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**Meeting:** Delegated Decision of the Executive Member for Children's Services

**Date:** 16 April 2012

**Subject:** Determination of statutory proposals to extend the age ranges of Tithe Farm Lower School, Hawthorn Park Lower School, Thornhill Lower School and Thomas Whitehead VA Lower School in Houghton Regis

**Report of:** Edwina Grant, Deputy Chief Executive/ Director of Children's Services

**Summary:** The report sets out the responses to the statutory proposals to extend age ranges at three Community Lower Schools and one Voluntary Aided Lower School in Houghton Regis. These proposals have been subject previously of initial consultation and a statutory notice period has now concluded requiring the Council to consider representations received and to now determine the outcome of the proposals.

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**Advising Officer:** Edwina Grant, Deputy Chief Executive/ Director of Children's Services

**Contact Officer:** Pete Dudley, Assistant Director for Learning, Commissioning and Partnerships

**Public/Exempt:** Public

**Wards Affected:** Parkside, Tithe Farm and Houghton Hall

**Function of:** Executive

**Key Decision** Yes

<b>CORPORATE IMPLICATIONS</b>
<b>Council Priorities:</b>  The proposals set out in this report support Central Bedfordshire Council's strategic priority of educating, protecting and providing opportunities for children and young people.

**Financial:**

1. Potential capital requirements for implementing the proposed extended age ranges have been forecast as required in due course of £220k in 2016 at Tithe Farm Lower School and £200k in 2014 at Hawthorn Park Lower School, two of the three Community Schools subject to these proposals. These are the earliest dates the additional capacity would be required. Whereas the Council, in approving these proposals, would carry an obligation to implement and therefore fund any required enabling works, the Governing Bodies of each school have within their submissions, committed to raise the necessary school funds to meet this challenge at the point at which the additional investment is required. If these proposals are approved, officers will work with these schools to ensure their budget planning process is robust and able to deliver the required level of funding.
2. In publishing statutory proposals for Thomas Whitehead CofE VA Lower School, the Governing Body of the school will therefore carry the duty to implement the proposal if it is approved, including funding any enabling works. At the point of determination of the proposals the Council as decision maker must be satisfied, that the school is able to implement the decision. Thomas Whitehead is a Voluntary Aided school and will seek any capital it requires through the Locally Controlled Voluntary Aided Programme (LCVAP) with the support of the Diocese.
3. Tithe Farm Lower School and Hawthorn Park Lower School both share some accommodation with the local Neighbourhood/Children's Centres and this would be required to be returned for school use from 2016 to make each proposal viable. Each school has suggested in its consultation that it would seek to tender to provide the services provided from these Centres from 31 March 2015, when the current Service Level Agreements expire, and mitigate the impact on services by greater integration with the schools main accommodation and enhanced partnership working.
4. The day to day running costs of expanded provision is met through revenue funding which is made available to each school as part of the dedicated schools grant, calculated on a per pupil basis.

**Legal:**

5. The main legislation governing school organisation is found in sections 7-32 of the Education and Inspections Act 2006, The School Organisation (Establishment and Discontinuance of Schools) (England Regulations 2007 and the School Organisation (Prescribed Alterations to Mainstream Schools) (England) Regulations 2007.
6. The Department for Education produces guidance which provides information on the procedures established by this legislation containing both statutory guidance (i.e. guidance to which local authorities and governing bodies have a statutory duty to have regard) and non-statutory guidance, on the process for making changes to the upper age limit of a maintained mainstream school.

7. The Executive Member for Children's Services is authorised, under delegated authority, to exercise the Council's duty to determine proposals to alter the upper age range of pupils in schools. As decision maker the Council must be satisfied that the proposals have followed due process and must also have regard to statutory guidance.
8. As decision maker for the statutory proposals published in regard to the three Community Lower Schools and the Voluntary Aided Lower School the Executive Member for Children's Services must determine whether to approve the proposed changes within two months of the close of the determination period, otherwise the proposals will be referred to the schools adjudicator.
9. The following bodies may appeal against a Council decision on the proposals in this report:
  - The local Church of England diocese
  - The bishop of the local Roman Catholic diocese
  - The Governors and Trustees of a voluntary school that is subject to the proposals

Any appeals must be submitted to the Council within 4 weeks of the decision and the Council must refer the matter to the schools adjudicator.

#### **Risk Management:**

10. Each of the proposals set out in this report has been developed and evaluated against the key criteria for decision makers that are outlined in guidance. Likewise the proposals have followed the procedures set out in regulation. This mitigates the risk on the Council of failing to comply with the relevant statutory requirements.

Key risks mitigated by the process that has been followed include:

- Failure to discharge legal and statutory duties/guidance.
  - Failure to deliver the Council's strategic priorities
  - Reputational risks associated with the non delivery of required school places.
  - Financial risks, including significant capital commitment to the Council.
11. If approved, the implementation of each proposal will be subject of a detailed change management plan developed by each school and supported by the Council and Diocese. These plans will include risk assessment and management criteria to ensure effective delivery of the objectives set out in the proposal documents. Any contract and construction risks will be overseen through the schools and Diocese project management of agreed projects.

### **Staffing (including Trades Unions):**

12. Staff and Trade Unions at all four schools have been engaged throughout the initial consultation process. Trade Union concerns were expressed to the consultation that strong and effective Governance is essential to manage the change process required to implement the proposals. At the conclusion of the initial consultation stage the Governing Body of each school considered the responses, reiterated their determination to take the proposals forward and the schools are working collaboratively to plan and manage the change process.
13. Concerns were also raised of the potential for redundancies, although in enlarging these schools the requirement will be for additional staff. Aside from the Council's statutory responsibilities as employer of staff in each of the three Community Schools and subject to service buy back arrangements, which may cease with the Council with effect from 31 August 2012, schools should ensure that they will have the support of their Human Resources provision where any proposals require changes in school staff structures or to terms and conditions of employment. The Council, in undertaking its statutory responsibilities, will have a role to ensure correct procedures have been undertaken where procedures may lead to dismissal. The proposed changes to create larger schools could allow for better career progression for all staff than is available in a small school.
14. The impact of these proposals on staff at feeder Middle Schools has been considered. Mill Vale Middle (Academy) is currently seeking to convert as a Primary School and the sponsors of Kings Houghton Middle School (the Greenwood Dale Foundation Trust) have indicated their intention to bring forward proposals on conversion to Academy status to expand its age range in due course as a Secondary School. Neither provider has objected to the proposals, indeed the sponsors of Kings Houghton Middle School have submitted a letter of support, as can be seen with other responses received within the statutory representation period at Appendix E to this report.

Should staffing reductions be identified in other maintained schools as a result of the proposals the Council will give consideration to any redundancy costs arising from these reductions being met from the Direct School Grant budget share in accordance with the Councils Schools Finance Regulations.

15. At Thomas Whitehead VA Lower School the Church of England Diocese have been fully engaged in the proposals brought forward by the Governing Body who are employers of the staff, and the process has been supported by the St Albans Diocese.

### **Equalities/Human Rights:**

16. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and to foster good relations in respect of the following protected characteristics: age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

This statutory duty includes requirements to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics.
- Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

17. As Decision Maker for these proposals, the Council has considered that there are no race or disability discrimination issues that arise from the changes being proposed. Each of the schools has carefully considered these issues and the impact on provision for children with special educational needs and disabilities in their proposal documents that have been publicised with the statutory notices. Similarly each school has made a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of their local communities, while ensuring that such opportunities are open to all. The potential impact on Children's Centres and extended services are outlined below.

### **Public Health**

18. The schools in this proposal serve the electoral wards of Parkside, Tithe Farm and Houghton Hall in Houghton Regis. Four of the top six most deprived Lower Super Output Areas, used to measure multiple deprivation in Central Bedfordshire, are in Houghton Regis. The schools currently each provide a range of extended schools services but they see the proposal as an opportunity for joint extended school provision, better reflecting the needs of their local communities.
19. The schools will aim to work in partnership to provide a range of extended services including:
- Parenting and family support officers
  - Transition support for pupils, schools and families
  - Combined clubs and after school activities
  - Holiday activities
  - Support for vulnerable pupils and families i.e siblings group and young carers

Each school has also expressed an ambition to further integrate these services with those provided through the local Neighbourhood/Children's Centres.

### **Community Safety:**

20. The Council has a statutory duty to consider community safety implications in undertaking its delivery of core services. Extending the age ranges for the schools noted will require the Council to work with the schools to ensure that the community safety impact has been assessed and appropriate measures to mitigate any risk have been implemented. Complaints regarding noise, litter, young people and general anti social behaviour are higher in areas surrounding schools. Increasing the numbers accessing schools has the potential to further increase complaints. The impact on travel and access has been considered, and the Council will need to work with the schools to ensure that the wider community safety impact is considered and appropriately addressed.

### **Sustainability:**

21. Whilst there may be additional costs in order to meet sustainability objectives for any new build and/or expansion of existing schools, these will be contained within the costs identified for each individual project and informed by the Council's Schools Sustainable Design Brief. These measures would contribute to reduced running costs through better energy and resource efficiency, and therefore limit the CRC burden on the Council and the school, alongside creating a better learning environment for the pupils.

### **Procurement:**

22. The Council's Procurement Team will continue to provide support for any scheme of planned capital investment to implement the proposals set out in this report, funded by the schools. This will ensure that value for money is secured and a range of potential procurement routes are considered.

### **Overview and Scrutiny:**

23. This matter has not been considered by Overview and Scrutiny.

## **RECOMMENDATIONS:**

### **The Executive Member for Children's Services is asked to:**

1. **note that the procedures established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (as amended by The School Organisation and Governance (Amendment) (England) Regulations 2007 and The School Organisation and Governance (Amendment) (England) Regulations 2009, have been complied with in bringing forward the proposals outlined in this report.**
2. **consider the representations attached at Appendix E, to the statutory notices as set out in Appendices A-D, issued on the 20 February 2012 under Section 19(1) of the Education and Inspections Act 2006 for Tithe Farm Lower School, Hawthorn Park Lower School and Thornhill Lower School and Section 19(3) of the Education and Inspections Act 2006 for Thomas Whitehead CofE VA Lower School.**

- 3. approve the statutory proposals to extend the age ranges of the following four schools to become 3-11 Primary Schools, with effect from September 2013.**
- i. Tithe Farm Lower School to provide 420 places in the main school for pupils aged 5-11, with a published admission number of 60, plus provision for 78 part time nursery places.**
  - ii. Hawthorn Park Lower School to provide 420 places in the main School for pupils aged 5-11, with a published admission number of 60, plus provision for 79 part time nursery places.**
  - iii. Thornhill Lower School to provide 210 places in the main school for pupils aged 5-11, with a published admission number of 30, plus provision for 60 part time nursery places.**
  - iv. Thomas Whitehead VA Lower School to provide 308 places in the main school for pupils aged 5-11, with a published admission number of 44, plus provision for 44 part time nursery places.**

*Reason for Recommendations: To determine the outcome of the statutory proposals following the close of the representation period on the 2 April 2012. If the Council were to fail to decide these proposals within 2 months of the end of the representation period it must forward proposals, and any received representations, to the schools adjudicator for decision.*

### **Executive Summary**

- 24. The purpose of this report is to provide the Executive Member for Children's Services with sufficient information and guidance to enable him to determine the proposals to extend the age ranges of four schools in Houghton Regis.
- 25. The report will set out the background to the proposals and the process that they have followed to date, aligned with the statutory requirements set out in legislation and Department for Education guidance for proposals of this nature.
- 26. The report concludes with a recommendation to approve the proposed changes to age ranges at these four schools, with an implementation date of September 2013.

### **Background**

- 27. Central Bedfordshire's guidance for maintained schools proposing changes to age ranges was published on the Council's website, in Central Essentials and in the Members Bulletin on 9 and 16 September 2011 respectively. The October 2011 edition of Governors Essentials also contained advice on the new process. The guidance was created using Department for Education statutory guidance for decision makers as its basis.

28. A number of proposals were received and acknowledged by the Council, and proposals from the following schools to become 3-11 Primary schools from September 2013, were subsequently approved by the Deputy Chief Executive / Director of Children's Services, in consultation with the Executive Member for Children's Services, to proceed to initial consultation.

Tithe Farm Lower School to in future cater for approximately 420 pupils.

Hawthorn Park Lower School to in future cater for approximately 420 pupils.

Thornhill Lower School to in future cater for approximately 210 pupils.

29. Separately, the Governing Body of Thomas Whitehead CofE VA Lower School determined, as it is able to do as a Voluntary School, to undertake initial consultation on a similar proposal to become a primary school to cater for approximately 308 pupils, in parallel with the other three local Community schools. Although the school is able to propose to change its age range, to consult and to publish statutory notices for the purpose, the Council is the eventual decision maker in the process.
30. The initial consultation period for all four proposals commenced on 5 December 2011 and each school was supported to ensure that the process followed that set out in Department for Education guidance and regulation. The consultation period ended on 3 February 2012.
31. The Governing Bodies of the three community schools then submitted their consultation materials, minutes of public meetings and copies of all responses received to the Council.
32. Each Community School also prepared a summary of the responses received, setting out those made in support and objection to the proposal and also providing additional comment where relevant. The Governing Bodies of these three schools formally confirmed their continuing support for the proposal and requested that the Council approved the publication of statutory proposals.
33. On the 14 February 2012 the Deputy Chief Executive / Director of Children's Services, in consultation with the Executive Member for Children's Services, considered the representations made to the initial consultation and the statements of the Governing Bodies of each of the three Community Schools and approved the publication of separate statutory proposals, under Section 19(1) of the Education and Inspections Act 2006, for each of these three schools to change their age range to become Primary Schools catering for pupils aged 5-11 with effect of September 2013.
34. The Governing Body of Thomas Whitehead VA Lower School also considered the outcome of their initial consultation and determined to progress with the publication of statutory proposals under Section 19(3) of the Education and Inspections Act 2006 to change their age range to become a Primary School catering for pupils aged 5-11 with effect of September 2013.



35. The four statutory proposals were each published in line with Department for Education guidance on 20 February 2012 along with evidence of the initial consultation and other information prescribed by regulation inviting further comment or objection to the proposals by the end of the representation period on 2 April 2012. Copies of the Statutory Notices and the prescribed information for each of the four proposals are attached at Appendices A-D for Tithe Farm, Hawthorn Park and Thornhill Community Lower Schools and Thomas Whitehead CofE VA Lower School respectively.
36. The timescale for consultation and final determination has been planned to enable any approved proposals to be reflected in the Admissions booklet published in the summer of 2012 for admission in September 2013. If the Council were to fail to decide these proposals within 2 months of the end of the representation period it must forward proposals, and any received representations, to the schools adjudicator for decision.

### **Determination**

37. The Executive Member for Children's Services is authorised, under delegated authority, to exercise the Council's duty to determine proposals to alter the upper age range of pupils in schools. As decision maker the Council must be satisfied that the proposals have followed due process and he must have regard to guidance issued by the Secretary of State.
38. Before judging the respective factors and merits of the statutory proposals, the Executive Member for Children's Services must consider four key issues. These are:
- Is any information missing?
  - Does the published notice comply with statutory requirements?
  - Has the statutory consultation been carried out prior to the publication of the notice?
  - Are the proposals "related" to other published proposals?
39. The statutory proposals were published on 20 February 2012 with information prescribed by regulation and supplemented with significant additional content explicitly outlining the objectives of each school, in bringing the proposals forward. The information was complete, clear and complied with statutory requirements. Evidence that the initial consultation was carried out before the statutory notices were published was provided to the Council and the proposals are not related to each other but are independent and capable of being determined without preventing or undermining the implementation of others in this report.
40. The Department for Education guidance for decision makers is issued by the Secretary of State and contains a number of key factors to be considered when they make a decision on proposals of this nature. The guidance is clear that these factors should not be taken to be exhaustive and all proposals should be considered on their individual merits. The following sections therefore focus on the factors most relevant to these proposals.

41. A system shaped by parents – The findings of the initial consultation indicated significant support and parental demand for the proposed change in age ranges at each of the four schools.
42. Standards – The key driving objective of these proposals is to raise standards and to improve outcomes for young people, particularly at Key Stage 2 but paying particular attention to groups that tend to underperform and will benefit from the stability, consistency and continuity for children throughout their primary years, through each school's ethos, curriculum, teaching and learning organisation. All four schools believe that conversion to Primary Schools will be of benefit in raising the attainment of all pupils in particular by removing the disruption of a school transfer at the end of year 4.
43. Diversity - The proposal enables the Council to meet its statutory duty to secure diversity of provision in school places and to increase opportunities for parental choice for those who favour a primary age range. One of the receiver Middle Schools for this group of lower schools, Mill Vale Middle School, has already consulted on changing its age range to become a primary school on conversion to Academy status thereby removing the opportunity in future for parents to choose this as an option.
44. The Governing Body and Academy sponsors of the other receiver middle school for these lower schools, Kings Houghton Middle School, has indicated support for the proposals and an intention to consult on changes to its age range in due course. Likewise the existing receiver Upper School, All Saints Academy, has consulted on changing its age range to become an 11-18 secondary school in the same timeframe and awaits a decision from the Education Funding Agency, decision maker for Academy proposals.
45. These schools are supportive of each others proposals and together with the new University Technical College, to be established in Houghton Regis from September 2012, they have committed to work collaboratively to ensure there is a well organised system of primary and secondary education in the area in the future that benefits both pupils and parents.
46. Every Child Matters – Each of the proposals are clear that achieving the five outcomes for Every Child Matters is central to the schools ethos with wrap around care, support for families and a wide range of extended services that can be further developed by working in partnership. The proposals represent a significant opportunity to improve these services and they may be further enhanced by greater collaboration between the local Neighbourhood/Children's Centres and schools that share their sites.
47. Equal opportunity issues – Each of the schools has carefully considered these issues and the impact on provision for children with special educational needs and disabilities in their proposal documents that have been publicised with the statutory notices. Similarly each school has made a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of their local communities, while ensuring that such opportunities are open to all.

48. Need for places – The Council’s School Organisation Plan is refreshed on an annual basis to take account of the supply and demand for school places. It is informed by data on school capacity and forecasts of pupil numbers as a result of changes in birth rate, housing development and parental preferences.
49. The pattern of provision in Central Bedfordshire is also reflected in the Plan and while it is traditionally a three tier area of lower, middle and upper schools it also has a primary school and a middle deemed primary serving the 5-13 age range. The pattern of provision in the Dunstable and Houghton Regis area, where the schools subject to these proposals are located, is subject to significant change as a result of a number of Academies that are independent of the Local Authority and are also proposing changes to their existing age ranges fundamentally towards a more traditional primary/secondary pattern of provision.
50. These proposals are aligned with those being made currently by the Academies in the area and will ensure a coherent pattern of primary and secondary provision and transition for the pupils in these schools. It also provides the Council with a clearer basis for strategic planning to meet the demand of planned local housing growth in the north Houghton Regis area.
51. Changes to the Published Admission Numbers of the schools subject to these proposals are only planned at Thornhill Lower school which will reduce from 40 to 30 places which is reflective of the number of admissions to the school in recent years and will not therefore cause displacement of pupils. The remaining schools will retain their existing PANs and plan to utilise existing surplus places or to create additional physical space to provide the additional places to meet parental demand for the extended primary age range.
52. Travel and Accessibility for all – Section 76 of the Education and Inspections Act 2006 places a duty on local education authorities to promote the use of sustainable modes of travel to meet the school travel needs of their area. None of the schools subject of these proposals will be changing their sites and the current distribution of school sites will remain as it currently is.
53. Whilst there may be an increase in the total numbers of children travelling to three of the schools subject of these proposals, this will be matched by a corresponding reduction in journeys to the current receiver middle school. Similarly the schools are all within easy walking distance; hence the majority of increased traffic would be expected to be pedestrian.
54. Each of the schools concerned already has an approved travel plan which will be updated if the proposals are approved to reflect the changes that will be made and to outline the actions they will be taking to encourage sustainable travel and to ensure any negative travel and transport issues are minimised. The Council’s sustainable transport team are able to help support this review process and provide guidance as to the actions that should be put in place. Should planning applications be needed then updated travel plans will also be required to accompany the application.

55. Funding and land – Capital costs have been identified to implement the proposals at three of the four schools. The Governing Bodies of Tithe Farm and Hawthorn Park Lower Schools have committed to fund the required expansions in due course. None of the proposals are reliant on capital receipts, new sites or playing fields and there are no land tenure issues arising from these proposals. Thomas Whitehead is a Voluntary Aided school and will seek any capital it requires through the Locally Controlled Voluntary Aided Programme (LCVAP) with the support of the Diocese.
56. Special educational needs provision – Each of the schools subject of these proposals, already support children with special educational needs attending their local mainstream school. While there are no proposals to establish new specialist provision or to change existing, each of the schools believe that current provision and practice for special educational needs, vulnerable and looked after children and for children with disabilities is good and will be enhanced by the proposal.
57. In expanding age ranges, delivering the whole of the primary curriculum and retaining children through to the end of year 6 the schools believe that all learners will be better supported since many children find it difficult to adapt to the disruption of a larger school, different organisation and different approaches to teaching and learning.
58. Likewise the schools believe that the primary approach of mixed ability classes better supports vulnerable children as they benefit from the stimulus and support of others, and have opportunities to excel in other areas thus boosting their self-esteem. The schools have the facility to teach children in groups other than their registration groups. This has already proved very successful in school for reading and in KS2 maths and this would continue to support more vulnerable learners.
59. Hawthorn Park currently also manages the Jigsaw Extended School Provision for excluded pupils in years 1-6 so sharing of expertise and resources will be enabled across all of the schools if the proposal were approved.
60. Views of interested parties – The Department for Education guidance is clear that the decision maker should consider the views expressed during the initial consultation and the statutory representation period, following publication of the statutory public notices. In doing so he should not simply take account of the numbers of respondents expressing a particular view but instead give the greatest weight to representations from stakeholders likely to be most directly affected by the proposals.
61. The full analysis of the responses to the initial consultation is attached with the Statutory Notices for each school at Appendices A to D.
62. A significant majority of responses to the initial consultation for each of the four schools were positive with overwhelming support from parents and carers. Concerns were raised by a limited number of schools at the potential to disrupt the pattern of three tier education provision, however these were not from schools that would be impacted in the immediate area. In fact, as stated previously, the existing receiver middle schools did not object to the proposals and one has stated its support.

63. Three responses were received within the formal 6 week representation period. These are attached at Appendix E and were from the Council's Sustainable Transport Team, Greenwood Dale Foundation Trust and Mrs Rae Bird, a resident of Houghton Regis. Issues raised by the first two of these respondents are contained within this report. The Council's reply to the issues raised by Mrs Bird is outlined in Appendix E.
64. The consultation outcomes indicate that there is significant support for the proposals to extend the age range of the four schools in this report.

### **Decision**

65. In considering the proposals the decision maker may decide to reject, approve or to approve with modifications (e.g. the implementation date) the proposals set out in this report. In either case, the reasons for the final decision must be carefully recorded indicating the main factors considered and the reasons for the decision. A copy of the final decision must be forwarded to a range of bodies specified in guidance.
66. Whilst the decision on the three Community School proposals will be binding, there is provision within the legislation for the Governing Body or Diocese to appeal the decision in connection with Thomas Whitehead CofE VA Lower School by reference to the Office of the School Adjudicator.
67. Having followed the procedure required by regulation and in consideration of the key issues and factors for decision makers set out in guidance it is recommended that the proposals to extend age ranges at the four schools as set out in this report and published by Statutory Notices issued on 20 February 2012, be approved with an implementation date of 1 September 2013.

### **Appendices:**

- Appendix A: Statutory Notices, prescribed information and responses to the statutory consultation for Tithe Farm Lower School
- Appendix B: Statutory Notices, prescribed information and responses to the statutory consultation for Hawthorn Park Lower School
- Appendix C: Statutory Notices, prescribed information and responses to the statutory consultation for Thornhill Lower School
- Appendix D: Statutory Notices, prescribed information and responses to the statutory consultation for Thomas Whitehead CofE VA Lower School
- Appendix E: Responses received within the representation period

### **Background Papers:** (open to public inspection)

Statutory Notice and Prescribed Alteration Documents