

Community Governance Review

Council

Date: 18th July 2013

Author: Director of Law & Democratic Services

Wards: All, but particularly Penhill & Upper Stratton, and Covingham & Dorcan

Locality Affected: All, but particularly East and North Central

Parishes Affected: All, but particularly Stratton St Margaret

1. Purpose and Reasons

- 1.1 This report is to inform Council of the recommendations of the Corporate Governance Review Working Group (the Working Group) following its review on 14th May 2013 of the Council resolution made on Thursday 11th April 2013.
- 1.2 Council is asked to give effect to the recommendations of the Working Group which are attached as Appendix 1, and authorise the necessary Reorganisation Order to be drawn up, to take effect after April 2014 in line with the appropriate parish electoral cycle.

2. Recommendations

The Working Group recommended that:

- 2.1 It is recommended that :

(1) The decision of the Council (Minute 125(1) 2012/13 of the Council refers) in relation to the creation of a Nythe Parish with a parish council of 7 parish councillors be confirmed with the Parish Council election taking place in May 2015 to coincide with the scheduled election for Stratton St Margaret parish council.

(2) The decision of the Council (Minute 125(1) 2012/13 of the Council refers) in relation to the Headlands Grove area be changed so that there be no alteration to the existing boundary of Stratton St Margaret Parish in the Headlands Grove area, for the reasons set out in the Working Group minutes of the 14th May 2013.

(3) The remaining recommendations of the Corporate Governance Review Working Group as presented to the Council on 11th April 2013 be adopted and given effect by the Council.

(4) In accordance with the requirements set out in Section 96 of the Local Government and Public Involvement in Health Act 2007, the Director of Law and Democratic Services be authorised to update the Scheme to incorporate these recommendations of the Corporate Governance Working Group and publish the Council's decision in relation to these recommendations together with the reasons for making this decision, and to take such steps as he considers

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sufficient to secure that persons who may be interested in the Community Governance Review are informed of that decision.

(5) The Director of Law and Democratic Services be authorised to

- (i) prepare, in consultation with the Leader of the Council, a revised scheme and consequential Community Governance Reorganisation Order
- (ii) seek the agreement of the Local Government Boundary Commission to any consequential changes to the protected electoral arrangements set out in the Swindon (Electoral Changes) Order 2012, and
- (iii) Make and implement the reorganisation order.

3. Detail

Background

- 3.1 The Terms of Reference for the Community Governance Review sets out a timetable of stages for the receipt of formal proposals. The consultation period (Stage 3) was extended until 18th February 2013 and all proposals received prior to that date were considered by the Working Group. Subsequently, further evidence was submitted in relation to certain of those proposals, all of which were considered by the Working Group at its meeting on 2nd April 2013.
- 3.2 The recommendations of the Working Group were then published and interested persons informed of those recommendations.

Council Meeting on 11th April 2013

- 3.3 At its meeting on 11th April 2013, Council considered to what extent to give effect to the Working Group's recommendations. It accepted all recommendations other than those relating to the creation of a Nythe Parish, and the inclusion of properties in the Headlands Grove area into the parish of Stratton St Margaret.
- 3.4 In particular, Council agreed that :
 - 3.4.1 "After considering all submissions to the Community Governance Review [it] agrees that a Nythe Parish with a Nythe Parish Council of 7 members should be created because:
 - (a) Nythe is a distinct and separate community of place with it's own shops, community centre and schools, has a recognizable local community identity which residents identify with and will improve community cohesion;

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(b) It will increase the local representation from 3 members to 7 members, and generate sufficient interest to hold a parish election improving community representation;

(c) It is of sufficient size to be a viable entity, would be more effective and convenient and improve local administration by being a more representative, and accountable, governance arrangement and enable inclusive, active and effective participation by residents;

(d) The boundary can be clearly defined and identified geographically with boundaries set as west of Dorcan Way, south of the Greenbridge fields, north of Dorcan stream and west of Ashbury avenue and the Drive road covering the CDB borough council polling district, and

(e) [It] takes into account the views of local residents, other governance arrangements in the area, all statutory criteria including the 1972 Act.”

3.4.2 “This Council amends the draft Community Governance Review recommendations to exclude the following streets from the Stratton Parish:

- Constable Road
- Headlands Grove
- Jefferies Avenue
- Masefield Avenue
- Wheeler Avenue.”

on the basis that the movers of the amendment “did not consider that the consultation which took place was extensive enough and the result of the consultation which did take place resulted in only 10% of residents affected being in favour of the proposal and this is a totally inadequate figure upon which to approve any change of governance.”

3.5 Attached at Appendix 2 is the map identifying the proposed parish of Nythe (polling district CDB). Attached at Appendix 3 is the map showing that part of the Headlands area identified within the Working Group’s recommendation to move from the un-parished area into the Stratton St Margaret parish. Attached at Appendix 4 is the map showing properties currently within the Stratton St Margaret parish that would be moved to an un-parished area in Swindon as a result of the amendment in 3.4.2 above agreed at full Council on 11th April 2013.

3.6 As the Council decided not to give full effect to the recommendations of the Working Group, the Working Group was convened to consider whether it should make any consequential recommendations which can then be considered by Council at its next meeting. The Working Party considered this issue and the

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Minutes set out the views of the Working Party and the reasons for its recommendations

Creation of Nythe Parish

- 3.7 So far as the creation of a Nythe Parish is concerned, the rationale for that is set out in 3.4.1 above. This was the view of the Council at its meeting of 11th April 2013, and the reasoning has subsequently been accepted by the Working Group (see the minutes of the Working Group meeting of 14th May 2013). It is envisaged that election to the new parish council take place in May 2015 to coincide with the next scheduled election for Stratton St Margaret Parish Council. There has been no suggestion to date that the parish be warded and having regard to the factors referred to in section 95(7) of the Local Government and Public Involvement in Health Act 2007 it would not be justified unless either parts of the new parish have a particular sense of identity or the new parish council requests this in due course.
- 3.8 The reorganisation order giving effect to the creation of the new Nythe parish may make provisions with regard to the transfer and management or custody of property and the transfer of functions, property, rights and liabilities. Regulations have been made in relation to such matters together with the setting of precepts for new parishes, and a model Order is attached at Appendix 5.

Headlands Grove area

- 3.9 The rationale for not changing the current parish boundary is set out in the minutes of the Working Group meeting of 14th May 2013: In summary, there appears to be no overall wish or demand to remove properties from Stratton St Margaret parish that are currently in that parish.

Local Government Boundary Commission

- 3.10 As members will be aware, the agreement of the Local Government Boundary Commission is required to any consequential changes to the protected electoral arrangements set out in the Swindon (Electoral Changes) Order 2012, These arrangements include the parish wards established under that Order. The recommendations of the Working Group, therefore, have taken this issue into account.

4. Alternative Options

- 4.1 Section 96 (2) of the Local Government and Public Involvement in Health Act 2007 requires the Council to decide to what extent it will give effect to the recommendations of the Working Party.

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5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no specific Financial or procurement implications arising from this report. The implications of establishing a new parish council for Nythe were highlighted within the report of 2 April 2013.

Legal and Human Rights Implications

- 5.2 Legal and Human Rights implications have been taken fully into account in the preparation of this report. It is noted that Stratton St Margaret Parish Council have threatened to challenge the Council's decision of 11th April 2013 by way of judicial review. In response to the Parish Council's letter before claim, the Council has stated that the issues complained about will be reconsidered by the Council at this meeting, rendering any application for judicial review unnecessary. It is considered that the recommendations of the report are compatible with Convention rights.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other direct implications associated with this report.

Links to One Swindon, Strategic Objectives, Plans and Policies

- 5.4 There are no specific links.

Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment (DIA) has not been undertaken at this stage.

Risk Management

- 5.6 There are none linked to this report although failure to comply with the statutory procedures would be a legal and reputational risk to the Council.

6. Consultees

- 6.1 Borough Councillors, Parishes and parish councillors, members of the public have been consulted at various stages during the Community Governance Review process.

7. Background Papers

- 7.1 None

8. Appendices

- 8.1 1 – Minutes of Community Governance Working Party dated 14th May 2013.
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- 8.2 2 – Map identifying the proposed parish of Nythe (polling district CDB)
- 8.3 3 – Map showing the Headlands area identified within the final recommendations to move from the un-parished area into the Stratton St Margaret parish
- 8.4 4 – Map showing properties currently within the Stratton St Margaret parish that would be moved to an un-parished area in Swindon as a result of the motion agreed at full Council on 11th April 2013.
- 8.5 5 – Model Reorganisation Order

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Appendix 1

CORPORATE GOVERNANCE REVIEW WORKING GROUP

TUESDAY, 14 MAY 2013

PRESENT:- Councillor David Renard (Chair) The Worshipful the Mayor (Michael Bray),
Councillors Jim Grant and Stan Pajak.

An apology for absence was received from Councillor Michael Dickinson and Councillor Russell Holland deputised for him.

Also in Attendance: Councillor Dale Heenan.

32. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting.

33. Minutes

Resolved – That the minutes of the meeting held on 2nd April 2013, be confirmed as a correct record.

34. Community Governance Review

The Director of Law and Democratic Services submitted a report concerning the Community Governance Review of Swindon and the views of the Council on Thursday 11th April 2013.

The Director explained that the report had been produced in order that the Working Group could review the outcome of the discussions at the Council meeting on 11th April 2013, and agree consequential recommendations to be presented to a future Council meeting for formal adoption as part of a new Scheme of Community Governance for Swindon. He referred to Minute 125(1) of the Council and, in particular, in relation to the Headlands Grove area and the creation of a Nythe Parish Council.

Headlands Grove Area

The Director advised that the Council had agreed that “the draft Community Governance Review recommendations be amended to exclude the following streets from the Stratton St Margaret Parish:

- Constable Road
- Headlands Grove

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- Jefferies Avenue
- Masefield Avenue
- Wheeler Avenue.

This was on the basis that the movers of the amendment at the Council meeting “did not consider that the consultation which took place was extensive enough and the result of the consultation which did take place resulted in only 10% of residents affected being in favour of the proposal and this is a totally inadequate figure upon which to approve any change of governance.”

The Director reported that following the meeting of the Council it had become clear that the consequence of the amendment was that a number of households within Masefield Avenue, Wheeler Avenue and Headlands Grove that were already in the Parish of Stratton St Margaret would, as a consequence of the amendment, be excluded from the Parish. The Director believed that based on the debate that had taken place at the Council meeting this had not been the intention of the mover and seconder of the amendment who were seeking that the existing “status quo” in the area be retained because there had not been sufficient community support for change, and this was confirmed by Councillor Grant who had moved the amendment.

Following discussion, the Working Group agreed to recommend that the status quo be maintained for the reasons set out above.

Creation of Nythe Parish

The Director advised that the Council had approved (Minute 125(1) of the Council refers) “the draft Community Governance Review recommendations with the exception that after considering all submissions to the Community Governance Review Council agrees that a Nythe Parish with a Nythe Parish Council of seven Members should be created because:

(a) Nythe is a distinct and separate community of place with its own shops, community centre and schools, has a recognisable local community identity which residents identify with and will improve community cohesion;

(b) It will increase the local representation from 3 members to 7 members, and generate sufficient interest to hold a parish election improving community representation;

(c) It is of sufficient size to be a viable entity, would be more effective and convenient and improve local administration by being a more representative, and accountable, governance arrangement and enable inclusive, active and effective participation by residents;

(d) The boundary can be clearly defined and identified geographically with boundaries set as west of Dorcan Way, south of the Greenbridge Fields, north of Dorcan stream and west of Ashbury Avenue and the Drive road covering the CDB Borough Council polling district, and

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(e) It takes into account the views of local residents, other governance arrangements in the area, all statutory criteria including the 1972 Act.”

The Director reminded the Working Group of the provisions of ‘The Swindon (Electoral Changes) Order 2012’. The Order had prescribed both new Borough ward boundaries and changes to certain parish warding arrangements to be implemented for their next electoral cycle. In particular, there had been changes to the warding arrangements in Stratton St Margaret parish, including for the parish ward and area identified for the creation of a new Nythe parish. The Director had contacted the Local Government Boundary Commission for England (“the Commission”) in relation to the Council’s wish to see a Nythe parish created. The Commission had indicated the detail that would be required to be included in any Reorganisation Order to reflect the establishment of the new parish and the revised arrangements for the existing parish. As the Working Party had been previously advised, the consent of the Commission would be required in relation to any changes to the parish electoral arrangements set out in the 2012 Order.

The Director asked the Working Party to consider its recommendations on the warding of the new parish and the date for its establishment and first elections as well as a number of other matters.

Councillor Dale Heenan, Ward Councillor for the Covingham and Dorcan Borough Ward which includes the area of the proposed new parish, reminded the Working Group of the various surveys carried out on this issue which he summarised as amounting to 384 signatures in favour of the new parish and 366 against, excluding those who had both supported and opposed a new parish. He reiterated that after speaking with residents, his view was that Nythe is a distinct and separate community identity with its own shops, community centre and schools, and that establishing a new parish will improve community cohesion.

Councillor Heenan believed that taking into account the number of local government electors and likely future changes in that number, a Nythe Parish Council of seven Members should be created. He also expressed his support for the first elections and the establishment of the new Nythe Parish to be aligned with the scheduled Stratton St Margaret Parish Council elections in May 2015. This would enable all the necessary electoral changes to be in place at the same time. He noted the view expressed in the report that there was no requirement for the new parish to be warded and he did not think the new parish should be warded in view of the compact nature of the new parish. So far as future warding implications for Stratton St Margaret Parish Council were concerned, he considered that this should be looked at in due course and suggested that “Lower Coleview and Nythe” be renamed “Upper and Lower Coleview”.

The Director was asked as to the process and purpose of establishing a shadow parish council in the run up to the first elections to a new body, and he

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responded by reference to the model reorganisation order circulated with the report.

Following discussion, the Working Group noted that there was no legal requirement for the parish to be warded and agreed to recommend to Council that a new parish of Nythe be created for the reasons set out above. The Working Group further agreed that in view of the number of electors for the parish it should have a parish council which should not be warded for the reasons set out above and that the parish council should comprise 7 parish councillors having regard to the number of electors and the relatively low likelihood of any significant change in that number over the relevant 5 year period.

The Director reminded the Working Group that as soon as practicable after making its recommendations, the council must publish the recommendations and take such steps as it considers sufficient to secure that persons who may be interested in the community governance review are informed of those recommendations, and it must then take into account any representations received. It is expected that the recommendations of the Working Group will then be considered by Council at its meeting in July 2013 and Council will then decide to what extent it will give effect to those recommendations.

Resolved – It is recommended that:

(1) The decision of the Council (Minute 125(1) 2012/13 of the Council refers) in relation to the creation of a Nythe Parish with a parish council of 7 parish councillors be confirmed for the reasons set out above, with the Parish Council election taking place in May 2015 to coincide with the scheduled election for Stratton St Margaret Parish Council.

(2) The decision of the Council (Minute 125(1) 2012/13 of the Council refers) in relation to the Headlands Grove area be changed so that there be no alteration to the existing boundary of Stratton St Margaret Parish in the Headlands Grove area, for the reasons set out above.

(3) The remaining recommendations of the Corporate Governance Review Working Group as presented to the Council on 11th April 2013 be adopted and given effect by the Council.

(4) In accordance with the requirements set out in Section 96 of the Local Government and Public Involvement in Health Act 2007, the Director of Law and Democratic Services be authorised to update the Scheme to incorporate these recommendations of the Corporate Governance Working Group and publish the Council's decision in relation to these recommendations together with the reasons for making this decision, and to take such steps as he considers sufficient to secure that persons who may be interested in the Community Governance Review are informed of that decision.

(5) The Director of Law and Democratic Services be authorised to

- (i) Prepare, in consultation with the Leader of the Council, a revised scheme and consequential Community Governance Reorganisation Order
- (ii) Seek the agreement of the Local Government Boundary Commission to any consequential changes to the protected electoral arrangements set out in the

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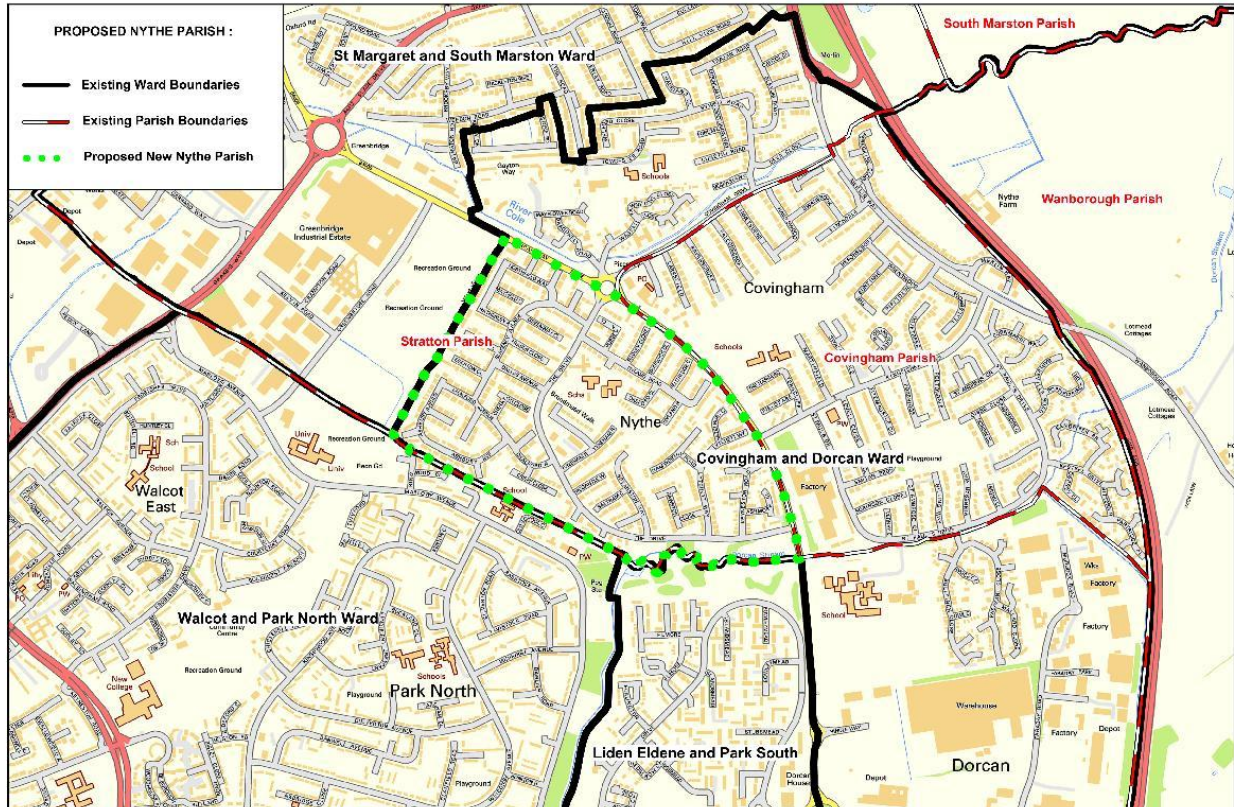
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(iii) Make and implement the Reorganisation Order.

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Appendix 2



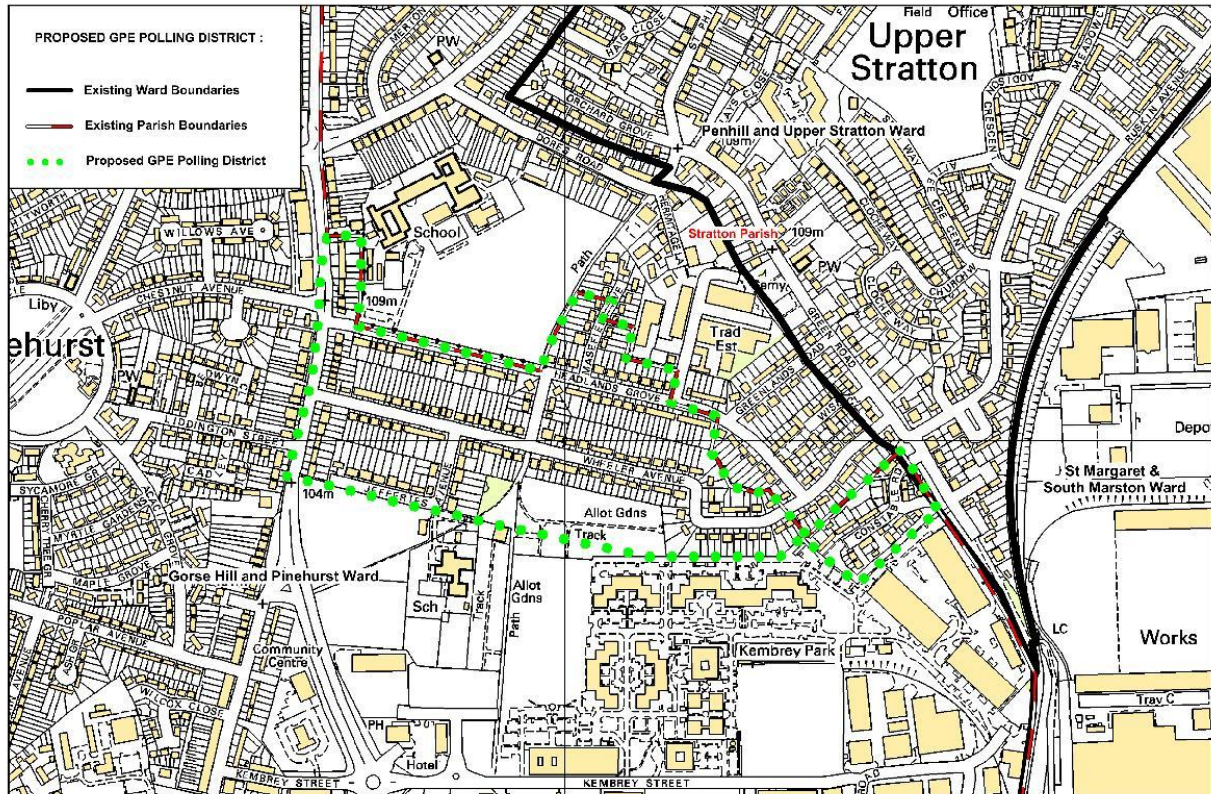
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Appendix 3



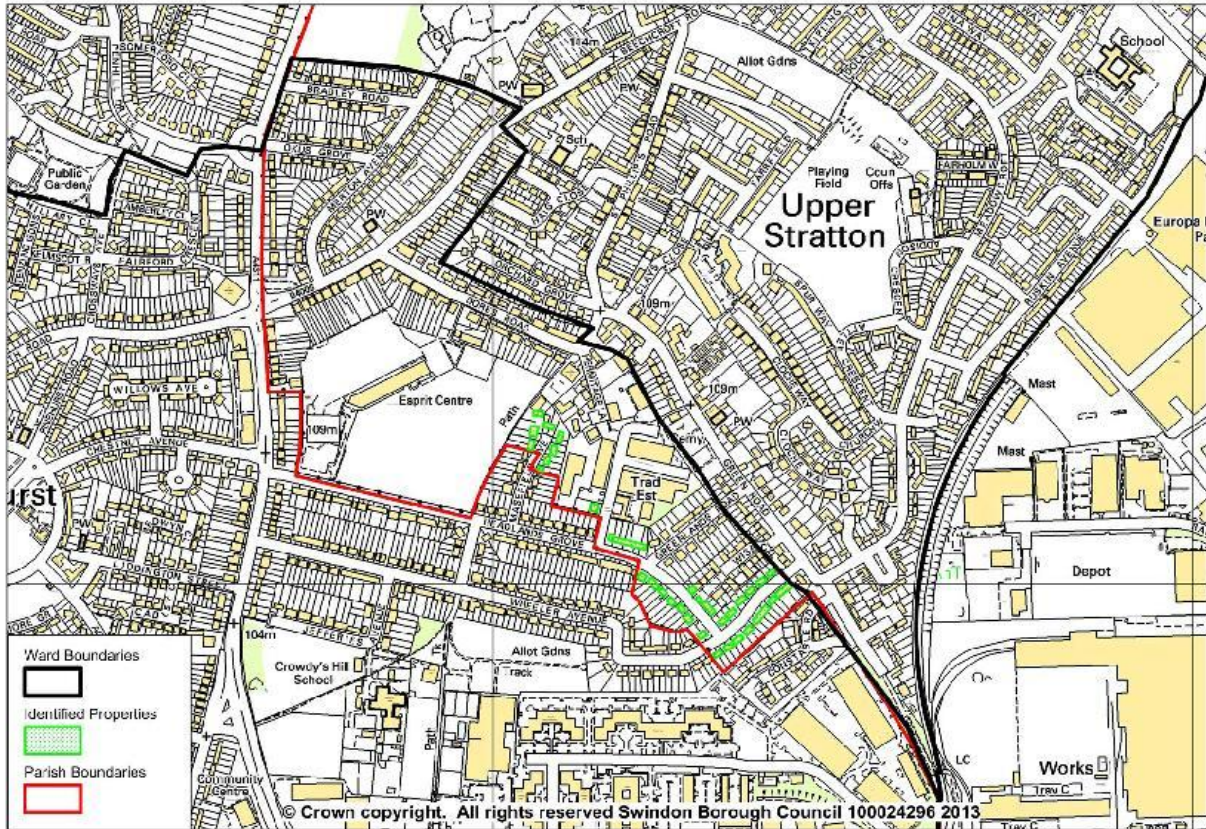
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Appendix 4



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