

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Councillor Dine Romero, Cabinet Member for Children and Young People & Councillor Richard Samuel, Cabinet Member for Economic Development and Resources	
MEETING/ DECISION DATE:	On or after 8th June 2021	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3295
TITLE:	RULE 15 Proposed sale of land at East Keynsham for a planned Primary School	
WARD:	Keynsham East, Keynsham West, Keynsham North, Saltford	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Appendix A – Heads of Terms & plan</p> <p>Exemption certificate</p> <p>Appendix B - EXEMPT - Valuation Report</p>		

1 THE ISSUE

- 1.1 The delivery of the new East Keynsham Primary School has been advanced by the Wellsway Multi-Academy Trust with full support of the Council, with funding support directly from Department for Education.
- 1.2 A key council role has been land assembly which has been enabled by Section 106 obligation on developers An area of land is to be transferred to the Department for Education (DfE) as the site for the build and delivery of the new East Keynsham Primary School.
- 1.3 Whilst the transfer represents a disposal at less than best consideration, it is necessary is realise the Council's objective to deliver new school places.
- 1.4 The report covers the background to the proposed transfer, identifies the benefits arising from this and addresses key financial, legal and other considerations.

1.5 The disposal falls within the parameters of the General Disposal Consent.

2 RECOMMENDATION

2.1 Delegate to the Head of Estates the authority for the completion of the transfer of the asset at less than best consideration.

3 THE REPORT

3.1 The Council's School Organisation Plan 2017-2021 identifies the need for a new primary school in the Keynsham area for 2019 onwards. The requirement is mostly due to three significant areas of housing development which have been or are in the process of being delivered.

3.2 The three housing developments are:

(1) Parcel 7200, Bath Road, Keynsham (Planning reference 16/00850/OUT).
Also known as Keynsham East and Hygge Park.

(2) Parcel 2100, Parkhouse Lane, Keynsham (Planning reference 16/02077/FUL).
Also known as Keynsham South West (Bloor) or Bloor homes at Keynsham.

(3) Parcel 3100, Charlton Road, Keynsham (Planning reference 15/04290/FUL).
Also known as Keynsham South West (Persimmon) or Charlton Place.

3.3 Planning Policy, in consultation with Education Officers, identified an area of land for a new school within the Parcel 7200 location. This site was chosen as it was the largest area of housing development and was purchased by the Council using S106 funding from the three parcels of land in 2019.

3.4 The three housing development sites have made Section 106 (S106) contributions towards the purchase of land and delivery of new school places in Keynsham.

3.5 In April 2017 the DfE approved a bid from the Wellsway Multi-Academy Trust (MAT) to deliver a new 420 place primary free school in Keynsham. The bid by Wellsway MAT had been supported by the Council. Wellsway MAT is an established, high quality education provider in the local area.

3.6 All new schools must be and are classified as, free schools. This reflects the fact that 'free school' is the DfE term for any new provision academy. An academy is the legal term for state-funded schools that are independent of local authority control and receive their funding directly from central government.

3.7 In consultation with the Council, and as part of the pre-delivery phase, for the new school the DfE carried out an options appraisal of sites. The East Keynsham site was identified as the best location in terms of sustainability, environment and cost to deliver the East Keynsham Primary School.

3.8 It is proposed to transfer the site to the DfE for £1, reflecting the community benefit of much needed pupil places. Heads of Terms have been agreed with the DfE and are subject to planning consent and a longstop date. Delivery of the school infrastructure will be centrally funded by the DfE and the Council will not be required to meet the cost of building a new school.

- 3.9 The use of the site will be restricted and will revert to the Council at a peppercorn rate should the site no longer be used for a primary school.
- 3.10 A full valuation exercise has been undertaken by an independent RICS registered valuer. If the land is sold unrestricted the maximum market value is £1,900,000. If the Council restricts the land, so the use is only for a Primary School site, it reduces the value to £1,235,000.
- 3.11 Whilst the transfer at £1 of land valued at £1,235,000 is technically a reported loss on disposal, this really represents the land contribution to the new East Keynsham Primary School project from Developer's via the Council and is to provide much needed additional school places to the Community

4 STATUTORY CONSIDERATIONS

- 4.1 The proposal meets the Council's corporate objectives.
- 4.2 Under Section 14 of the Education Act 1996, Local Authorities have a statutory duty to ensure that there are sufficient school places for primary and secondary education in their areas.
- 4.3 The Royal Institution of Chartered Surveyors (RICS) is the governing body for Chartered Surveyors and they have set out guidance specifically to deal with the "disposal at less than market value" which should be followed unless there are particular circumstances that mean that it is not appropriate. It puts in place an audit trail so that the decision is demonstrably robust. It is, therefore, considered that this is an appropriate model for sign off of the individual transactions which should be undertaken in liaison with the Section 151 Officer. The assessment requires:
- (1) A full valuation exercise is undertaken which identifies the maximum theoretical Market Value for the asset to be transferred.
 - (2) Calculation of the reduced values that apply because of any restrictions that the Council applies relating to things such as use, alienation, clawback, etc.
 - (3) The value added to the Council through the outcomes of the transfer has been assessed and found to be not less than the difference between market value and the actual price to be paid
- 4.4 Under S123 of the Local Government Act 1972, any disposal by the Council of an asset in excess of 7 years (including leasehold interests) must obtain "best consideration", unless Circular 06/03 The Local Government: General Disposal Consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained apply or a specific consent is obtained. The general consent allows specified circumstances where the consent can be applied:
- a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objectives in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
 - i) the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;

iii) the promotion or improvement of environmental well-being;

In this case the provision of a new school (i) and (ii) will apply, funds will not be diverted to build a new school and it provides social benefit to the community.

- b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 There are no revenue implications for the Council. The new school will be a state-funded academy and pupil places will be centrally funded by the DfE

5.2 The capital cost of the land purchase and associated works were met wholly from S106 contributions. Capital costs for the school infrastructure and future maintenance will be centrally funded by government or S106 contributions.

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

7 CLIMATE CHANGE

7.1 The location of the new school was identified to deliver a school in the best location in terms of travel to school and reduction in the number of car journeys. The location aims to encourage walking to school and a school travel plan will be developed to promote sustainable travel.

7.2 The new school will be the first school in BANES to be delivered to Passivhaus standard which is nationally recognised as providing the highest standards in sustainability.

8 OTHER OPTIONS CONSIDERED

8.1 Delivery of the new school by the Council. This was rejected once the free school bid was agreed because the Council was no longer responsible for funding the gap between the developer contributions received and the total cost of the school.

8.2 The DfE carried out an options' appraisal to consider alternative site locations for the school. This location was considered the most appropriate in terms of location, cost and sustainability.

9 CONSULTATION

Leader of the Council, Cabinet Members, Chief Executive, Corporate Directors, Section 151 Officer, Monitoring Officer, Director of Education Transformation, Education & Property Finance Officers

10 URGENCY RULE 15

The DoE requires the school site to be transferred by 18th June 2021, if completion does not take place before this date, the DoE will not be able to award the building contract and there will be a significant risk that the building will not be ready for the school intake in September 2022.

Given the urgency of this matter the decision may still be taken under Rule 15 if:-

1. the decision must be taken by such a date that it is impracticable to defer the decision until it has been published in the forward plan for 28 days before the decision is required;
2. the Chief Executive has informed all members of the Council of the matter about which the decision is to be made;
3. the Chair of the relevant Overview and Scrutiny body has been informed;
4. the Chief Executive has made copies of that notice available to the public at the offices of the Council;
5. at least 5 working days have elapsed since the Chief Executive complied with (2) and (3); and
6. the advice of the Monitoring Officer and, if relevant, Chief Financial Officer has been sought on the issue and taken into account.

Contact person	<i>Carolyn Smallwood</i>
Background papers	<i>Officer Decision 18/9/19 East Keynsham Primary School</i>
Please contact the report author if you need to access this report in an alternative format	