd February 2011.

3.10 Single Member Determines Notice to Close Culverhay School (25th February 2011)

On 25th February the Cabinet Member decided to implement the Public Notice. The decision was then challenged and called-in for examination by the O&S Panel. The panel met on 21st March 2011 and agreed that the full Council should examine the decision instead. It was decided that it would not be appropriate for the full Council to meet to consider the call in during the pre election period..

3.11 Local Election (May 2011)

As a result of the local elections there has been a change in the political administration of the Council. The new Leader of the Council pledged to start work on reversing the plan to close Culverhay School.

3.12 Council Meeting (14th July 2011)

The first Council meeting after the local elections has been set for 14th July 2011. It will examine the Call-In of the decision to close Culverhay School. The Council may dismiss the call in or refer the decision back to the decision maker for reconsideration.. Following the full Council meeting, the Cabinet will meet to consider the future of Culverhay School. The next Cabinet meeting is scheduled for 14th July 2011.

4. CULVERHAY SCHOOL - THE BACKGROUND

Culverhay School has a history of uneven educational progress and a continuous decline in pupil numbers and popularity.

4.1 1994 OfSTED Report

The inspection of 1994 concluded that Culverhay School was a satisfactory school. The inspection identified assessment as a key issue for action together with the need to address over-staffing and non-specialist teaching. This issue is also highlighted in the Independent Review of Culverhay School Budget which is Annex 2 to this report.

4.2 1999 OfSTED Report

By 1999 the school had made significant improvement and OfSTED concluded that Culverhay School provided a good standard of education for its pupils in terms of both attainment and rates of progress.

4.3 2006 OfSTED Report

In 2006 OfSTED judged Culverhay School to be satisfactory. The effectiveness of the school was judged to be good for the main school (11-16) but inadequate for the sixth form. The Report identified the improvement of assessing pupils' work and the quality of teaching and learning, especially in the sixth form, as issues for action.

4.4 2008 Culverhay School became a National Challenge School

In 2008 the DfE introduced the National Challenge programme to support schools where less than 30% of pupils achieved the floor target of 5 or more GCSE's grades A*-C including English and Maths. Consequently, Culverhay School was designated a National Challenge School on the basis of its 2007 results. Additional funds were available to the school and a National Challenge Adviser was appointed to work with Culverhay School to develop and implement its Raising Achievement Plan (RAP). The school rose above the floor targets in 2008 and 2009 and, whilst it remained above 30% in 2010, the threshold was raised to 35%. In addition, schools are expected to meet the national average figure for 3 levels of progress in both English and Maths, so the school remains at risk.

National Challenge ceased in March 2011 but floor targets continue to rise. In 2012, it will rise to 40% and by the end of the Parliament it will rise to 50%. The current average across the system will become the new floor.

4.5 2009 - Latest full OfSTED inspection

A few months later in May 2009 OfSTED found that Culverhay School provided a good standard of education. It noted also that standards of education in the sixth form had risen significantly and were now good.

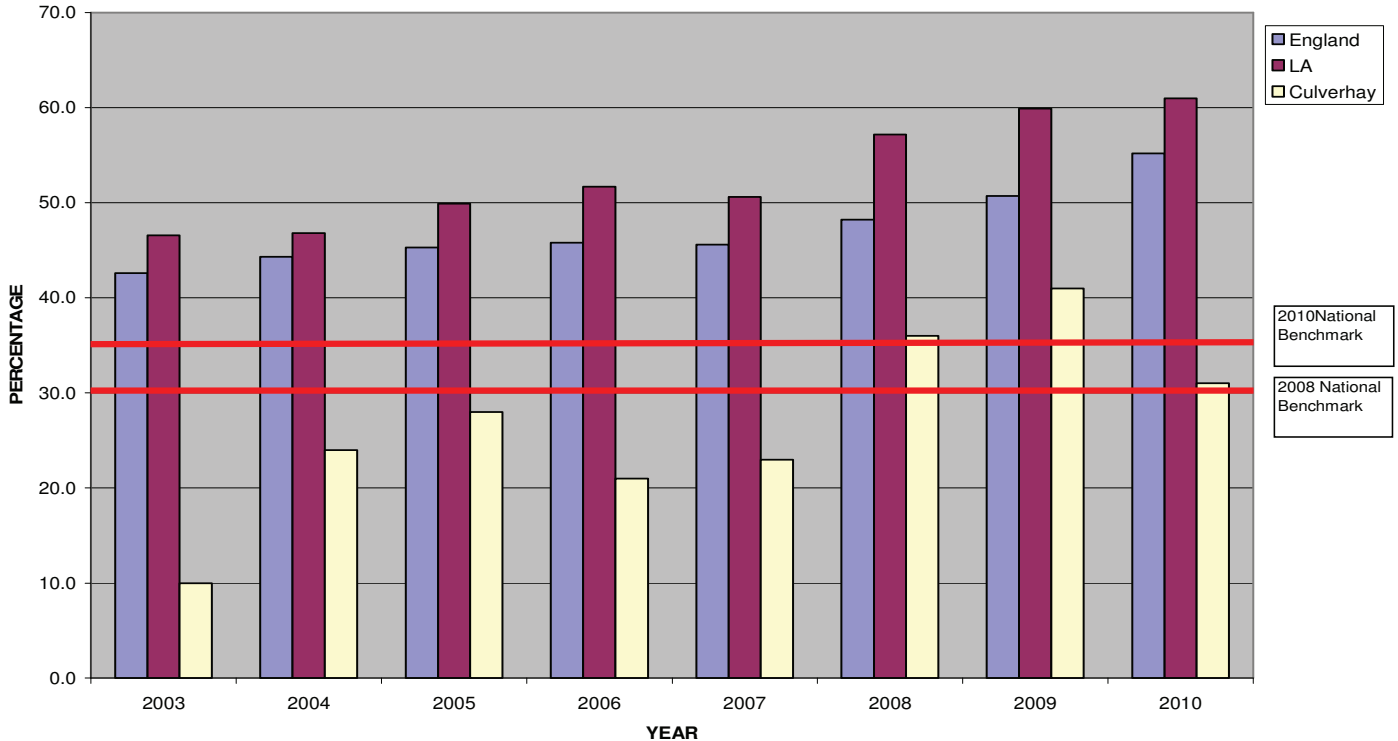
4.6 Standards of attainment on entry to Culverhay School

Standards achieved by pupils entering Culverhay School at 11 years old, are consistently below the national and LA average. The pupils attending the school include a higher proportion of pupils with Special Educational needs than in other Bath schools. In 2010 just over 30% of pupils at Culverhay School had Special Educational Needs compared to 21.7% nationally.

4.7 Standards of attainment at Culverhay School for pupils aged 16

Standards of attainment for Year 11 students (GCSE results) have been well below national and Local Authority averages throughout the last 10 years. This is shown in the graph below.

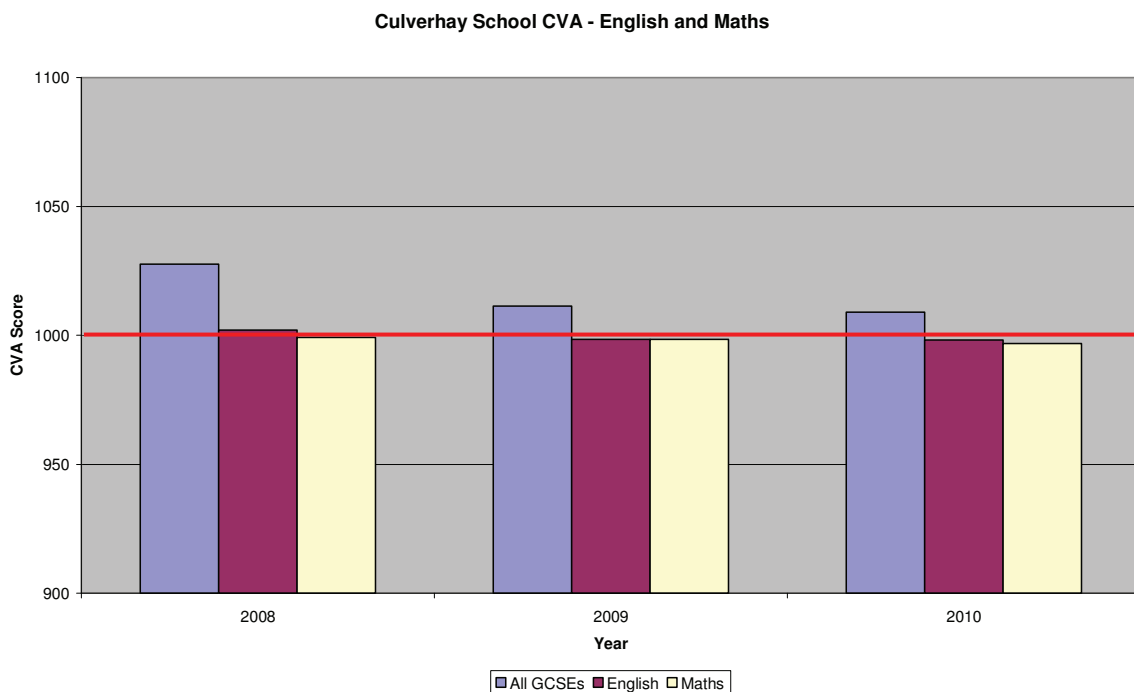
PERCENTAGE 5+ GCSE'S A*-C (including English and Maths)



4.8 Levels of Achievement

Overall pupils' standards are low when they enter Culverhay School. By the time they reach the age of 16 and take their GCSE's standards are satisfactory. Therefore they make good progress during their time at the school.

The graph below shows the national average for pupils progress from age 11 to age 16 for all GCSEs, for English and for Maths when each pupils background is taken into account. For example those pupils who have free school meals or move schools make less progress than other pupils and this is taken into account in this graph. Scores above 1000 points mean that pupils do better than average and below 1000 worse than average.

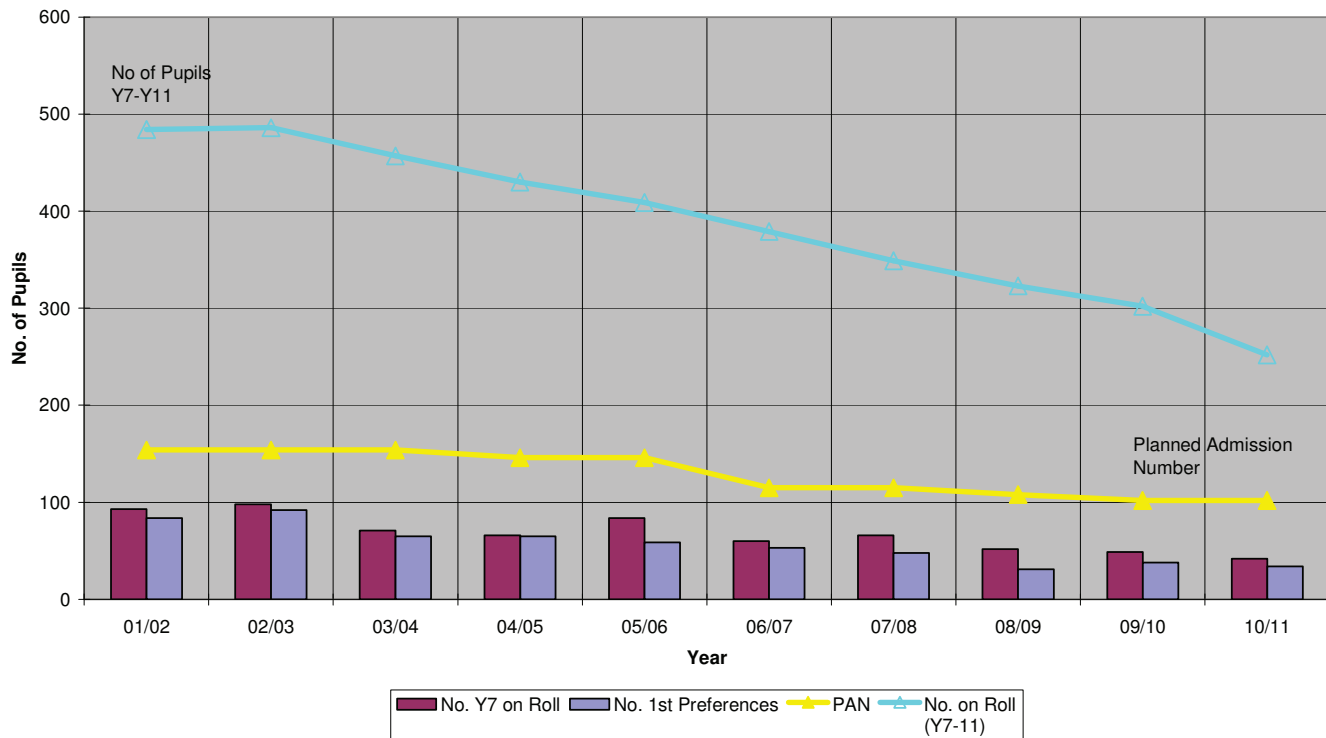


4.9 Parental Choice and First Preferences

Culverhay School has in recent years been a small school. In 2002 it had only 484 pupils in Years 7 to 11. Since then the number of pupils has gradually decreased as the next graph shows and this mirrors the decline in pupil numbers in the GBC. By 2011 there were only 252 on roll in years 7 to 11.

The number of parents' first preferences has also reduced over time indicating a decline in popularity.

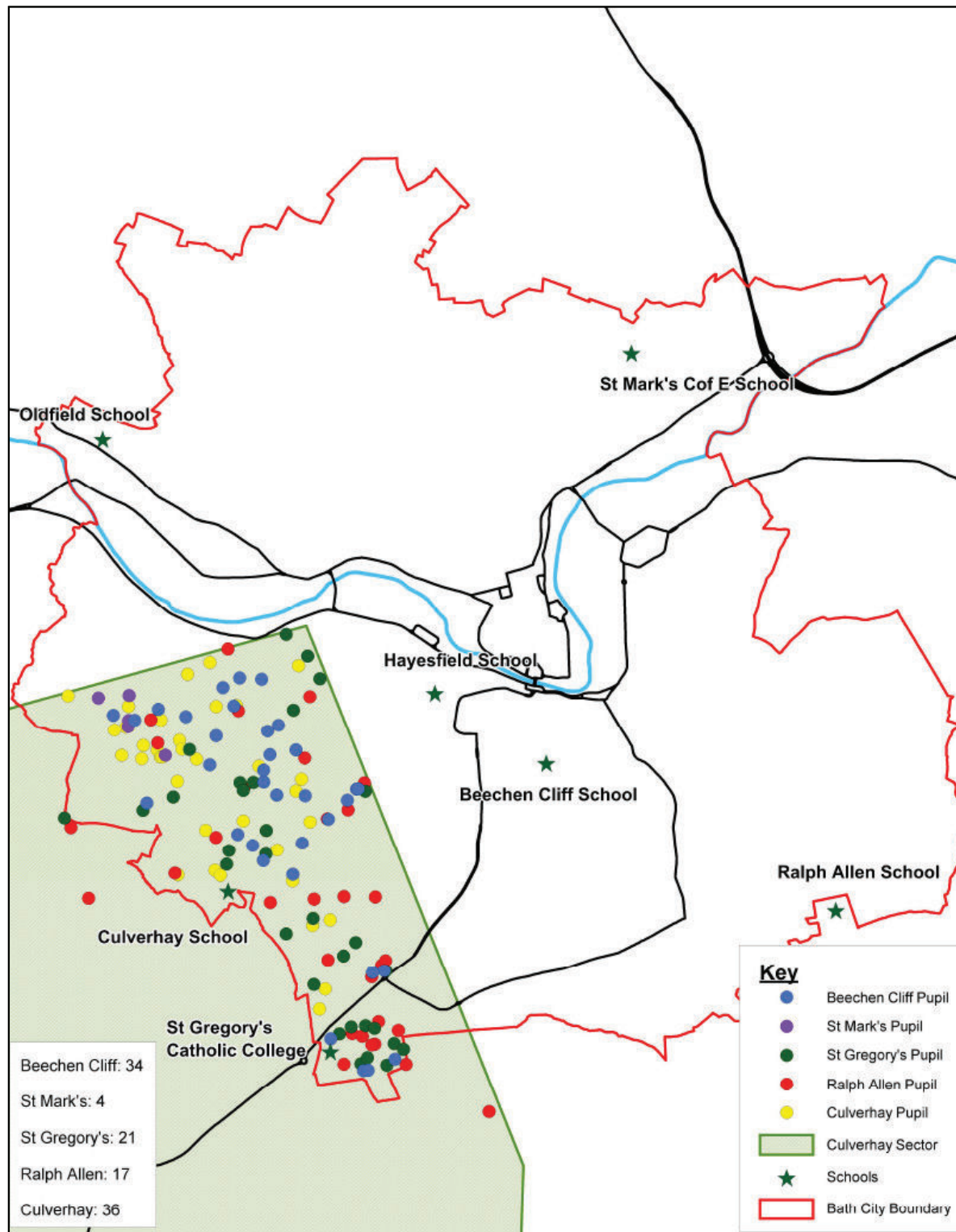
School Roll and 1st Preferences 2001 to 2011



Pupil admission data shows that many parents prefer to send their boys to schools further away. The map opposite provides a snapshot of September 2009 where boys who lived closer to Culverhay School than any other boy's school went to school.

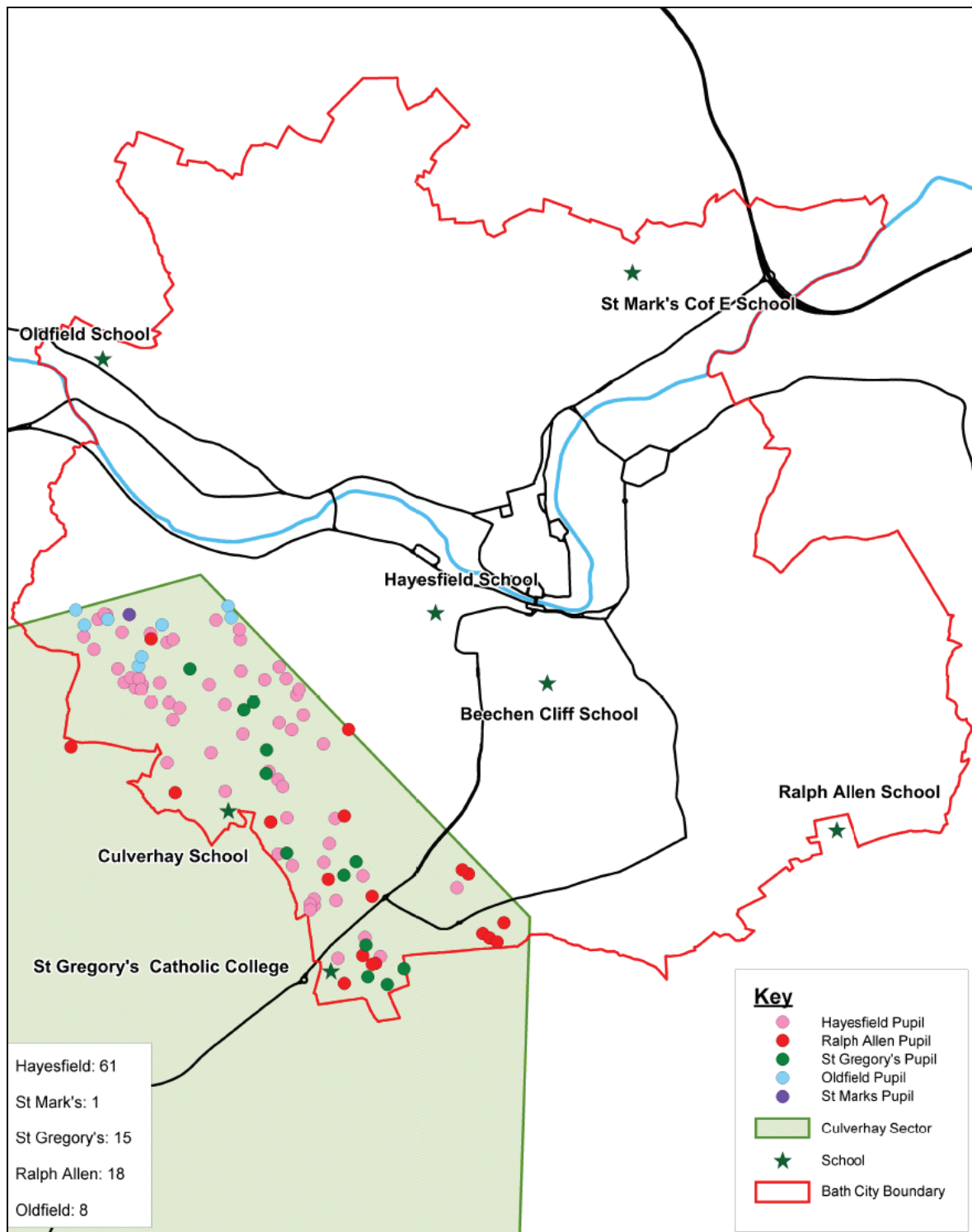
The map on the following page shows where girls who lived closer to Culverhay School than any other girl's school went to school.

Y7 - Male Pupils closer to Culverhay School 2009



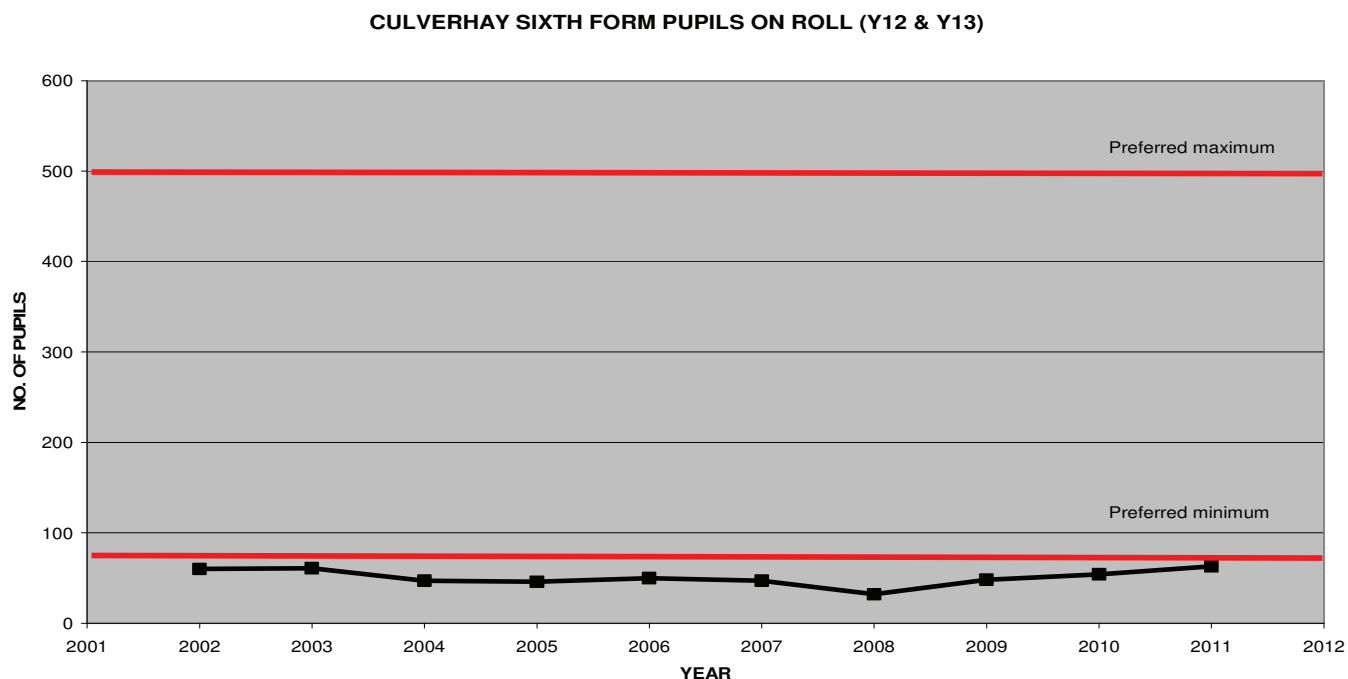
As can be seen, of the 112 boys in the Culverhay School catchment many chose to go further away to attend other schools, 34 attended Beechen Cliff (boys' school); 17 Ralph Allen (mixed school) and only 36 Culverhay School.

Y7 - Female Pupils closer to Culverhay School 2009



4.10 Post 16 Numbers

In 2006 OfSTED concluded that post 16 provision was inadequate but since then standards have improved significantly. However, Culverhay School's post 16 student numbers have remained very small over the last 10 years, as can be seen from the graph below. The small size of the Sixth Form limits the number of courses Culverhay School can offer, giving less choice for students than in other schools.



4.11 Budget and Staffing

A school's budget is allocated mainly on the number of pupils who attend the school. As Culverhay School's pupil numbers have declined so has this element of the LA budget. Low pupil numbers has triggered the small schools support element of the formula which has become a significant proportion of the school's income as the next table shows. In addition to the LA budget, the school has received additional funds such as grants and funding for pupils with Special Educational Needs.

Culverhay School Budget, Spend & Balance for last 11 years				
	Small School Support LA Budget element	Total Budget	Total Spend	Grand Total Balance
2000/2001	£37,340	£1,747,309	£1,704,529	£42,780
2001/2002	£35,657	£1,791,316	£1,765,025	£26,291
2002/2003	£41,026	£1,903,515	£1,909,804	(-£6,289)
2003/2004	£52,113	£2,040,041	£2,013,169	£26,872
2004/2005	£87,684	£2,026,044	£2,047,612	(-£21,568)
2005/2006	£125,621	£2,129,317	£2,160,767	(-£31,450)
2006/2007	£131,426	£2,250,572	£2,111,201	£139,371
2007/2008	£166,416	£2,304,924	£2,188,942	£115,982
2008/2009	£207,960	£2,355,501	£2,285,919	£69,582
2009/2010	£233,660	£2,368,603	£2,290,364	£78,239
2010/2011	£255,977	£2,536,455	£2,367,474	£168,981

5. THE RISKS AND OPPORTUNITIES IF CULVERHAY SCHOOL WERE TO BE CLOSED

5.1 Community Identity and Cohesion

Some areas of the south-west part of the city of Bath are acknowledged to have higher levels of socio-economic disadvantage. As such, the local school can be a valuable source of opportunities or a means to supporting vulnerable people who have relatively higher challenges in terms of education and employability.

In closing the school, some people will be unable or unwilling to travel further for facilities and opportunities for interested parties to work with the community could be reduced. In particular, the continued access to the sports hall and the swimming pool may be restricted or removed if the school is no longer responsible for the maintenance of the facilities.

On the other hand, the Culverhay School premises and site could be transferred to another party and continue to be used for the delivery of services. For example, an alternative purchaser of the site may also be a service provider and they may choose to continue running the leisure and

sports facilities and offer other types of activity that match the needs of the locality. Alternatively, the council could choose to develop an alternative type of educational organisation that can be sustained by the local community. A closure of the Culverhay School in 2014 would make such a transition easier in procedural terms.

5.2 Travel to school

Boys in the locality who would have attended Culverhay School would be obliged to travel further to school. For those preferring single sex, boys' provision, the only option would be Beechen Cliff School. It is possible that not all boys in the Culverhay School locality would obtain places there due to admission rules related to distance.

However, the numbers are likely to be low as many pupils living close to Culverhay School already choose to travel further to attend other schools. The new Oldfield Academy is near and it will offer co-educational provision from September 2012. Boys would be able to travel there without difficulty. A co-ed Culverhay School may also attract boys who would have attended Ralph Allen and Beechen Cliff which will release more spaces for those seeking boys' only education from the Culverhay area.

Girls living nearer to Culverhay School than any other school have been unable to attend Culverhay School due to its single sex status. The closure of Culverhay School would not affect their travel to school journeys.

5.3 Parental Preferences and Diversity

The 2004 parents' survey revealed a need for more co-educational provision. The conversion of Oldfield School to a co-educational Academy increases choice and diversity for parents. If Culverhay School, were to close there would be less choice of secondary in the city.

School	Net capacity	PAN 2012		
Hayesfield	1184	180	Girls	Foundation
Ralph Allen	1079	180	Co-ed	Foundation
St. Mark's	513	102	Co-ed	Faith VA
St. Gregory's	800	160	Co-ed	Faith VA
Beechen Cliff	1077	162	Boys	Academy
Oldfield	1015	192	Co-ed	Academy
		976 <i>per year group</i>	5% Surplus	

5.4 Availability of school places

There is expected to be a slight increase in secondary pupil numbers in Bath from 2011 to 2017 with a small and short "bulge" in 2018 and 2019 needing a total of 976 places (928 plus 5% surplus) that would be available

without Culverhay School. Closure of Culverhay School would reduce the total number of schools from seven to six schools in Bath and reduce surplus places to around 5% (50 places) which is within the desirable range for urban areas.

5.5 Financial Risks and Possible High Cost of Redundancies

If Culverhay School were to be closed there would potentially be high redundancy costs in the region of £1 million. However, as all schools would benefit financially from the closure of Culverhay School it was agreed by the School's Forum that the estimated cost of £950,000 for any redundancies and early retirements arising from the closure programme, would be met by the Direct Schools Grant. This could be spread over more than one year.

The process of closing a school would create disruption for pupils and the maintenance of a viable curriculum would be difficult as pupil numbers fall. However, since the school has been under notice of closure since December 2010, a three year financial plan has been developed. The plan is financially and educationally viable due to the proposed phased transfer of pupil cohorts and a related reduction in staffing over three years. It is possible for the school to close in August 2014 with a modest surplus.

5.6 Staffing

If Culverhay School were to close this would potentially result in the loss of experienced teachers from the system. However, staff would be made redundant in phases and would be fully supported through the closure period. Every effort would be made to redeploy staff with the co-operation of the remaining secondary schools in the Authority although opportunities may be limited.

5.7 Educational Standards and Pupil Entitlement

With a known closure of the school, some teachers would leave and the numbers of pupils may reduce more rapidly than expected. As a result, there is a risk that educational standards may fall and the ethos of the school could be affected. It would be increasingly difficult to manage the school in these circumstances.

On the other hand, the school may not be able to reach the rising government floor targets. If the school were to be closed by the LA it would remove the threat of closure by the Secretary of State and mitigate the unfortunate consequences such a closure would involve for the pupils and the local community.

5.8 Premises and Capital Spending

With the closure of Culverhay School, savings would be made through reduced maintenance costs of the premises. It would also provide the LA

with access to additional resources. The vacant Culverhay School site could potentially provide a capital receipt in the region of £6-8 million. This could be used to improve the rest of the school estate over a period of years and would be helpful during a period when capital income is restricted.

6. THE RISKS AND OPPORTUNITIES OF CULVERHAY SCHOOL REMAINING OPEN

6.1 Community Identity and Cohesion

The continued existence of Culverhay School at its present site would be welcome to many. However, there is a risk that should the local community be unable to generate sufficient pupil numbers, it may not survive as a viable boys' school or as a co-educational school.

If the school remains open it would require investment in maintenance and repair of the building, particularly in relation to the facilities that are jointly used by the school and the community. At the time of writing, immediate remedial works for the joint-use facilities (swimming pool and the leisure centre) are needed, costing around £500,000. The future of the facilities depends on the overall strategic plan for leisure in the City which is regularly reviewed and subject to a contract with an external provider. It is not guaranteed that the facilities would be required in the long-term if improved facilities can be developed elsewhere in the city.

6.2 Parental Preference and Diversity

Culverhay School would initially remain open as a boys' school and any change to a co-educational school would be subject to a statutory process. It is probable that such a change would not be possible until September 2013.

The opportunity for Culverhay School to change its status to a co-educational school would increase diversity and could open the way for Culverhay School becoming a larger, viable school. However, since school rolls would be unlikely to increase until girls were admitted, it could take at least five years for the higher pupil numbers to work through the school and for the school to recover.

The school most likely to be at risk of losing some pupils if Culverhay School become a mixed school would be Hayesfield School as 60% of the girls who live closer to Culverhay School than any other school attend Hayesfield.

6.3 Availability of School Places

If Culverhay School were to stay open the current level of surplus places would remain the same. Even if the school roll increases over time, it is not expected that (given the other popular schools in Bath) Culverhay School would attract more than two forms of entry and it would therefore continue to have surplus places in excess of 25%.

6.4 Financial Risks

The projected number of pupils attending the school will determine its income and scope for employing staff. As predicting future pupil numbers is based on a large number of factors without certainty.

Two scenarios have been developed with the school to provide a picture of what the next five years might look like in terms of income and costs.

The first scenario is based on LA estimates of maximum pupil numbers. The second scenario uses Culverhay School's estimated intake. Both scenarios take into account the following factors:

- The school being co-educational from 1 September 2013
- All estimated formula and YPLA calculations have been based on 2011/12 figures.
- Staffing reductions in 2011/12 and in future years
- No redundancy costs included.
- No interest charges included in relation to cash allocations to cover the deficit balance.

The two scenarios are given in the following two tables.

Scenario 1. Estimated budget for Culverhay School from 2011/2 to 2015/6 based on the Local Authority estimates of maximum pupil numbers.

SCENARIO 1 LA ESTIMATE OF PUPILNUMBERS	2011/12	2012/13	2013/14	2014/15	2015/16
Est. September intake numbers	29	30	50	60	60
Est. Pupils exc. 6th form	252	224	199	199	211
Estimated Formula Allocation estimated pupil numbers exc. 6th form	1,598,670	1,525,883	1,450,640	1,406,667	1,481,565
Estimated 6th form	63	44	43	40	37
Estimated YPLA	339,613	222,995	211,389	190,742	171,143
Total Estimated Income (Formula & YPLA)	1,938,283	1,748,878	1,662,029	1,597,409	1,652,708
Costs	2011/12	2012/13	2013/14	2014/15	2015/16
Total estimated Income inc above	2,356,602	2,132,956	2,036,477	1,971,917	2,028,526
Est. Staffing Costs	1,994,115	1,831,095	1,771,923	1,763,984	1,769,416
Est. Non- Staffing Costs	581,145	491,087	467,282	467,282	467,282
In Year surplus/(Deficit)	(-218,658)	(-189,226)	(-202,728)	(-259,349)	(-208,172)
Surplus/ (Deficit) Brought Forward	168,981	(-49,677)	(-238,903)	(-441,631)	(-700,980)
Outturn: Cumulative Surplus/ (Deficit)	(-49,677)	(-238,903)	(-441,631)	(-700,980)	(-909,152)

Scenario 1 shows an in-year deficit for all financial years resulting in a cumulative deficit at the end of 2015/16 of £909,000 and an ongoing deficit of £208,000 per annum.

Scenario 2. Estimated budget for Culverhay School from 2011/2 to 2015/6 based on the School estimates of pupil numbers.

SCENARIO 2 SCHOOL ESTIMATE OF PUPIL NUMBERS	2011/12	2012/13	2013/14	2014/15	2015/16
Est. September intake numbers	27	50	80	80	80
Est. Pupils exc. 6th form - School	252	222	217	247	279
Estimated Formula Allocation School estimated pupil numbers exc. 6th form	1,598,670	1,525,128	1,468,096	1,638,774	1,826,001
Estimated 6th form - School	63	44	43	40	37
Estimated YPLA - School	339,613	222,995	211,389	190,742	171,143
Income: Total Estimated Formula & YPLA	1,938,283	1,748,123	1,679,485	1,829,516	1,997,144
Costs	2011/12	2012/13	2013/14	2014/15	2015/16
Total estimated Income inc above	2,356,602	2,136,271	2,062,203	2,215,734	2,386,802
Est. Staffing Costs	1,994,115	1,835,095	1,825,555	1,870,911	1,891,637
Est. Non- Staffing Costs	581,145	521,054	518,304	518,304	518,304
In Year surplus/(Deficit)	(-218,658)	(-219,878)	(-281,656)	(-173,481)	(-23,139)
Surplus/ (Deficit) Brought Forward	168,981	(-49,677)	(-269,555)	(-551,211)	(-724,692)
Outturn: Cumulative Surplus/ (Deficit)	(-49,677)	(-269,555)	(-551,211)	(-724,692)	(-747,831)

Scenario 2 shows the school manages an in-year deficit of £23,000 in 2015/16 but is anticipated to have a cumulative deficit of £748,000 at the end of 2015/16. This could take the school a further 15 years to clear the deficit if they repaid this at an estimate of £50,000 per year. It is likely the school would be on a deficit budget plan for approx 20 years in order to clear the deficit as long as pupil numbers are achievable and sustainable.

An independent review has been commissioned to support the school in determining a viable and cost effective timetable and curriculum. This review has been carried out by an officer of the Association of School and College Lecturers (ASCL) who is an experienced ex head teacher. The initial findings of this review are given as ANNEX II. The initial findings indicate that:

- The school has benefited from generous funding to date and this is unlikely to be sustained in the future.

- The school in its present organisational format is unsustainable.
- The school could potentially run with 50-60 students per year as long as high staffing levels, the management structures and the style of curriculum delivery are addressed.

Therefore, if the school stays open, there would have to be redundancies and these will have to be funded by the LA. These costs could be in the region of £500,000. New estimates are required in the light of any decisions the Governing Body may make following the independent report on the sustainability of Culverhay School.

In 2010/11 Culverhay School received £256,000 via the small school support element of the LA formula budget. However, there is a risk that this element would not be sustained when a national funding formula is introduced.

6.5 Staffing

Teaching and support staff would continue to be employed by the school. However, the staffing requirements would need to be managed in accordance with the budget and school curriculum. The independent report estimates that in September 2011 the school would be over-staffed by more than six teachers (20%). There is an immediate need to reduce staffing and to increase teacher contact time with pupils.

It is anticipated that early consultation would need to take place to reduce the numbers of staff in order to manage the budget deficit. Remaining staff would be required to work flexibly and develop/acquire new skills to ensure the school meets its operational requirements. Teaching staff would need to develop a broader range of subject specialisms to support the curriculum. Additional training would be provided to facilitate the change to job roles.

6.6 Educational Standards and Pupil Entitlement

There is a risk that the school would be unable to reduce staffing and change its curriculum delivery and raise educational standards. The 2011 Year 7 entry is likely to be less than 30 students and may require teaching as a single class for much of the time. This would present a significant challenge to meet the needs of a wide range of abilities.

6.7 Premises and Capital Spending

If the school remains open, the costs for maintenance and refurbishment over 10 years are estimated to be £700k with a total of £250k required in the next three years to address the most pressing problems. It would also be necessary to undertake adaptations to accommodate girls such as the provision of toilets and shower facilities. These have been estimated at £200,000.

KEY REFERENCES

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- Equalities Impact Assessment Updated, April 2011.
- Risk Assessment.
- B&NES LEA Data Annexes, SQW Consulting, May 2010.
- OFSTED reports
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Section 5 Inspection, 17-18 May 2006, Inspection No. 278175
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GLOSSARY

ACADEMY

Academies are publicly funded independent schools, free from local authority and national government control. Freedoms include setting their own pay and conditions for staff, freedoms concerning the delivery of the curriculum, and the ability to change the length of their terms and school days.

CAPITAL FUNDING

Money for buildings and specific time-limited purposes.

CO-EDUCATIONAL

A school that has both boy and girl pupils.

CVA

A measure of pupils progress taking into account a number of factors such as whether they have free school meals or move schools. Average progress is measured as 1000. The coalition government has decided not to continue using this measure on the grounds that taking account of the fact that for example free school meals pupils do less well than other pupils is likely to lower expectations of what those pupils are capable of.

DSG

Dedicated Schools Grant - this is the overall sum of money which can only be distributed to schools according to an agreed local formula. The formula is developed and agreed with the local Schools' Forum.

DfE

Department for Education - the government department responsible for education and children's services.

FOUNDATION SCHOOL

A foundation school is a state-funded school in which the governing body has greater freedom in the running of the school than in community schools. Foundation schools were set up under the School Standards and Framework Act 1998 to replace grant-maintained schools, which were funded directly by central government. Grant-maintained schools that had previously been voluntary controlled usually became foundation schools. The governing body employs the staff and has responsibility for admissions to the school, subject to rules imposed by central government. Pupils follow the National Curriculum. Some foundation schools, also called trust schools, have a foundation or trust that owns the land and buildings. Otherwise the land and buildings are owned by the governing body.

GBC

Greater Bath Consortium

KEY STAGE

A Key Stage is a stage of the state education system in England, Wales, Northern Ireland which was introduced by the Education reform act in 1988. The knowledge

and skills expected of students at various ages is defined in each stage and targets for achieving them are set by government. The stages are as follows:

- Key Stage 1: Years 1 to 2 (5–7 years old) – KS1.
- Key Stage 2: Years 3 to 6 (7–11 years old) – KS2.
- Key Stage 3: Years 7 to 9 (11–14 years old) – KS3.
- Key Stage 4: Years 10 to 11 (14–16 years old) – KS4.
- Key Stage 5 (more commonly referred to as Sixth Form): Years 12 to 13 (16–18 years old) – KS5. .

LA

Local Authority.

OfSTED

Office for Standards in Education. Body responsible for inspecting schools.

STATUTORY PROPOSAL

When a local authority is contemplating a change to the character of an individual school or a group of schools it has to follow a process which is laid out in law and includes publishing the intended reorganisation and consulting with the public about it. This process is referred to as a Statutory Proposal.

REVENUE FUNDING

Funding which is continuous and used for ongoing costs such as salaries.

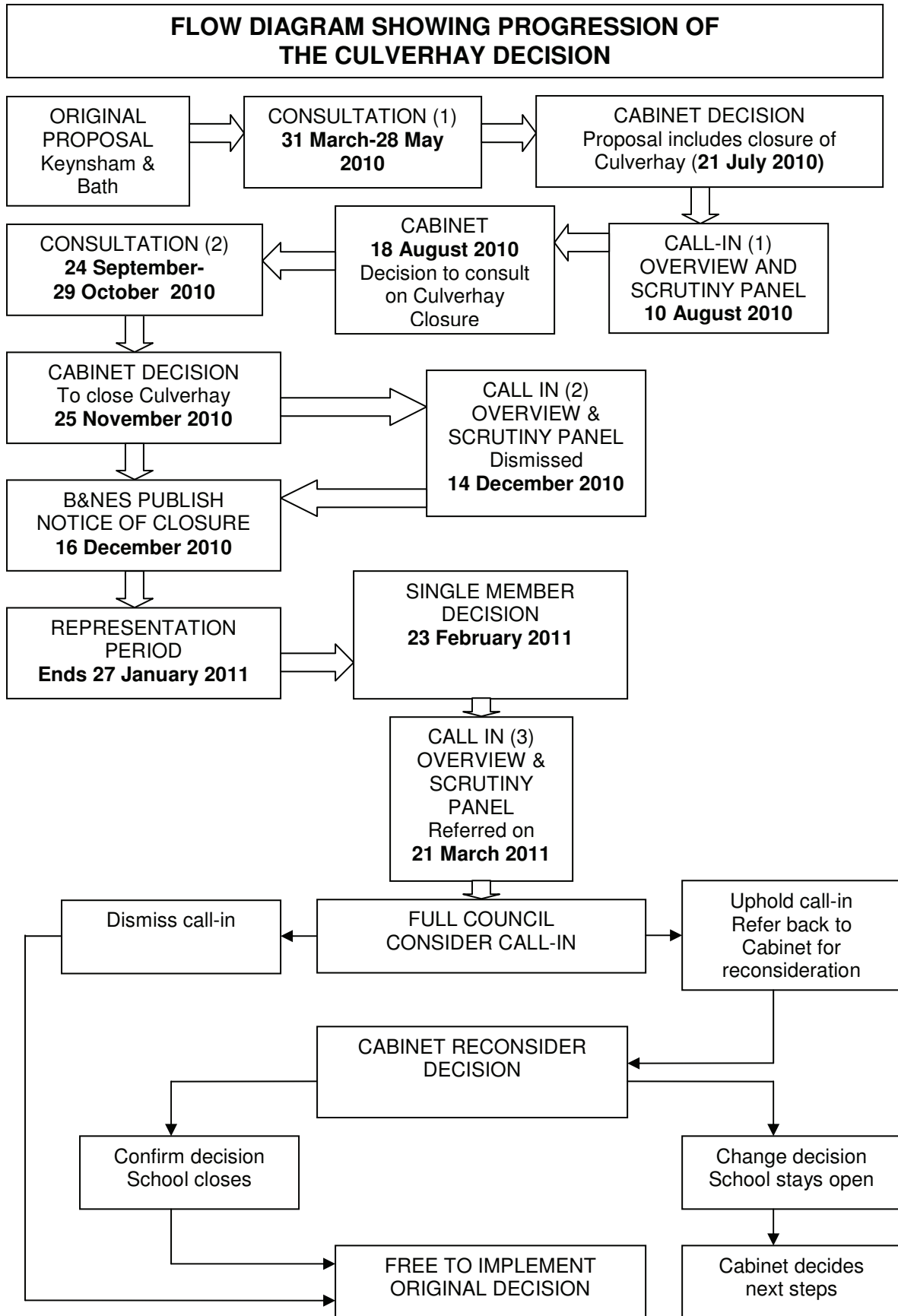
SURPLUS PLACES

Each school has a published admission number (PAN) for each year group. This number is based on the size of the premises, the numbers of pupils in the area and the different types of schools in the area. The objective for any authority is to provide sufficient places for the number of pupils who live there. When there are more than 10% spare places in schools, the vacancies are referred to as surplus places. It is considered to be an inefficient use of public money to run too many surplus places in schools.

SPECIAL EDUCATIONAL NEEDS (SEN)

This is a specific term with an associated set of definitions that indicate where specific pupils should receive additional help and resources. The 1981 Education Act opened up this range of entitlements and ways of working. Since then, its provisions have been supported by the 1995 Disability and Discrimination Act (DDA) and the 2002 Special Educational Needs and Disability Discrimination Act (SENDDA).

ANNEX I



ANNEX II

Interim Independent report on the Sustainability for Culverhay School in respect of strategic Financial, Staffing and Curriculum matters.

1 Introduction:

This report was commissioned by Bath and North East Somerset LA in conjunction with the Head and Governors of Culverhay School to gain an independent view on the future sustainability of Culverhay school in terms of finance, staffing and curriculum following the “Call-in” of the decision to close Culverhay school. This commissioned service has been provided by the Management and Professional Services branch of the Association of School and College Leaders, the leading professional association for secondary school and college leaders. The work has been carried out by David Snashall, an experienced but recently retired secondary headteacher and now part-time officer of the Association.

2 Scope

This is a preliminary report, using data gathered on a one-day visit to the school. Interviews were held with senior leaders and governors. Data was also made available from the officers of the Local Authority. The data provided included a LA and a School estimate of future pupil numbers which are non-evidences and may be both at the higher end of expectations.

3 Model of sustainability

Recent work by ASCL has developed some simple parameters to aid school leaders to take strategic decisions about planning their spending, staffing and curriculum. It is emphasis that these parameters should be a starting point for taking strategic decisions in the local school, but they have the benefit of providing a model at a time of financial uncertainty. These parameters have been shown to work in nearly every situation and provide the linkage from available funds, through staffing, to the type of curriculum that can be offered. The underlying parameters of this model relevant to Culverhay’s strategic direction are:

- a) The 60/20/20 guide: This indicates that spending for sustainable future should be in proportion of: 60% teaching staff; 20% support staff; 20% other costs
- b) The 0.8 deployment guide. This indicates that the overall teaching staff deployment contact ratio should be 0.8. This is the proportion of the available teacher time that is spent teaching in the classroom. Teachers are entitled to 0.1 planning, preparation and assessment time, and leaders entitled to management time. Together, in sustainable schools, the total of non-teaching activity should not exceed 0.2 of the time available

Once these parameters point to the staffing affordability, the framework for the curriculum offer then becomes clear.

ANNEX II

4 Historic situation

4.1 The 60/20/20 guide

A quick analysis of spending over the past couple of years show that the school is not vastly variant from the 60/20/20 guide. Support staff spending is slightly high. This indicates that having been given the budget the governors have done a good job in managing the proportions and have managed the decreasing numbers of students well. However, the funds available to the school have been very generous:

- the school has benefited disproportionately from grants
- the school has had National Challenge funding
- the school has had as had a very generous allowance for being a “small school” (about £1800 per student per year compared with the BANES average)
- the school has benefited from the falling roles situation and BANES funding policy. For example if the roll has fallen by 30 between academic years, the school has benefited from full funding for a financial year for those 30 students but their expenditure has only been for 5/12 of the year. Because the governors have managed staffing well, this has added typically £100,000 per annum over what the school “should” have.

All of these additions are unsustainable, and the future model for funding the school regardless of the governance arrangements, need to be based on sustainable pupil-formula based spending. Staffing is unnecessarily high because of these unsustainable funds.

4.2 The 0.8 deployment guide

This seems never to have guided the deployment of staff and the current level of 0.68 will be amongst the lowest in the country. The difference indicates the volume of professional teaching staff time not used for teaching. There are usually two sources of this – an overgenerous management structure, and teachers not using all the time they are employed for in the professional activity of teaching. In Culverhay’s case both these elements are present. Simply having too many teachers also affects this ratio, and whilst this is now the case, it seems not to have been historically so.

4.3 The Curriculum

The curriculum has provided all that is required by the National Curriculum. The Key Stage three curriculum has gone further and offered (for example) two languages. The core nature of the curriculum in KS3 generally means it is independent of student intake, provided that the student cohort arrives in viable sized groups (for example 25, 50 etc). The KS3 curriculum offer, or its structure in groups, has not been changed as student numbers have dropped leading to some very small groups, and over-generous staffing. At Key Stage 4, it is possible for students to follow the English Baccalaureate subjects, and other combinations required by statute, but there is minimal choice compared with most secondary provision. The school has been working in partnerships with the FE College and other schools to try and address this, but the number of students taking up these offers is small. Curriculum delivery in both these key stages is traditional and class based.

Post 16 the school offers some very successful OCR Nationals, which are taught imaginatively with a strong emphasis on independent learning. Such a model often provides a stimulus and then requires students to explore the material in groups and/or with coaching. The A level offer is poor, not

ANNEX II

viable and even though steps have been taken to work with other schools to create a better offer, such working is minimal. It is not a good environment for successful A level learning because choice is so limited.

5 Current Situation

5.1 The 60/20/20 guide

Teacher staffing for this financial year is approximately 60% of income, non-teaching staff at 25% and other spending at 25%. The overall spend is 109% of income – ie a planned deficit.

However, the budget share is enhanced substantially by a small school's grant, and other grants that would not be sustainable. A conservative estimate suggests that £350,000 falls into this category, which then makes the income base closer to £2.0m, and then teacher costs become 71% of income, non-teachers 30% and other costs 29%, making an overall spend of 130%. This is totally unsustainable. The matter is worse, because this year's income is based on 315 student, where the September 2011 roll is likely to be 272.

Further analysis is needed to identify exactly how the "school small" funding has been spent by the school and whether this represents value-for-money in respect of staffing levels, curriculum or contribution to the fixed costs associated with the over-sized building

5.2 The 0.8 deployment guide.

For September, the school currently has 27.2 teachers. With the timetable cycle in use this gives an availability of 1360 Teacher periods for the timetable. With the current curriculum planned, which is generous in its allocations and has mainly small group sizes, the requirement is for 820 teacher periods. This gives a deployment ratio of 0.60. This will make the school one of the most generously deployed in the country.

The current management structure gives a non-contact total 393 teacher periods – this is very generous. For a staff of 27.2 with 0.8 deployment one would expect this figure to be 272 periods. To get 820 Teacher Periods, with 0.8 deployment, 1025 teacher periods need to be available. This means that there is currently (1360-1025) 335 teacher periods in excess, or 6.7 teaching staff. Removing these staff would lead to a staffing establishment of 21.5. This is still an overall pupil-teacher ratio of 13:1 which is well below typical figure of 17: 1 The disparity between these figures indicates the very generous nature of the present curriculum structure. Any reduction of current staff needs to take into account the needed skill set and specialist knowledge for the future curriculum and teaching & learning styles.

The staff deployment to post 16 courses is in higher proportion than funds generated.

The large leadership group for the size of schools also takes up significant non-teaching time (as well as a number of high salaries): it would normally be smaller in a 272 pupil school.

5.3 Curriculum

The curriculum proposed for the coming year is identical to the Historic situation. There is no immediate impact of the very small year group in Year 7 because this will be treated as one, mixed ability group throughout.

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6 Future situation

6.1 The 60/20/20 guide

There is a major risk that the fixed nature of the “other” costs can put the school at risk. The teaching costs can be scaled to the 60% and with the right skill set of staff and approach to the curriculum provide sufficient staffing for exciting and challenging learning opportunities. Likewise the 20% for support staff can easily be scaled from the present situation and provide an appropriate support for the school business function and the support of learning. However, with both these areas, decisions need to be taken urgently to reduce from the present situation to match the current student population – this population should be at a low point in September 2011 and should maintain and then rise over the next few years with the threat of closure now removed. The small year group in the 2011 entry will continue to make the school have increased risks to its viability and sustainability for the next 7 years.

The overall income is likely to fall because of reduction of grants and the current fiscal climate. There are significantly increased costs for employers in the pipeline. A national funding formula could remove the local variations for supporting small schools. All of these put the school at financial risk, not because of the ability to scale the school to student numbers, but because of fixed costs.

In making plans the school needs to ensure that it fully understands that funding which comes by virtue of “entitlement” and that which is there to ensure support for its size (or other specified activity) and account for this additional funding clearly. This equally applies to post-16 funding.

6.2 The 0.8 deployment guide

Once the leadership, management and general staffing structure has been revised, this guide point can be worked towards with little risk to the current or future curriculum. It is unlikely that whilst a small school the 0.8 will ever be sustained, but the school could easily be able to operate in excess of a 0.75 deployment. Effective use of part-time staff could be used to provide specialism within minority areas for the curriculum, and all teacher appointments need to provide for multi-subject teaching. The curriculum is likely to need a different skill set for its teachers than currently in place and there will need to be active work towards both training existing staff and making good appropriately skilled staff appointments (as the school hopefully expands).

6.3 Curriculum

The current curriculum is unsuitable for the future needs of the school. The key issues are breadth of choice and learning approaches, emphasising practical approaches and independent learning. There is some good practice in Post-16 in the OCR courses which can be built upon for an effective curriculum structure and delivery methods in the rest of the school.

Matters for this full curriculum review should include:

- Expanding the breadth of choice at Key stage 4 and post 16 by allowing students easier access to other schools and colleges in collaborative arrangements.
- Using widely the “stimulus and coaching” methods of curriculum delivery to allow multiple courses to be followed under the supervision of the same member of staff
- Limiting more traditional class teaching to only being used only where there are sufficient numbers to make it a worthwhile experience

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- Making greater use of both independent learning and per-to-peer collaborative working
- Focussing on courses that young people do well in – ie practical learning
- Creating a curriculum specialism building on what the school does well. The lack of a practical based STEM (Science, Technology Engineering and mathematics) provision in the area may make an obvious choice
- Creating a Key Stage 3 curriculum in which the skills needed for the different type of learning needed at Key Stage 4 are taught and nurtured
- Implementing changes to a more individual KS 4 curriculum by 2014 at the latest when the very small year group enter the key stage, when mixed-age learning will be essential to allow for breadth of choice
- Revising post 16 A-level studies to give greater choice, or to concentrate on the OCR Nationals (or similar) which students benefit from greatly.

7 Student numbers and sustainable structures

Even with going co-educational there is little hard evidence that the school will rise above 2 form entry from its local community alone. A school of this size in the current financial parameter is viable so long as it manages its cost extremely carefully. With the declared government aim of introducing a national funding formula, coupled with current fiscal constraints, sustainability is put at risk. There are actions the school can undertake to reduce the risks of becoming unsustainable, which include:

- Creating an “all through” school in conjunction with local primary provision – this can reduce the type of leadership & management costs and premises costs that are needed in a small school. (It does not affect teaching costs or provision but reduces the risk of the teaching part of the budget being “raided” to provide fixed costs.)
- Creating a “Unique Selling Point” that will attract students from outside the immediate community to benefit from a particular approach to learning that suits their needs. The curriculum suggested in the above section, focussed on practical learning, a “stimulus and coaching” approach and the STEM subjects would fulfil such uniqueness
- Complete rebranding of a “new” Culverhay school, looking in particular at corporate image, the public face of the school, and the use of the rooms and resources

All of these matters are rightly for the Governing body, but without tackling them and remaining with current approaches makes the risk to the school’s sustainability unacceptably high.

8 Conclusions

1. **The school in its present format is unsustainable, and is in deficit despite very generous funding.**
2. The school has demonstrated in the past that it is capable of matching available funds to affordable staffing levels, and then to a curriculum that uses those staffing levels.

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3. The school does not seem to have separated “entitlement funding” (the same for each school) from bonus funding in the form of small school allowance and potentially unsustainable grants. It must do so as a move towards sustainability against the background of an impending national funding formula and know exactly what it can afford from the basic level of funding. Without a full analysis of premises and other fixed costs related to income streams it is impossible to analyse whether this can fit within the sustainable 20%. This needs to be done urgently.*
4. **Assuming fixed costs do not create too big a proportion, there is no reason a school running at 50 to 60 students per year should not be sustainable providing the funding and staffing allocation guidelines formulae are followed. However, it would be virtually impossible to do this with a conventional staffing and curriculum structure, or traditional curriculum delivery.***
5. There is some “cross funding” from pre-16 (LA) to post 16 (LSC/YPLA). A first analysis suggests that this may be a significant drain on costs.*
6. **The staffing levels are significantly high**, and for September 2011 the school is overstaffed by over 6 teachers (20%), even accepting the current generous timetable structure. Non-teaching staffing is also significantly overstaffed. This is an immediate need, and further reductions may be needed for sustainability.*
7. **The leadership structure is significantly inappropriate to the size of the school.** This must be reduced for future sustainability. Low student numbers often mean that necessary leadership and management costs are disproportionately high: greater student numbers, or having a singly led and structured “all through” school usually enables sustainability.
8. **The teacher management structure is vastly over capacity.** There are currently only three teachers who do not hold a management post and hence teach a “full” timetable. This breaks the requirements of the national Teachers’ Pay and Conditions requirements for Teaching and Learning Responsibility (TLR) posts. This creates both excess spending and a reduction of teacher periods available for deployment. The school should re-structure its management layer immediately, and use some of the residual small-school funding to carry the costs of protection for teachers who lose their TLR responsibility.*
9. The curriculum structure has been appropriate for the size of school, but is not flexible to current changes in student numbers and it is very expensive. It has not been “sized” as numbers fall and it does not allow sufficient student choice. *
10. There has been some move towards partnership learning both at Key Stage 4 and Post 16. Partnership working to expand student choice needs to be expanded substantially and there is a role for the LA in to use its influence to enable effective partnership working.
11. Pre-16 curriculum delivery seems to be traditional and teacher dominated. This approach is not sustainable if there is to be an increase in student choice which is essential. Staff skills will need to be enhanced to enable individual student approaches, and most staff will need to be capable of enabling multiple subjects. *
12. The Post 16 curriculum delivery uses good approaches for mixed age teaching, and a “stimulus and coaching” model requiring student to work both in teams and independently. Such approaches are the key to making Key Stage 4 viable. There is an implication for the delivery of Key Stage 3 to ensure that students are skilled to work independently.*
13. The school as well as moving co-educational should develop a unique character (Unique Selling Point) to attract and provide an appropriate challenging educational experience for students

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outside its immediate community area as well as those living locally. The expertise of the school in applied courses suggests that a STEM (Science, Technology, Engineering, Mathematics) specialism linked to vocational /practical learning would be most appropriate.

- 14. Action on each of these points does not necessarily mean that the school will remain viable with a sustainable future when a national funding formula is introduced – however, it should move the school towards having sufficient student numbers and spending patterns have a significant chance of being sustainable.**

* indicates areas that need more work to get a full data-based view

David A Snashall

June 2011

Version 2

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Appendix 3

Equality Impact Assessment / Equality Analysis

Title of service or policy	Determination of the statutory Notice to Revoke the Notice to Close Culverhay School
Name of directorate and service	Children's Services
Name and role of officers completing the EIA	Helen Hoynes Children's Services and School Organisation Manager
Date of assessment	26 September 2011

Equality Impact Assessment (or 'Equality Analysis') is a process of systematically analysing a new or existing policy or service to identify what impact or likely impact it will have on different groups within the community. The primary concern is to identify any discriminatory or negative consequences for a particular group or sector of the community. Equality Impact Assessments (EIAs) can be carried out in relation to service delivery as well as employment policies and strategies.

This toolkit has been developed to use as a framework when carrying out an Equality Impact Assessment (EIA) or Equality Analysis on a policy, service or function. It is intended that this is used as a working document throughout the process, with a final version including the action plan section being published on the Council's and NHS Bath and North East Somerset's websites.

1. Identify the aims of the policy or service and how it is implemented.	
Key questions	Answers / Notes
1.1 Briefly describe purpose of the service/policy including <ul style="list-style-type: none"> ● How the service/policy is delivered and by whom ● If responsibility for its implementation is shared with other departments or organisations ● Intended outcomes 	Keep Culverhay school open in order to continue to deliver secondary school provision on this site. Work towards the school becoming co-educational at the earliest opportunity. Support the Governing Body in its aims for Culverhay to become an Academy. Culverhay school Governing Body and the LA at present. Culverhay school Governing Body and the successful Academy sponsor in the future. If the school becomes an Academy, responsibility for implementation will rest with the Governing Body and the Academy sponsor. To provide a financially viable secondary school on this site with good educational standards that delivers good educational outcomes for its co-educational pupils.
1.2 Provide brief details of the scope of the policy or service being reviewed, for example: <ul style="list-style-type: none"> ● Is it a new service/policy or review of an existing one? 	Existing decision to close Culverhay school and new proposal to keep the school open and for the school to become co-educational in the future.

	<ul style="list-style-type: none"> ● Is it a national requirement?). ● How much room for review is there? 	No Unknown, as the school may become an Academy in the future which would mean that any decisions on possible review would be for the Academy and not the Local Authority.
1.3	Do the aims of this policy link to or conflict with any other policies of the Council?	No.
2. Consideration of available data, research and information		
<p>Monitoring data and other information should be used to help you analyse whether you are delivering a fair and equal service. Please consider the availability of the following as potential sources:</p> <ul style="list-style-type: none"> ● Demographic data and other statistics, including census findings ● Recent research findings (local and national) ● Results from consultation or engagement you have undertaken ● Service user monitoring data (including ethnicity, gender, disability, religion/belief, sexual orientation and age) ● Information from relevant groups or agencies, for example trade unions and voluntary/community organisations ● Analysis of records of enquiries about your service, or complaints or compliments about them ● Recommendations of external inspections or audit reports 		
Key questions		Data, research and information that you can refer to
2.1	What is the equalities profile of the team delivering the service/policy?	Unknown
2.2	What equalities training have staff received?	Basic equalities awareness training
2.3	What is the equalities profile of service users?	October 2010 School Census: numbers of pupils on roll, age, ethnicity, gender, Special Educational Needs, eligibility for free school meals, Virtual Schools report on the number of Children in Care, Indices of Multiple Deprivation (IMD) 2010.

		<p>Admissions and Transport data showing pupils that live within the Greater Bath Consortium area and those that live elsewhere. Virtual Schools report on the number of children in care. B&NES PCT data on births and resident population Consultation findings.</p>
2.4	<p>What other data do you have in terms of service users or staff? (e.g. results of customer satisfaction surveys, consultation findings). Are there any gaps?</p>	
2.5	<p>What engagement or consultation has been undertaken as part of this EIA and with whom? What were the results?</p>	<p>Yes - details of consultation as follows</p> <p>Public consultation meetings were held at the school on Thursday 14th October and at the Guildhall on Wednesday 20th October 2010. Meetings were also held with the school staff and the school Governing Body</p> <p>Approximately 13,000 copies of the printed consultation document were circulated.</p> <p>Printed copies of the consultation document outlining the proposal and the process and timescale etc. of the consultation and the next stages were delivered to Culverhay sufficient for every member of staff (teaching and non-teaching), every member of the Governing Body and every pupil to have a copy. The school was asked to distribute the documents to the members of the Governing Body, all staff and to every pupil to take a copy home with them to reach pupils, parents and carers. Printed copies were also provided specifically for the members of the School Council for consultation with pupils.</p> <p>Printed copies of the consultation document were also delivered to all other secondary schools, to all primary schools and to the two Special schools in the Greater Bath Consortium area sufficient for every pupil to have a copy and schools were asked to distribute the documents to every pupil to take a copy home with them to reach pupils, parents and carers. These schools also had a copy for the Headteacher and a copy for the Chair of Governors.</p> <p>All other secondary schools, primary schools and the other Special school in Bath & North East Somerset were sent two copies of the document, one for the Headteacher and one for the Chair of Governors.</p> <p>A printed copy was given to the three organisations that have a contractual</p>

	<p>use of the school site – Aquaterra Leisure, Bath Spa University and Foot Steps Nursery - and to nine other local and community groups that currently use the school facilities as identified by the school.</p> <p>A printed copy was posted to all neighbouring Local Authorities, to the two MPs for Bath & North East Somerset and Bath, to all Bath & North East Somerset Councillors, to all Parish Councils covering the Greater Bath Consortium area and to all libraries. 5 copies were distributed to DAFBY (Democratic Action for B&NES Youth), 10 copies were distributed to the Schools Forum and 10 to the Admissions Forum.</p> <p>An electronic copy was sent to the local Roman Catholic Church diocese and to the Church of England diocese, to the Learning and Skills Council/Shared Service representative (and to the Young People's Learning Agency), to the Children and Young People Overview and Scrutiny Panel, to selected Bath & North East Somerset Council teams and other named Council officers, to named Directors and to the Chief Executive. An email with a link to the electronic consultation document was sent to all designated Union representatives.</p> <p>Extra printed copies were also taken to the public consultations meetings for distribution on request. The printed document contained a detachable consultation response form.</p> <p>The consultation document was also made available electronically on the Council website and an electronic consultation response system was set up to allow stakeholders to read the document on line and submit a response via this method if they wished. This electronic response facility was mentioned in the paper consultation document as another way in which comments could be submitted. Stakeholders could also submit their comments via letter or email.</p> <p>As well in printed paper and electronic format on the Council website, the consultation document could be made available in alternative formats such as Braille, on tape, large print and in a range of community languages on request. Consultees were provided with a telephone number and email address to contact to request an alternative format. Consultees could also attend the meetings.</p>
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<p>47% were in support and 53% opposed the Council's approach to addressing the challenges in Bath which includes reducing the numbers of schools from seven to six. A significant majority (74%) were opposed to the proposal to close Culverhay with 26% in favour. In addition to the formal consultation responses a petition with approximately 2400 signatures was received supporting a change to co-educational status for Culverhay. A total of 143 signed leaflets supporting Culverhay as a co-educational school were also received.</p> <p>The Friends of Culverhay Parent Action Group also provided evidence of a survey undertaken of parents at local primary schools which asked if they would send their children to Culverhay if it were co-educational. Approximately 350 copies of the survey were received of which 183 were signed. Counting all responses including those unsigned this indicated that parents of a potential 535 pupils (310 boys and 225 girls) would choose Culverhay if it was co-educational, although it was not possible to accurately identify the children's ages and therefore the number who might attend at any one time.</p> <p>The statutory notice was published in The Bath Chronicle and posted outside all of the school entrances and placed in the window of the Co-operative supermarket in the Mount Road shopping area nearby. A copy of the complete proposal and statutory notice was given to the Culverhay Governing Body and to the Headteacher, the local C of E Diocese, the local RC Diocese, other neighbouring Local Authorities, the Young People's Learning Agency and the Secretary of State. The notice and the complete proposal were also placed on the Council website and the web address was printed in the statutory notice.</p> <p>The notice stated that comments or objections needed to be submitted within six weeks of the publication date and that they should be sent to the Local Authority. Representations could also be submitted by email. During the representation period a total of 41 representations were received. These were submitted by a range of stakeholders including parents of pupils at the school, pupils, school staff, the Governing Body, primary age pupils, local residents and local Councillors. The equalities</p>	
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		<p>profile of the respondents is not known. These representations were against the closure of the school and in support of keeping a school on this site.</p> <p>Specific equalities issues raised were in relation to pupils with Special Educational Needs (SEN), provision of church school places, increased travel distances and costs for some pupils, new uniform costs and underlying socio-economic disadvantage due to the area of the city where many Culverhay pupils live.</p> <p>Equalities impact assessments will be carried out as necessary.</p>
2.6	If you are planning to undertake any consultation in the future regarding this service or policy, how will you include equalities considerations within this?	
3. Assessment of impact: 'Equality analysis'		
	Based upon any data you have considered, or the results of consultation or research, use the spaces below to demonstrate you have analysed how the service or policy: <ul style="list-style-type: none"> • Meets any particular needs of equalities groups or helps promote equality in some way. • Could have a negative or adverse impact for any of the equalities groups 	
3.1	Gender – identify the impact/potential impact of the policy on women and men. (Are there any issues regarding pregnancy and maternity?)	<p>Examples of what the service has done to promote equality</p> <p>Possibility of Culverhay becoming co-educational/a co-educational school or Academy opening on this site.</p> <p>Examples of actual or potential negative or adverse impact and what steps have been or could be taken to address this</p> <p>If the school was to stay open and then become co-educational, this would result in the loss of boys single sex places. However there would be other places available for boys in the city both at one single sex boys school and at four other co-educational schools. As Oldfield is to become co-educational in September 2012, if Culverhay was to admit boys in 2012 there would be a temporary imbalance of girls and boys</p>

			<p>places as there would be two single sex boys schools and only one single sex girls school in the city. The other single sex boys school is located towards the centre of the city, ensuring equality of access to all pupils living in the Greater Bath Consortium (GBC) area. The single sex girls school is also located in about the same area. Girls living in the SW Bath area of the city currently have to travel out of the immediate area to access a school place and therefore the travel distances for boys and girls would be of a similar length once Culverhay became co-educational. If the decision to close Culverhay School is revoked there will be more places available for boys than girls at single sex schools in Bath. The duty is to ensure that sufficient numbers of single sex places are available to meet the demand for them, not to provide an equal number of places and a mere difference in the number of single sex places available for boys and girls is not an act of sex discrimination. Officers consider that on the basis of current and anticipated demand for single sex places, the duty will still be met if the closure is revoked. It is intended that the school will become co-educational in due course, resulting in one single sex girls school and one single sex boys school in Bath.</p>
<p>3.2</p>	<p>Transgender – – identify the impact/potential impact of the policy on transgender people</p>	<p>NA</p>	<p>None</p>

3.3	Disability - identify the impact/potential impact of the policy on disabled people (ensure consideration of a range of impairments including both physical and mental impairments)	According to the October 2010 School Census there are a total of 84 pupils with statements of Special Educational Needs (SEN) in all Bath secondary schools, average 12. Culverhay has 9 statemented pupils but has a higher proportion of pupils with SEN in general than other schools in Bath.	All schools in Bath are capable of effectively supporting pupils with SEN. Culverhay is not the designated Accessible School for disabled pupils in Bath – this is Ralph Allen.
3.4	Age – identify the impact/potential impact of the policy on different age groups	Pupils aged 11-18	The school is currently small and likely to remain small initially and therefore effective curriculum delivery will be challenging until the school gets bigger. The ability to effectively meet the needs of a range of abilities within what might possibly be a single year group and single class of 30 pupils or less will require careful consideration and planning. The involvement of a strong academy sponsor will help to provide good educational outcomes for this age group of pupils in this area of the city.
3.5	Race – identify the impact/potential impact on different black and minority ethnic groups	NA	According to the October 2010 School Census, within all Bath secondary schools the average of pupils who's ethnicity is recorded as being other than White British is 12.12%. At Culverhay it is 6.3%.
		Examples of what the service has done to promote equality	Examples of potential negative or adverse impact and what steps have been or could be taken to address this
3.6	Sexual orientation - identify the impact/potential impact of the policy on lesbians, gay, bisexual & heterosexual people	NA	None
3.7	Religion/belief – identify the impact/potential	If the school stays open as a co-	None

	impact of the policy on people of different religious/faith groups and also upon those with no religion.	educational non-denominational school it will serve to provide more non-denominational co-educational places in the city.	
3.8	Socio-economically disadvantaged – identify the impact on people who are disadvantaged due to factors like family background, educational attainment, neighbourhood, employment status can influence life chances	A school could remain on this site. The involvement of a strong Academy sponsor with a record of high educational achievement should benefit pupils at the school by raising standards and attainment which should in turn lead to higher achievement and improved life chances for children who are socio-economically disadvantaged.	The IMD 2010 shows that the socio-economic profile of the area of Bath surrounding Culverhay ranges from the most deprived 20% (Tweron ward and the northern part of Southdown ward) to the least deprived 20% (part of Southdown ward and the southern part of Westmoreland ward and the northern part of Odd Down ward). According to the October School Census the average eligibility for free school meals in all Bath secondary schools is 10.62%. At Culverhay it is 21.5%. None
3.9	Rural communities – identify the impact / potential impact on people living in rural communities	NA	

4. Bath and North East Somerset Council & NHS B&NES Equality Impact Assessment Improvement Plan

Please list actions that you plan to take as a result of this assessment. These actions should be based upon the analysis of data and engagement, any gaps in the data you have identified, and any steps you will be taking to address any negative impacts or remove barriers. The actions need to be built into your service planning framework. Actions/targets should be measurable, achievable, realistic and time framed.

Issues identified	Actions required	Progress milestones	Officer responsible	By when
If Culverhay stays open, need to ensure delivery of a broad and	Support the Governing Body and Headteacher to commission	Review requirements for additional support with GB/Headteacher	Tony Parker (Divisional)	October 2011

balanced curriculum and effective curriculum delivery in order to achieve good educational outcomes for all pupils.	effective strategic curriculum planning support.		Director) and Lin Bartlett. (Senior Secondary Advisor)	
If Culverhay stays open, need to consider the gender imbalance.	Support the Governing Body to plan and undertake a Consultation on the School becoming co-educational at the earliest opportunity.	Plan for consultation in place Undertake Consultation	Tony Parker (Divisional Director Learning and Inclusion). Tony parker if Local Authority consultation. School or Academy if School or Academy undertaking consultation	October 2011. Autumn 2011 onwards

5. Sign off and publishing

Once you have completed this form, it needs to be 'approved' by your Divisional Director or their nominated officer. Following this sign off, send a copy to the Equalities Team (equality@bathnes.gov.uk), who will publish it on the Council's and/or NHS B&NES' website. Keep a copy for your own records.

Signed off by: Tony Parker
Date: 3 October 2011

(Divisional Director or nominated senior officer)

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Bath & North East Somerset Council		
MEETING:	Cabinet	
MEETING DATE:	12 October 2011	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2316
TITLE:	National Planning Policy Framework – Response from Bath and North East Somerset Council	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
APPENDIX ONE: KEY CHANGES TO NATIONAL PLANNING POLICY		

1 THE ISSUE

- 1.1 This report highlights some of the implications for Bath & North East Somerset of the Government's key changes to planning policy as proposed by the Draft National Planning Policy Framework (NPPF), and sets out a proposed response to the consultation.
- 1.2 This report is not a comprehensive review of the National Planning Policy Framework and its potential implications. The NPPF has generated a considerable reaction from numerous bodies who will be submitting their own responses to specific elements of the NPPF consultation.

2 RECOMMENDATION

The Cabinet agrees that:

- 2.1 The comments in paragraphs 5.4 – 5.19 of this report, as well as those contained in Annex 1, are forwarded to the Department for Communities and Local Government, with the request that amendments are made to the Draft NPPF.
- 2.2 Delegated authority be granted to the Divisional Director for Planning and Transport, in consultation with the Cabinet Member for Service Delivery, to finalise the comments to be submitted.

3 FINANCIAL IMPLICATIONS

3.1 The National Planning Policy Framework, in seeking to streamline and simplify planning policy within a rapid timeframe, contains a number of inconsistencies and uncertainties that have the potential of increasing the number of appeals that the Council needs to defend. This could result in additional costs to the Council.

4 CORPORATE PRIORITIES

- *Building communities where people feel safe and secure*
- *Improving life chances of disadvantaged teenagers and young people*
- *Sustainable growth*
- *Improving the availability of Affordable Housing*
- *Addressing the causes and effects of Climate Change*
- *Improving transport and the public realm*

5 THE REPORT

5.1 The NPPF will be a material consideration in the preparation of B&NES planning policy. The B&NES Core Strategy has been prepared within the context of existing national policy. It should be noted, following a request from the Planning Inspector, that a report was presented to the September Council meeting highlighting the changes that would be needed to the Core Strategy to enable it to better reflect the Draft National Planning Policy Framework, as it is currently drafted. This new report looks more generally at some of the proposed changes to the National Planning Policy Framework, and the Council's response to it.

Introduction

5.2 The Government has published a draft version of the National Planning Policy Framework (NPPF) for consultation. This NPPF entails a review of existing national planning policy and its replacement with a single national policy document. It replaces 1,300 pages of planning policy with a single document of 58 pages long, and is due to be adopted by the end of this year. Following this, it is proposed to review and refine the 6,000 pages of supporting guidance to existing national planning policy. There is no clear programme for this task.

5.3 The key issues proposed in the National Planning Policy Framework are highlighted in Appendix A. Some of the most pertinent issues, together with a recommended response to each, are included below.

Sustainable Development

5.4 The NPPF introduces the 'presumption in favour of sustainable development' as well as re-emphasising the importance of the plan-led system. Whilst this is supported, there is concern that even if a Council's Local Plan is up to date and consistent with the NPPF, interpretation by parties will differ as to what constitutes sustainable development and that this could place additional resource pressures on the part of the Council in relation to defending its position and determining planning applications. It is considered that adding the presumption in favour of sustainable development creates an ambiguity and will undermine the development plan.

5.5 If the Council does not have an up-to-date plan, then the national policy of a presumption in favour of development will apply in the determination of planning applications. Therefore, if the Council wishes to achieve its own priorities for

managing change and protecting assets within the District, it is imperative that the Council has an up to date Core Strategy. This certainty provides business and investor confidence in what development will be encouraged and be acceptable with the District.

5.6 Comment to CLG: The ambiguity in the term ‘sustainable development’ should be resolved in the NPPF with an unambiguous definition of sustainable development, and clarification as to how this should be weighted against other material considerations. Alternatively, the presumption in favour of sustainable development should be clarified so as to not override the primacy of the local plan.

5.7 Additionally, a comment should be made as to whether a Sustainability Appraisal of the Draft NPPF has been carried out.

Housing land supply

5.8 Local Planning Authorities are still required to maintain a rolling supply of specific deliverable sites sufficient to provide five years worth of housing . However, the NPPF introduces a significant new requirement that the five year supply should include an additional allowance of at least 20% to ensure choice and competition in the market for land. The B&NES Strategic Housing Land Availability Assessment (SHLAA) will need to be updated to take this into account and the only scope to do this is to add significant greenfield land. The existing SHLAA has sought to undertake a thorough assessment of available brownfield land in the District. If the SHLAA cannot demonstrate a five year +20% supply of housing land then the NPPF states that applications would be permitted in accordance with the presumption in favour of sustainable development

5.9 This is a significant issue for B&NES and many other authorities because we do not have a five year +20% supply of housing land. This potentially means that the Core Strategy will be found unsound by the Inspector with the resultant risk of increased planning appeals at a range of development locations.

5.10 Comment to CLG: The addition of 20% to the 5 year housing land supply should be removed from the NPPF.

Certificate of conformity

5.11 The NPPF states that ‘local plans are the key to delivering development that reflects the visions and aspirations of local communities’ and that ‘up-to-date Local Plans ... which are consistent with [the NPPF], should be in place as soon as practical’.

5.12 The NPPF suggests that Local Councils can apply for a Certificate of Conformity to demonstrate that their existing Core Strategy conforms to NPPF. Plans that are not in conformity will be deemed ‘out-of-date’ and the presumption in favour of sustainable development would therefore apply to all planning applications.

5.13 It is unclear whether a Certificate of Conformity would be granted to the Council’s saved local plan policies. Guidance on achieving a Certificate of Conformity will be published when the NPPF is adopted, and therefore it is difficult at this stage to make a judgment as to whether our saved policies would be granted a Certificate of Conformity or not. This uncertainty could create a serious policy vacuum until these policies have been reviewed and

updated as part of the Placemaking Plan. Members should be mindful of the potential need to accelerate this review should it be found that the saved policies are not able to be used in the determination of planning applications.

- 5.14 **Comment to CLG: Transitional arrangements need to be established that enable local authorities to maintain existing planning policies whilst generating new local plans.**

Housing Requirement

- 5.15 The Draft NPPF states that local plans should plan for *full* housing requirement as suggested by local evidence (which is clarified elsewhere as population/household projections). Projections are merely an extrapolation of the last 5 years trends and do not represent a robust basis on which to plan for the future.
- 5.16 **Comment to CLG: the apparent requirement for housing need assessments is not solely reliant on extrapolations of past rates but is based on a fuller assessment of housing need including local testing (informed by public debate/scrutiny).**
- 5.17 **Green Belt:** Core Green Belt protection will remain in place, although four changes to the detail of current policy are proposed:
- (1) Development on previously-developed Green Belt land is already permissible if the site is identified in the local plan as a Major Developed Site – it is proposed to extend this policy to any site not already identified in a local plan
 - (2) Park and Ride schemes are already permissible, with certain safeguards – it is proposed to extend this to a wider range of local transport infrastructure and maintain these safeguards.
 - (3) Community Right to Build schemes will be appropriate development provided they preserve the openness of the Green Belt
 - (4) The alteration or replacement of dwellings is already permissible – it is proposed to extend this to include all buildings, but it is not clear if the existing safeguards will remain.
- 5.18 In all cases, the test to preserve the openness and purposes of including land in the Green Belt will be maintained. These changes entail a policy change of particular significance for B&NES, potentially loosening existing restrictions on development permissible in the Green Belt. Members may wish to object to these amendments. Members also need to be aware of the increased resource pressure that the proposals will put on the Council's Development Management Service.
- 5.19 The appropriateness of existing Green Belt boundaries should only be considered when a Local Plan is being prepared or reviewed. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period. Preparation of the Placemaking Plan will entail a review of the detailed Green Belt boundaries.

6 RISK MANAGEMENT

6.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

7 EQUALITIES

7.1 An equalities impact assessment is not required for this report as it is a response to proposed government policy that should be subject to its own equalities impact assessment.

8 RATIONALE

8.1 The Draft National Planning Policy Framework, as currently worded, is ambiguous in a number of areas. If these are not addressed it could have an adverse impact on the robustness of the Council's planning policy frameworks including the saved local plan policies, the Draft Core Strategy and the emerging Placemaking Plan. It will also place significant additional resources on the Planning Service.

9 OTHER OPTIONS CONSIDERED

9.1 None.

10 CONSULTATION

10.1 *Ward Councillor; Cabinet members; Parish Council; Town Council; Trades Unions; Overview & Scrutiny Panel; Staff; Other B&NES Services; Local Residents; Community Interest Groups; Stakeholders/Partners; Other Public Sector Bodies; Charter Trustees of Bath; Section 151 Finance Officer; Chief Executive; Monitoring Officer*

10.2 Anyone can respond directly to the consultation. However the Council has facilitated this through a community engagement exercise which invites comments on how the NPPF could affect policy in the emerging Core Strategy.

11 ISSUES TO CONSIDER IN REACHING THE DECISION

11.1 *Social Inclusion; Customer Focus; Sustainability; Human Resources; Property; Young People; Human Rights; Corporate; Health & Safety; Impact on Staff; Other Legal Considerations*

12 ADVICE SOUGHT

12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	<i>David Trigwell Divisional Director, Planning and Transport 01225 394125 Simon de Beer Policy & Environment Manager 01225 477616</i>
Sponsoring Cabinet Member	<i>Councillor Tim Ball</i>

Background papers	<i>Draft National Planning Policy Framework see:</i> <u>http://www.communities.gov.uk/publications/planningandbuilding/draftframework</u>
Please contact the report author if you need to access this report in an alternative format	

APPENDIX A – KEY CHANGES PROPOSED TO NATIONAL PLANNING POLICY

Key changes to national policy

- A. The NPPF is a draft document currently out for consultation¹ which is intended to bring together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. Whilst still in draft, it must be recognised that many of the changes contained in the NPPF are likely to be adopted and that they indicate the Government's proposed 'direction of travel'. The Government's intention is for the final NPPF to be published by the end of the 2011.
- B. **Removing office development from 'town centre first' policy:** Current town centre policy applies to office development as it does to retail and leisure development. The objective of the change in the NPPF is to free office development from the need to follow the requirements of the 'Town Centre First' policy. This will enable proposals to be judged on their individual merits including taking account of local and national policies on the location of new development that generates significant movement of people and the relative supply and demand of or for office space in different locations.
- C. **Removing the brownfield target for housing development:** A specific target for brownfield land was first established by the 1995 housing white paper, which aspired to 50 percent of all new dwellings being built on brownfield land. In 1998, this was increased to 60 percent. Government wants to move away from a prescriptive designation of land towards a concept of "developable" land where local areas decide the most suitable locations for housing growth based on their local circumstances. Local councils will be able to allocate sites that they consider are the most suitable for development without being constrained by a national brownfield target.
- D. **Remove the national minimum site size threshold for requiring affordable housing to be delivered:** Current national planning policy sets a minimum site threshold of 15 units for requiring affordable housing to be delivered for all local councils. This means that any development of 15 units or more will trigger a negotiation over a contribution (paid by the developer) for affordable housing via a section 106 agreement. By removing the centrally set 15-unit threshold for affordable housing, complete control will be given to local councils. This will allow greater flexibility for local councils to seek optimum solutions for their local areas, based on local evidence of need. This complements the existing Core Strategy approach.
- E. **Removing rural exception sites policy:** Current policy allows local councils to set 'rural exception site' policies which allocate and permit sites solely for affordable housing in perpetuity for local people in small rural communities. However, currently, the rigid requirement for sites to be only for affordable housing limits local councils' options for meeting the full range of housing needs. This can lead to local councils being discouraged from taking a wider view on the need for housing in those rural areas and considering the balance to be struck between the benefits of meeting housing needs and maintaining current constraints. The Government's objective is to maintain the focus on affordable housing but give local councils greater flexibility to set out their own approach to delivering housing, including allowing for an element of market housing where this would facilitate significant additional affordable housing to meet local requirements. To ensure development is sustainable, rural housing that is distant from local services should not be allowed.

¹ <http://www.communities.gov.uk/publications/planningandbuilding/draftframework>

APPENDIX A – KEY CHANGES PROPOSED TO NATIONAL PLANNING POLICY

The Core Strategy already covers this by allowing market housing to deliver affordable housing, although only in relation to rural exception sites.

- F. **Removing the maximum non-residential car parking standards for major developments:** The current policy (Planning Policy Guidance Note 13: Transport) sets out national maximum parking standards for non-residential uses (i.e. the upper level of acceptable car parking provision) and size thresholds at which these maximum standards should apply. Current Government policy on non-residential parking standards for major developments, such as retail and leisure developments over 1,000m² and offices over 2,500m² is considered too centralised and prevents local councils from developing policies that are most appropriate to their local circumstances and communities. Although it is open to us to provide our own maximum parking standards for non-residential development if deemed necessary - and this can be done in the Placemaking Plan - it would be of benefit for reasons of consistency to establish agreement between neighbouring authorities on appropriate standards to apply at the sub-regional level.
- G. *There are a number of general concerns over proposed changes to transport policy, such as:*
- a. A lack of clarity over definitions eg ‘transport grounds’ is vague, ‘residual impacts’ are unclear and ‘severe’ is undefined and unhelpful. It is unclear how any of these terms would be viewed by an inspector at an appeal, potentially leading to inconsistent decision making
 - b. Planning policies that seek to ensure that development is located in areas which reduce the need to travel or where the use of sustainable transport can be maximised, can only apply where proposals are likely to ‘**generate significant movement**’. This, subject to other policies in the NPPF, would ignore the cumulative impacts of more minor development.
 - c. A weakened emphasis on sustainable modes of transport with escape clause statements such as ‘where practical’, ‘encouragement’, ‘support’ and ‘reasonable to do so’.
 - d. Local planning authorities will be required to ‘provide robust evidence’ when identifying and safeguarding sites and routes which might be critical in developing infrastructure to widen transport choice. Whilst this may seem reasonable, it will put additional resources on local planning authorities to provide such evidence, and any evidence could potentially be undermined if delivery cannot be demonstrated within a reasonable period. This belies the nature of many strategic transport interventions that rely on incremental development or staged funding to enable their implementation.
- H. **Local Green Space designation:** The Government’s preferred option would be to introduce a new protection for locally important green space that is not currently protected by any national designation, giving greater discretion and decision-making powers to local councils and local communities reflecting the fact that some land is particularly valued by communities and requires additional protection. Local Green Spaces can only be designated at the plan making stage, for example through Neighbourhood Plans or Council Local Plans.
- I. **Decentralised energy targets:** The Government expects local councils to continue to support decentralised energy but does not need to require local councils through national planning policy to set council wide decentralised energy targets. If local councils wish to set their own targets they can, and the policies in the Framework

APPENDIX A – KEY CHANGES PROPOSED TO NATIONAL PLANNING POLICY

would not prevent such targets provided in their implementation they do not make development unviable. This complements the existing Core Strategy approach.

- J. **Proactive approach to identifying opportunities for renewable and low carbon energy:** The objective is to ensure that the planning system contributes effectively to the delivery of the Government's energy and climate change policy. The preferred option expects local authorities to consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources. Where developers bring forward proposals outside opportunity areas mapped in a local or neighbourhood plan they are asked to demonstrate that the proposed location meets the criteria used in plan making. This should provide transparency, and bring greater predictability to the planning application process.
- K. **Historic environment:** This section of the NPPF streamlines and simplifies the existing policy position of PPS5 (Planning for the Historic Environment). Whilst there continues to be an emphasis on the importance of the historic environment, there is concern that a consequence of this streamlining is increased ambiguity which could result in a weakening of protection for the historic environment and could lead to buildings and sites of archaeological interest being harmed without adequate investigation and expert analysis.
- a. In addition, the emphasis on and interpretation of, the presumption in favour of sustainable development as a material consideration may undermine the protection of heritage assets. It should be noted that the NPPF highlights that development which has a 'significant effect on sites protected under the Birds and Habitats Directives would not be sustainable', and that similar approach does not apply to World Heritage Sites. This is something that the Local Authority World Heritage Forum (LAWHF) is considering in their response to Government.
 - b. The presumption in favour of conservation contained within Policy HE 9 of PPS5 appears diminished within the less certain "should be" Objective 176 of the NPPF. The reinstatement of the presumption should be requested.
 - c. Para HE1.1 to Policy HE1 of PPS 5 made a good point that the retention of heritage assets avoids the consumption of building materials, energy and waste created by the construction of replacement buildings, and a place should be found for it within the NPPF.
 - d. The overriding statutory requirements in the Town & Country Planning (Listed Buildings and Conservation Areas) Act to consider the preservation of listed buildings and conservation areas are not directly reduced by the proposals but the NPPF could establish difficult tensions particularly as regards to the setting of heritage assets. The concern lies with undesignated parts of local heritage. The NPPF seems to be inadequate in respect of undesignated heritage assets, in particular archaeological sites which previously drew protection only through PPG 16 and PPS 5. Specific reference to the need to protect irreplaceable and finite archaeological resources should be included as an Objective.

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Bath & North East Somerset Council		
MEETING:	Cabinet	
MEETING DATE:	12 October 2011	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2318
TITLE:	Bath Community Energy Cooperation Agreement	
WARD:	All	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Appendix 1: Bath Community Energy Cooperation Agreement</p> <p>Appendix 2: Equalities Impact Statement</p> <p>Appendix 3: Risk Assessment</p>		

1 THE ISSUE

- 1.1 The Cabinet is asked to agree to the Council entering into a Cooperation Agreement with Bath Community Energy (BCE). BCE is a new, local, social enterprise which is developing renewable energy and energy efficiency projects in Bath & North East Somerset and the local area. BCE is set up to retain the economic benefits of renewable energy in the local area, and involve communities in their energy projects.
- 1.2 The Cooperation Agreement would create a framework for the Council to support and work with BCE on projects that help to achieve the Council's aims to reduce carbon emissions and increase community capacity and resilience.

2 RECOMMENDATION

The Cabinet agrees that:

- 2.1 The Council should enter into a Cooperation Agreement with BCE

3 FINANCIAL IMPLICATIONS

3.1 Financial implications (statutory requirement).

The Cooperation Agreement contains no financial obligations, stating only that the Council and BCE may work together to investigate the potential for funding mechanisms, to be determined.

4 CORPORATE PRIORITIES

The following corporate priorities would be furthered by this Cooperation Agreement:

- *Improving school buildings:* The first possible BCE project is installing solar panels on schools in the district.
- *Sustainable growth:* By retaining and reinvesting revenues locally, and sourcing local subcontractors and materials where possible, BCE will help develop the low carbon economy in our area.
- *Addressing the causes and effects of Climate Change:* If BCE's 2014 target is met, around 3,500 tonnes of CO₂ will be saved annually across all projects (most of which will be delivered within Bath and North East Somerset, with a few crossing into West Wiltshire).

5 THE REPORT

5.1 The Council has a pivotal role in tackling climate change by reducing carbon emissions from its own estate and operations: encouraging and enabling its residents, businesses and visitors to reduce their carbon emissions; and by achieving national priorities such as domestic energy efficiency and the deployment of renewable energy in a locally appropriate way.

5.2 As described in the Sustainable Community Strategy, we intend to do this through partnership working and community enablement, including the enablement of local social enterprises.

5.3 BCE is unique in our area, being a not-for-profit organisation set up by local people. It will keep the majority of the economic benefits of renewable energy local, through a local share-ownership model and the reinvestment of a portion of its revenues into a recycling fund for further energy measures.

5.4 Under the Cooperation Agreement, the Council and BCE agree to work together to identify: energy projects within the district; opportunities for joint research about community-based projects; opportunities for people in the area to invest and secure a return from projects; other funding opportunities.

5.5 As part of its role in enabling and encouraging active communities and citizens, the Council may choose to use this type of agreement in other situations.

5.6 The Council may properly consider that following the course of action proposed will assist in improving the environmental well-being of its area and is thus authorised by Section 2 of the Local Government Act 2000 bearing in mind the following provisions of its Sustainable Community Strategy to 'provide the leadership to help our communities to help people reduce carbon emissions across the area by 45% by 2026' and 'to enable the development of clean, local, sustainable energy sources and systems'.

6 RISK MANAGEMENT

- 6.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance (see Appendix 3).
- 6.2 Some reputational risks are identified should BCE fail to thrive and deliver either sufficient projects or sufficient revenue, with Council support seen as an important mitigating factor.

7 EQUALITIES

- 7.1 An Equalities Impact Statement has been completed using corporate guideline (see Appendix 2)
- 7.2 Whilst it is not foreseen that the Cooperation Agreement in itself will raise equalities issues, future projects might, so the Equalities Team will carry out a training with BCE to enable them to identify when further Equalities Impact Statements might need to be completed.

8 RATIONALE

- 8.1 This Cooperation Agreement enables the Council and BCE to work together to help:
- a) B&NES deliver its Sustainable Community Strategy's aim of providing the leadership to enable a 45% cut in district wide CO₂ emissions;
 - b) maximise the proportion of the District's 2020 renewable energy target in the draft Core Strategy that will be delivered using a strong community model. This will in turn, help achieve the Sustainable Community Strategy's aim to enable the development of clean, local sustainable energy sources;
 - c) build community resilience, for example, by alleviating the impact of rising fossil-fuelled energy prices, and retaining economic benefit locally;
 - d) establish a significant fund for re-investing in local energy projects in the area;
 - e) BCE to become a financially self-sustaining Community Enterprise.

9 OTHER OPTIONS CONSIDERED

- 9.1 Working with commercial companies to deliver similar projects: Some other local authorities have various procurement arrangements with for-profit companies. However, in this case the profits from energy projects are not reinvested locally, representing less value for the area. The social benefits of local ownership of energy, community involvement in projects and the development of a local low carbon supply chain would also not be as fully realised.
- 9.2 Working with organisations that are similar to BCE: We have not found any other local organisations who can provide the same benefits as BCE

9.3 The Cooperation Agreement is not an exclusive agreement, and the Council can choose to pursue other options should it be in its interested to do so and would positively consider any other organisation’s proposals that achieved the same aims.

10 CONSULTATION

10.1 *Cabinet members; Parish Council; Trades Unions; Other B&NES Services; Community Interest Groups; Other Public Sector Bodies; Section 151 Finance Officer; Chief Executive*

10.2 We have brought the thinking behind working with BCE to Informal Cabinet, the Parish Liaison Forum, PID Group, the Environmental Sustainability Partnership (which contains other public sector bodies), the Strategic Director for Resources & Support Services and the Chief Executive. We have worked with staff in Children’s Services and Property Services to facilitate the school solar projects. We have worked extensively with Legal Services and Procurement to formulate the Cooperation Agreement. Legal Services drafted the Agreement.

11 ISSUES TO CONSIDER IN REACHING THE DECISION

11.1 *Sustainability*

12 ADVICE SOUGHT

12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Sara Grimes/Jane Wildblood 01225 395418; 477685
Sponsoring Cabinet Member	<i>Councillor Crossley</i>
Background papers	BCE Cooperation Agreement ; Equalities Impact Assessment and Risk Assessment
Please contact the report author if you need to access this report in an alternative format	

COOPERATION AGREEMENT

This Cooperation Agreement is made on the _____ 2011

BETWEEN: Bath and North East Somerset Council of Lewis House, Manvers Street, Bath, BA1 1JG, United Kingdom (“**B&NES**”);

AND: Bath Community Energy Ltd (Registered IPS number IP 30960R) of 33, Apsley Road, Bath BA1 3LP United Kingdom (“**BCE**”)

Collectively referred to as the “**Parties**” and each a “**Party**”.

1. Introduction

- 1.1 B&NES has a pivotal role in tackling climate change by reducing carbon emissions from its own estate and operations, encouraging and enabling its residents, businesses and visitors to reduce their carbon emissions and by achieving national priorities such as domestic energy efficiency and the deployment of renewable energy in a locally appropriate way.
- 1.2 Under Section 2 of the Local Government Act 2000 B&NES has the power to do anything which it considers is likely to achieve the promotion or improvement of the economic, social or environmental well-being of its area. The Council may properly consider that following the course of action proposed will assist in improving the environmental well-being of its area and is thus authorised by Section 2 of the Local Government Act 2000 bearing in mind the following provisions of its Sustainable Community Strategy to ‘provide the leadership to help our communities to help people reduce carbon emissions across the area by 45% by 2026’ and ‘enable the development of clean, local, sustainable energy sources and systems’.
- 1.3 BCE is a new community enterprise set up by local people to develop community-based renewable energy and energy efficiency projects (Projects) within the Bath area. It is an Industrial and Provident Society established for the benefit of the Community. Further details are contained in the Appendix to this Agreement.

2. Purpose

- 2.1 The key purpose of this Agreement is to set out how the Parties will cooperate to help
 - 2.1.1 B&NES deliver its Sustainable Community Strategy’s aim of providing the leadership for a 45% cut in district wide CO₂ emissions
 - 2.1.2 maximise the proportion of the District’s 2020 renewable energy target in the B&NES draft Core Strategy that will be delivered using a strong community model. This will in turn, help achieve the Sustainable Community Strategy’s aim to enable the development of clean, local sustainable energy sources
 - 2.1.3 build community resilience, for example, by alleviating the impact

- of rising fossil-fuelled energy prices, and retain economic benefit locally
- 2.1.4 establish a significant fund for re-investing in local energy Projects in the B&NES area (the District)
- 2.1.5 BCE to become a financially self-sustainable Community Enterprise

3. Identification and Development of Energy Projects and Other Opportunities

- 3.1 The Parties agree to work together to identify
 - 3.1.1 Projects within the District.
 - 3.1.2 opportunities for joint research that will help underpin and make the case for maximising the proportion of the District renewable energy target delivered as community-based Projects
 - 3.1.3 opportunities for people living and or working in the District to invest and secure a return from Projects within the District
 - 3.1.4 further opportunities for joint working
- 3.2 B&NES will provide BCE with a list of council-owned property and land for which BCE will make an assessment of Community Renewable Energy Project opportunities for consideration by the Parties.
- 3.3 BCE will decide whether it wishes to take Projects forward and at its own cost prepare a budget and work plan, the contents of which will be submitted for consideration at a later date by the Parties. If the Parties decide to implement a Project that Project will be the subject of a separate Project Agreement agreed by them.
- 3.4 The Parties will consider opportunities for working together to test the level of interest for Projects amongst different target groups, for example, schools.
- 3.5 This Agreement will not limit the scope of activities that could be considered and pursued in partnership to deliver B&NES long-term carbon reduction ambitions. Activities could include a broad range of energy services relating to energy efficiency and use, as well as energy generation.
- 3.6 Projects to be undertaken by BCE will be subject to the same planning and development management regime as all other planning applications and will not be given preferential treatment as a result of this Agreement.

4. Procurement and Exclusivity

- 4.1 The Parties agree that they will be open and transparent on the procurement of services and goods for individual Projects.
- 4.2 The Parties will work together to identify any mechanisms under which BCE may become a preferred partner with B&NES for related services and goods in the District as opportunities arise and will, where feasible and appropriate, support the development of related local supply chains and support local businesses by using labour and materials from within the District

4.3 Where necessary or appropriate, a joint procurement process will be used to comply with EU procurement rules.

4.4 Both Parties reserve the right to work independently or with other organisations or partners on Projects within the District.

5. Investment

5.1 The Parties may work together to investigate the potential for other funding mechanisms, to be determined.

6. Governance and accountability

6.1 A Steering Group will be established comprising two (2) representatives from B&NES and two (2) from BCE with ad hoc attendance at Steering Group meetings as required.

6.2 The Steering Group will meet regularly to review progress on achieving the aims of this Agreement and work diligently to overcome barriers.

6.3 The Steering Group will be sponsored by a Strategic Director of B&NES, and chaired by a Divisional Director who may appoint an authorised representative.

6.4 Each Party will, appoint a representative to oversee the administration and day-to-day running of the matters falling within the scope of this Agreement and bring any issues that arise to the attention of the Steering Group. Meetings of the Steering Group will be convened by the B&NES representative.

6.5 An annual report will be jointly produced by the Parties by the end of August in each year. The report will set out the achievements of the Parties as well as any areas of concern and any proposal to update or amend this Agreement. This report will include an audited financial statement from BCE to show how revenue has been allocated between the priorities listed in 6.6. a-d.

6.6 The Agreement is entered into on the understanding that BCE will re-invest revenues it generates from Projects into a Community Fund which it establishes. The purpose of the Community Fund shall be to reinvest in further local projects that contribute to carbon reduction in the area. Such investment into the Community Fund, in terms of amount and regularity, will be dependent on the availability of revenues once other higher priority commitments have first been satisfied by BCE, and will be subject to review by the Steering Group. The priority of revenue allocation will be as follows:

- a. Loan repayment
- b. Payment of interest to BCE members
- c. Funding of continuation and development of BCE
- d. Payment into community fund

7. Publicity and Communications

- 7.1 The Parties will develop a joint communications plan and publicise the cooperation outlined in this Agreement and the wider importance, principles and benefits of Projects, in such a manner as agreed in writing by them
- 7.2 All publicity material relating to this Agreement or any of the joint work referred to within it will be agreed in writing by both Parties.

8. Term and Variation of this Agreement

- 8.1 This Agreement will remain in force for a period of 3 years from the date on which it is signed by both Parties. The Parties may agree in writing to extend the term of this Agreement on an annual basis for up to a maximum of two additional years.
- 8.2 The Parties may vary this Agreement at any time upon their joint written agreement.

9. Costs

- 9.1 Any costs incurred in respect of the drafting of this Agreement will be for the account of the Party incurring those costs.

10. Freedom of Information

- 10.1 BCE acknowledges that B&NES is subject to the requirements of the Freedom Of Information Act and the Environmental Information Regulations and will assist and cooperate with B&NES (at BCE's expense) to enable B&NES to comply with these Information disclosure requirements.

11. Status of Agreement

- 11.1 This Agreement is a statement of intent and does not create legal obligations between the Parties.

Signed

On behalf of B&NES:

Signature _____

Name _____

Position _____

On behalf of BCE:

Signature _____

Name _____

Position _____

APPENDIX 1: BACKGROUND TO BATH COMMUNITY ENERGY:

Bath Community Energy (BCE) is a new community enterprise set up by local people to develop renewable energy and energy efficiency projects in the Bath area. It is an Industrial and Provident Society established for the benefit of the community and registered with the FSA.

Its founder directors bring a wealth of renewable energy, energy efficiency, community, legal and engineering experience and expertise.

Initially BCE is looking to develop 1.5 MW of hydro, wind and solar PV. This is however just the first step, sufficient to establish BCE as a financially viable community enterprise and offer opportunities for ethical investment with reasonable returns to local people, who as members will have an important say in the running of the organisation.

BCE will identify suitable locations, develop the projects and (with its local investors) own and operate the renewable energy technologies

In addition, this initial development phase will aim to establish an annual £200,000 plus community fund to re-invest in further local low carbon projects

Every further MW developed in this way will increase the community fund available for local investment.

Please note that due to Projects being established in the area surrounding the District, the name "BCE" is likely to change to "Bath & West Community Energy". For further information on Bath Community Energy, please see:

<http://www.bathcommunityenergy.co.uk/>

POSSIBLE TECHNOLOGIES FOR COMMUNITY RENEWABLE ENERGY PROJECTS

Hydro Power: Electricity generated by running water via a turbine inserted into a river or stream. The faster the water flows and the more water there is the more electricity can be generated. For more information, see:

<http://www.energysavingtrust.org.uk/Generate-your-own-energy/Hydroelectricity>

Solar Photovoltaic: Solar electricity systems capture the sun's energy using photovoltaic (PV) cells. The cells convert the sunlight into electricity. For more information, see:

<http://www.energysavingtrust.org.uk/Generate-your-own-energy/Solar-electricity>

Wind power: Wind turbines use large blades to catch the wind. When the wind blows the blades are forced round, driving a turbine which generates electricity. The stronger the wind, the more electricity produced. For more information on community-scale wind, as proposed by BCE, see: http://en.wikipedia.org/wiki/Community_Wind

DRAFT

Equality Impact Assessment / Equality Analysis

Title of service or policy	Bath Community Energy Cooperation Agreement
Name of directorate and service	Resources & Support Services, Policy & Partnerships, Sustainability Team
Name and role of officers completing the EIA	Sara Grimes
Date of assessment	14/9/11

Equality Impact Assessment (or 'Equality Analysis') is a process of systematically analysing a new or existing policy or service to identify what impact or likely impact it will have on different groups within the community. The primary concern is to identify any discriminatory or negative consequences for a particular group or sector of the community. Equality Impact Assessments (EIAs) can be carried out in relation to service delivery as well as employment policies and strategies.

This toolkit has been developed to use as a framework when carrying out an Equality Impact Assessment (EIA) or Equality Analysis on a policy, service or function. It is intended that this is used as a working document throughout the process, with a final version including the action plan section being published on the Council's and NHS Bath and North East Somerset's websites.

1. Identify the aims of the policy or service and how it is implemented.	
Key questions	Answers / Notes
1.1 Briefly describe purpose of the service/policy	<p>The Cooperation Agreement is not a policy or a service; rather it is a non-legally binding, non-financial agreement which lays out the framework within which the Council can work with the social enterprise, Bath Community Energy (BCE).</p> <p>BCE is a not-for-profit organisation delivering renewable energy and energy efficiency projects and retaining the revenues locally through local share ownership and a Community Fund which will recycle revenues into future energy projects. As such, BCE can help the Council meet its objectives around carbon reduction, community resilience and low- carbon economic development.</p> <p>This Cooperation Agreement does not specify or describe particular projects. Rather, under this Agreement, we may decide to work in different ways with BCE on energy projects and the details of these projects will be worked out in subsequent project-specific documents, including further equality impact assessments and equality analysis as necessary.</p> <p>The Cooperation Agreement will be signed by the Leader of the Council and managed by the Sustainability Team, consulting with and involving other departments when needed for particular projects.</p> <p>The outcome will be helping BCE to succeed in their objectives of community-based energy projects, as outlined in BCE's business plan, which in turn will help to deliver the Council's objectives.</p> <p>The Cooperation Agreement is new.</p>
1.2 Provide brief details of scope	<p>We will review our work with BCE on an ongoing basis through a joint Steering Group and annual reviews.</p>

1.3	Do the aims of this policy link to or conflict with any other policies of the Council?	It links to our carbon reduction, community resilience and economic development policies.
2. Consideration of available data, research and information		
Monitoring data and other information should be used to help you analyse whether you are delivering a fair and equal service.		
Key questions		Data, research and information that you can refer to
2.1	What is the equalities profile of the team delivering the service/policy?	BCE is comprised primarily of white British adult males. The Sustainability Team who is managing the Cooperation Agreement is comprised primarily white British adult females.
2.2	What equalities training have staff received?	Sustainability team members have received some equalities training through Council induction. Policy & Partnerships staff have received equality briefings on equality impact assessments.
2.3	What is the equalities profile of service users?	Service users will be different according to which project is being considered (e.g. wind turbine vs. energy efficiency measures for the fuel poor). Each project will consider the effect of the initiatives on people with protected characteristics.
2.4	What other data do you have in terms of service users or staff?	No data since BCE is a new organisation. Satisfaction data will be collected and submitted with the annual reports
2.5	What engagement or consultation has been undertaken as part of this EIA and with whom?	No consultation has taken place. The Corporate Equality Policy Manager has overruled this EqIA.
2.6	If you are planning to undertake any consultation in the future regarding this service or policy, how will you include equalities considerations within this?	This question will need to be revisited for specific projects upon which consultation may take place
3. Assessment of impact: 'Equality analysis'		

	<p>Based upon any data you have considered, or the results of consultation or research, use the spaces below to demonstrate you have analysed how the service or policy:</p> <ul style="list-style-type: none"> ● Meets any particular needs of equalities groups or helps promote equality in some way. ● Could have a negative or adverse impact for any of the equalities groups
	<p>Examples of what the service has done to promote equality</p> <p>Examples of actual or potential negative or adverse impact and what steps have been or could be taken to address this</p>
	<p>This EqIA does not identify any specific issues for people with protected characteristics, rather it gives a general overview for the whole population. Should any specific project give benefit or detriment to a specific group of people a separate EqIA will be written.</p>
<p>3.1</p>	<p>There are no issues foreseen since the Cooperation Agreement does not outline ways of working or physical projects. However, this could be revisited when projects come forward.</p> <p>However, this Cooperation Agreement intends to facilitate energy projects which should help mitigate social inequalities in our area. BCE intends to develop energy efficiency projects which will focus on households in fuel poverty, enabling them to save money on fuel bills. Since renewable energy technologies may be sited in rural areas, financial and social benefits from BCE's operating model will accrue to the communities which work with BCE to establish these technologies.</p>

4. Bath and North East Somerset Council & NHS B&NES Equality Impact Assessment Improvement Plan

Please list actions that you plan to take as a result of this assessment. These actions should be based upon the analysis of data and engagement, any gaps in the data you have identified, and any steps you will be taking to address any negative impacts or remove barriers. The actions need to be built into your service planning framework. Actions/targets should be measurable, achievable, realistic and time framed.

Issues identified	Actions required	Progress milestones	Officer responsible	By when
<p>Whilst it is not foreseen that the Cooperation Agreement in itself will raise equalities issues, future</p>	<p>Revisit the questions above for individual projects which are facilitated through the</p>	<p>Will depend on the timeline upon which projects come forward</p>	<p>Sara Grimes</p>	<p>When projects are in the</p>

projects might.	Cooperation Agreement, and ensure a robust approach to equalities is taken.		conceptual stage.
Separate EqiAs will be considered, written and published when joint projects are being considered	Equality team to carry out EqIA training with BCE for them to be able to identify when EqiAs need to be carried out	Training completed	To be done by the end of Financial Year 2011.
		Sara Grimes	

5. Sign off and publishing

Once you have completed this form, it needs to be 'approved' by your Divisional Director or their nominated officer. Following this sign off, send a copy to the Equalities Team (equality@bathnes.gov.uk), who will publish it on the Council's and/or NHS B&NES' website. Keep a copy for your own records.

Signed off by:

Date:

(Divisional Director or nominated senior officer)

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Risk Assessment: BCE Cooperation Agreement 13.11.11 (Awaiting official Council formatting)

Risk	Likelihood/Impact (Score out of 5, 5 being the highest)	Total Score out of 10 (10 being highest risk)	Mitigating Factors and Actions
Reputational risk if BCE becomes insolvent	1/2	3	<p>Mitigating Factors:</p> <ul style="list-style-type: none"> -BCE projects have reliable incomes from Government incentives -BCE has so far had solid success at attracting private investment <p>Mitigating Actions:</p> <ul style="list-style-type: none"> -BCE's financial status will be monitored through the joint Steering Group and annual reporting
Reputational risk if something goes wrong with a BCE project	1/3	4	<p>Mitigating factors:</p> <ul style="list-style-type: none"> - Strong incentive for BCE to avoid this, as such BCE has chosen subcontractors which are stable, proven and reliable <p>Mitigating Actions</p> <ul style="list-style-type: none"> - If projects involve Council property, we provide careful oversight to help ensure success
Financial risk to the Council through Cooperation Agreement	0/0	0	No finances involved with Cooperation Agreement
Risk that we won't have capacity to deliver sufficient support	1/1	2	<p>Mitigating factors:</p> <ul style="list-style-type: none"> - BCE does not depend on our support to succeed <p>Mitigating Actions</p> <ul style="list-style-type: none"> - Frequent contact with BCE through Steering Group to openly communicate any changes in capacity

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Bath & North East Somerset Council		
MEETING:	Cabinet	
MEETING DATE:	12th October 2011	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2280
TITLE:	Tourist Information Centre Refurbishment	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		

1 THE ISSUE

- 1.1 The Bath Tourist Information Centre (TIC) is the second most heavily used such facility in the UK. The facility is badly in need of refurbishment as little has been done to the interior of this Bath and NE Somerset owned building for over 13 years.
- 1.2 The capital cost of improvements is £186k, which includes transferring the Festivals Box Office from its current site in Abbey Green into the TIC premises.

2 RECOMMENDATION

The Cabinet agrees that:

- 2.1 To enable Bath Tourism Plus, a controlled company of the Council, to progress the refurbishment of the TIC on behalf of the Council this capital project is approved.
- 2.2 That the Council's annual borrowing costs should be met by reducing the annual fee to Bath Tourism Plus by an equivalent amount.

3 FINANCIAL IMPLICATIONS

- 3.1 The capital cost of this project is £186k which will be paid as a capital grant to Bath Tourism Plus. The cost will be funded by Council borrowing. Interest is charged at 5% on of the borrowing costs. Repayments are £24k per annum over ten years, plus an interest only payment of £5k 2011/12. The borrowing costs will be met by reducing the grant paid to Bath Tourism Plus for the following ten years or such shorter period as necessary.
- 3.2 Once the refurbishment works have been completed a further review will be undertaken in light of the new operating arrangements of the festivals box office, including the reversion of the current Abbey Green site to the Council, to identify further revenue savings and additional income opportunities in subsequent financial years.

4 CORPORATE PRIORITIES

These proposals will help to “Make Bath & North East Somerset a better place to live, work and visit” and will impact positively on the achievement of the Council's priorities, specifically.

- *Improving transport and the public realm*
- *A dynamic economy*
- *World class arts and culture*

5 THE REPORT

- 5.1 The Tourist Information Centre (TIC) is a key element within the local tourism economy. In 2009 it was the busiest TIC in England, recording 536,000 visitors. It reaches between 1 in 4 of all visitors to Bath.
- 5.2 The TIC is operated by Bath Tourism Plus, a Council controlled company.
- 5.3 Income generated by the TIC reduces the subsidy paid by the Council to finance tourism, marketing and promotion of the Bath and NE Somerset area by Bath Tourism Plus.
- 5.4 Refurbishment of the ground floor of the Council owned building will refresh the Tourist Information offer to visitors and will incorporate the transfer of the Festivals Box Office from its premises in Abbey Green, with consequent revenue savings and increased income generating opportunities.
- 5.5 The investment would be made via a capital grant to Bath Tourism Plus with the debt charges financed over a ten year period via a reduction in the annual fee paid to that company.
- 5.6 BTP have identified a project manager and established a Board Sub - Committee to monitor progress, risk and budget and report back to Board. The Sub – Committee will monitor the achievement of milestones and oversee the

appointment of contractors. A working group, including a Property Services representative, will monitor detailed delivery.

- 5.7 Over the last 4 year period the ability of the Tourism Company to charge for the provision of services has been widened and the trading platforms within the computer systems improved in order to improve their ability to generate enquiries and deal with accomadation bookings. This has improved their trading position however the number of customer service desks within the TIC is restrictive (leading to long que at peak periods). Tickets for events and festivals are presently sold from a different location. Bringing these two service locations together is intended to improve the service for visitors to B&NES and residents alike.
- 5.8 The visitbath web site that supports information services and accomadation transactions received 2 million enquires in the last complete year of trading. This resulted in accomadation booking by value: £1,566,630 of which £270,000 were taken over the TIC counters. Bath Tourism Plus's earning from these transactions is £91,000. The opportunity to increase the overall income level is available as a consequence of this development.

6 RISK MANAGEMENT

- 6.1 The report author and Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.
- 6.2 The key risk identified was that delays might occur due to listed building issues. This risk has been mitigated by early consultation with listed building officers and redesigning the scheme to exclude items that could cause complications.

7 EQUALITIES

- 7.1 The refurbishment has regard to the needs of non-ambulatory people. Sight issues are being addressed by the utilisation of contrast and different materials and hearing loops are to be provided to assist those with hearing loss.

8 RATIONALE

- 8.1 The recommendations made in section 2 will enable work to progress on a refurbishment of the TIC that is badly needed. The work will refresh the offer to visitors and will incorporate the transfer of the Festivals Box Office from its premises in Abbey Green, with consequent revenue savings and increased income opportunities.
- 8.2 The costs will be recovered via a reduction in the annual fee paid to Bath Tourism Plus.
- 8.3 The consequence of this decision is that one of the Council's buildings is improved. Should Bath Tourism Plus cease to occupy this building then it will return to the Council in an improved state of decoration and functionality.

9 OTHER OPTIONS CONSIDERED

- 9.1 Investing in refurbishment excluding the festivals box office was considered. This was rejected because it would not allow cost savings and efficiencies to be generated.
- 9.2 A 'do nothing' option was considered. This would result in a decay in the service offered to visitors to Bath and a failure to take advantage of an 'obvious' commercial opportunity.
- 9.3 Borrowing on the commercial markets was also considered however the companies status as a controlled company of the Council and the lack of certainty over the occupation of the building (this is restricted to a 4 year rolling occupation based upon the signing of the Service Level Agreement with the Council) precludes this option.

10 CONSULTATION

- 10.1 *Ward Councillor; Cabinet members; Staff; Other B&NES Services; Service Users; Community Interest Groups; Other Public Sector Bodies; Section 151 Finance Officer; Chief Executive; Contract Monitoring Officer; Future Bath Plus*

11 ISSUES TO CONSIDER IN REACHING THE DECISION

- 11.1 *Customer Focus; Property.*

12 ADVICE SOUGHT

- 12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	<i>David Lawrence 01225 395385</i>
Sponsoring Cabinet Member	<i>Councillor Cherry Beath Councillor David Bellotti</i>
Background papers	<i>Designs and Cost Analysis – Bath Tourism Plus</i>
Please contact the report author if you need to access this report in an alternative format	