

Report of the Cabinet Member for Learning and Skills

Cabinet – 6 May 2014

DISPOSAL OF SURPLUS LAND ON SCHOOL SITES

Purpose:	To consider responses to the consultation carried out with Schools.
Policy Framework:	Capital Budget and Programme 2014/15 – 2017/18.
Reason for Decision:	To report back on the consultation with the Governing Bodies on the proposed land sales and to seek approval to proceed with the disposals as set out in the recommendations to meet the required local contribution – a need set out in the Capital Budget & Programme 2014/15 – 2017/18
Consultation:	Corporate Building & Property Services, Finance, Legal
Recommendation(s):	<p>That Cabinet authorise the Director of Place to proceed as follows subject to further work and investigations;</p> <ol style="list-style-type: none">1) Blaenymaes Primary School – to work towards the disposal of the site as shown on Plan 1B, and subject to the preservation of a rear flat access to the School including the Flying Start.2) Knelston Primary School - to work towards the disposal of the site as shown on Plan 2B.3) Tre Uchaf Primary School – to work towards the disposal of the site as shown as option 2 on Plan 3B.4) YGG Gellionnen - to work towards the disposal of the site as shown on Plan 4B.
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Finance Officer:	Mike Hawes
Legal Officer:	Janet Hooper/Nigel Havard
Access to Services Officer:	Sherill Hopkins

1.0 Background

- 1.1 On the 25th April 2013 Cabinet approved the proposed funding strategy for the 21st Century Schools Programme, and authorised officers to consider further any potential parcels of surplus land identified through the approach set out, and on the 2nd July 2013 Council approved the proposed approach for an Incentive Scheme.

Potential surplus land on school sites has been identified on the following basis;

1. 'Building Bulletin' guidance. For example a primary school site in excess of 4.5 acres - a generous interpretation of the guidance- is assumed to be over supplied. A number of sites are considerably in excess of this general guideline.
 2. The parcel of land is physically capable of being separated and developed.
 3. Advice from Planning and Highways indicating that the land has development potential.
 4. Confirmation of any legal constraints on the title.
- 1.2 Prior to making any final decision on disposal the Authority were advised by Counsel to seek the views of the Governing Body of each school in question. In particular it was advised that their view must be sought on whether they consider the land to be surplus and if not then they must be given the opportunity of putting forward their reasons and for those reasons to be fully considered.
- 1.3 The formal planning process will further ensure that community considerations and views are fully considered with regard to any alternative use of the areas.

2.0 Consultation with Governing Bodies

- 2.1 Cabinet decided on the 11th March 2014 to work towards the disposal of the sites at Birchgrove, Clase, Clwyd and Gors Primary Schools, and continue with surveys and investigations at YGG Gellionnen, Parkland Primary School, Penyrheol Comprehensive School, Knelston Primary School, Pontarddulais Primary School, Tre Uchaf Primary School, Blaenymaes Primary School, Olchfa Comprehensive School and Penyrheol Primary School.
- 2.2 Facilities Management have commenced surveys of the sites considering issues such as the possible realignment of pitches and grounds maintenance access.
- 2.3 Geotech surveys have been commissioned for a number of the sites where required and further consultation with the Planning and Legal is being undertaken.

- 2.4 The views of the Governing Bodies of the remaining nine School sites have all been sought, and a summary of the responses from four of those (Blaenymaes, Knelston and Tre Uchaf Primary Schools and YGG Gellionen) is set out in Appendices 1 and 2 and a full copy of the response from each of the Governing Bodies consulted is available at: http://www.swansea.gov.uk/qedlandsales_c

Three schools object outright;

Blaenymaes Primary School
Knelston Primary School
Tre Uchaf Primary School

YGG Gellionen were not in disagreement of land disposal but were against the proposal of which part of the field was under consideration.

3.0 Site Evaluations

- 3.1 A summary report on each site together with recommendations regarding disposal is also included in Appendices 1 and 2.
- 3.2 The Valuation figures have been redacted due to commercial sensitivity and reported as an exempt item in Part 2 of the Cabinet agenda.
- 3.3 For each site two plans are attached at Appendix 1; unless otherwise indicated Plan A shows shaded the extent of the land on which the Governing Body were consulted and hatched the area if applicable that they agree is surplus to requirements, and Plan B shows cross hatched the land which is being recommended for disposal.

In all instances where the recommendations are for the disposal of sites, this will then be subject to;

- a) further detailed surveys and investigations
- b) agreement of boundary treatments etc with the School, and with regard to Health and Safety and ongoing maintenance requirements.

4.0 Equality and Engagement Implications

- 4.1 A full Equality Impact Assessment has been carried out and has shown this project will have a positive impact on;

Age – the sale of potentially surplus land will allow the City & County of Swansea to invest in the facilities of a number of schools across the City, benefiting our children and young people.

Disability – the money being invested in schools will improve access for a number of disabled children and young people e.g. pupils at the new Burlais Primary School.

Equality issues raised to date have been acknowledged and will form part of ongoing communication with key stakeholders throughout the projects delivery.

5.0 Financial Implications

- 5.1 In accordance with current policy, the relevant capital receipt will contribute towards the achievement of the Council's overall capital receipt target to part fund the 21st Century Programme for school improvements as set out in the approved capital programme. As such the capital receipt will not be allocated for any other specific purpose.
- 5.2 The valuations and costs detailed below and in Appendix 2 which is set out in the exempt part of the agenda are estimates only and the figures will be refined once further investigations have been concluded and the sites have been exposed to the open market; the incentive value shown is calculated at 5% of the estimated net receipt, and is subject to the School agreeing to the disposal within a period of 12 months following the initial notification by the Authority, ie from the date that the Schools received their initial letters, and will be calculated at 5% of the actual net receipt.

6.0 Capital:

- 6.1 Original estimated net capital receipt after incentive payments:
£1,118,038

Revised estimated net capital receipt after incentive payments:
£1,606,563

Revenue:

The Schools will have savings in their delegated budget for the grounds maintenance and security.

7.0 Legal Implications:

- 7.1 i) The legal owner of land at a maintained / community school has statutory power under section 123 of the Local Government Act 1972 to dispose of such land in any manner it sees fit, subject to obtaining the best consideration that can be reasonably obtained. The Head of Corporate Property would need to certify in any such disposal that the Authority has discharged its statutory duty in obtaining such consideration and that the disposal complies with the Land Disposal Rules of the Council's Constitution.
- 7.2 However the Authority must also seek the views of the Governing Body and take those views into account prior to making any final decision on disposal.

- 7.3 With regard to the disposal of playing fields, The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010 enacts a power to make regulations. However, the power on how and with whom those consultations are to be carried out has not yet been brought into force. Nevertheless, currently it is the position that a Council has to consult with the Sports Council for Wales when it considers an application for permission to develop land it is disposing of.
- 7.4 A view will also have to be taken as to whether any areas of land comprise public open space. Open space includes facilities within the educational sector which are, as a matter of practice or policy, available for public use. If any area of land is thought to be public open space, the affected sites must be advertised and responses considered by the Authority. Any objections received would require a further report to Cabinet.
- 7.5 The Head of Legal and Democratic Services has carried out Reports on Title in respect of Tre-Uchaf, YGG Gellionen Road and Knelston Primary Schools and nothing was revealed to prevent their disposal. However, the sites were originally acquired by the Council for the purposes of Education and will therefore need to be formally declared surplus to requirements before a disposal can take place. Also in respect of Gellionen Road there is a right for an adjacent owner to discharge fumes etc, in the case of Knelston there is an obligation not to interfere with water supplies

Prior to the disposal of Blaenymaes Primary School, the Head of Legal and Democratic Services will need to be instructed by the Director of Place to carry out a formal Report on Title.

- 7.6 ii) Also, section 149 of the Equality Act 2010 (Public Sector Equality Duty) requires public authorities to demonstrate in decision making that they have paid 'due regard' to the need to:
- eliminate unlawful discrimination, harassment and victimisation
 - advance equality of opportunity between people who share a protected characteristic and people who do not share it
 - foster good relations between people who share a protected characteristic and those who do not.

- 7.7 The relevant protected characteristics are Age, Disability, Gender reassignment, Marriage and Civil partnership, Pregnancy and maternity, Race, Religion and belief, Sex and Sexual orientation. The Authority must have due regard to the impact of the proposals to dispose of land at each I school on those with a protected characteristic.

Exercising the duty includes the relevant decision maker considering the Equality Impact Assessment.

Background Papers:

Report of Cabinet Member for Learning and Skills and Cabinet Member for Finance and Resources to Cabinet 25.04.13; 21st Century Schools Programme.

Report of Cabinet Member for Learning and Skills to Cabinet 28.05.13; Capital receipts from sale of land / property on school sites proposed incentive scheme.

Report of Cabinet Member for Learning and Skills to Cabinet 11.03.14; Disposal of Surplus Land on School Sites.

Equality Impact Assessment

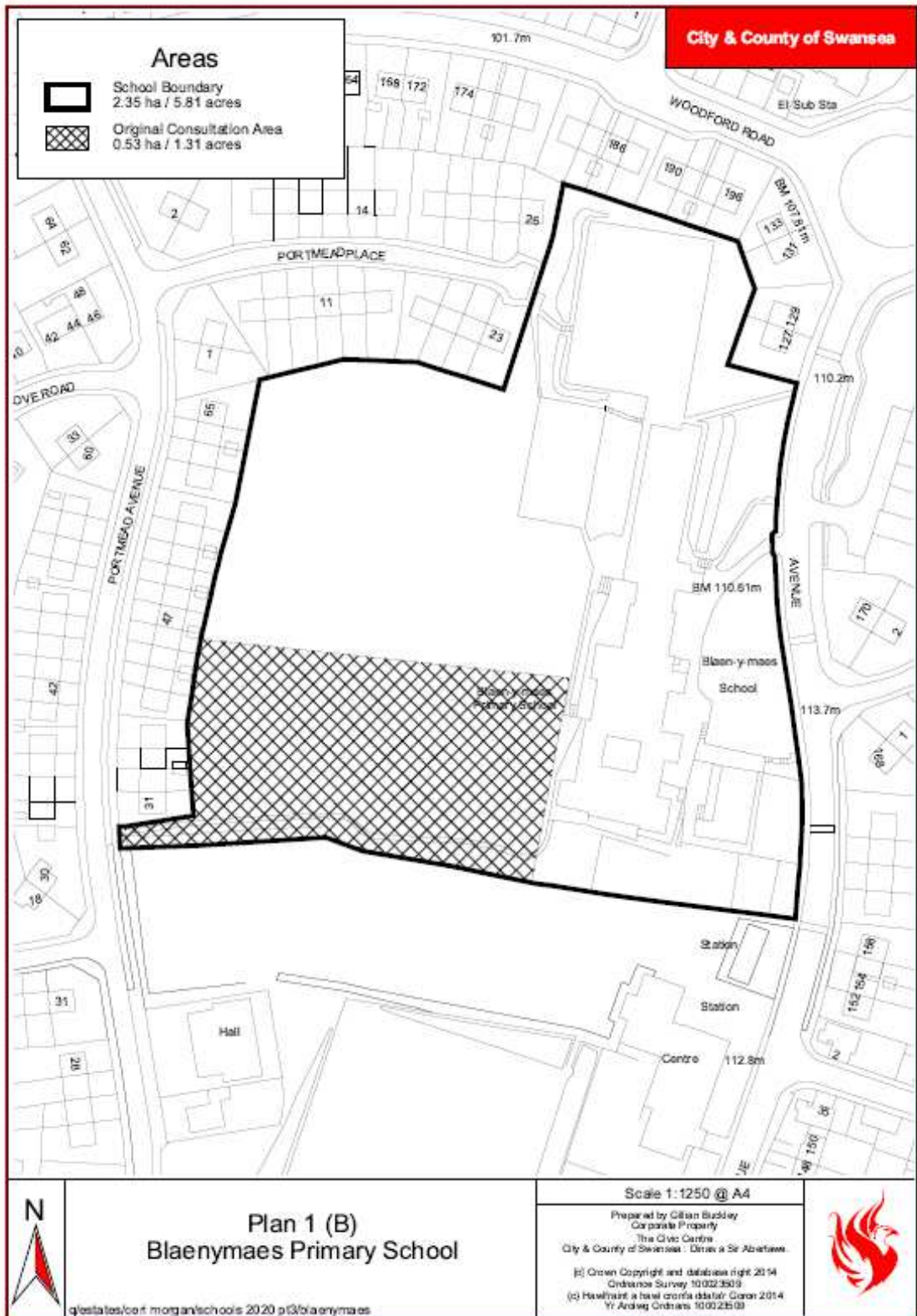
Appendices:

Appendix 1: Site Plans

Appendix 2: Site Evaluations

The full response from each of the Governing Bodies can be viewed at:
http://www.swansea.gov.uk/qedlandsales_c

Blaenymaes Plan 1B



Areas

- School Boundary
2.35 ha / 5.81 acres
- Original Consultation Area
0.53 ha / 1.31 acres

City & County of Swansea



**Plan 1 (B)
Blaenymaes Primary School**

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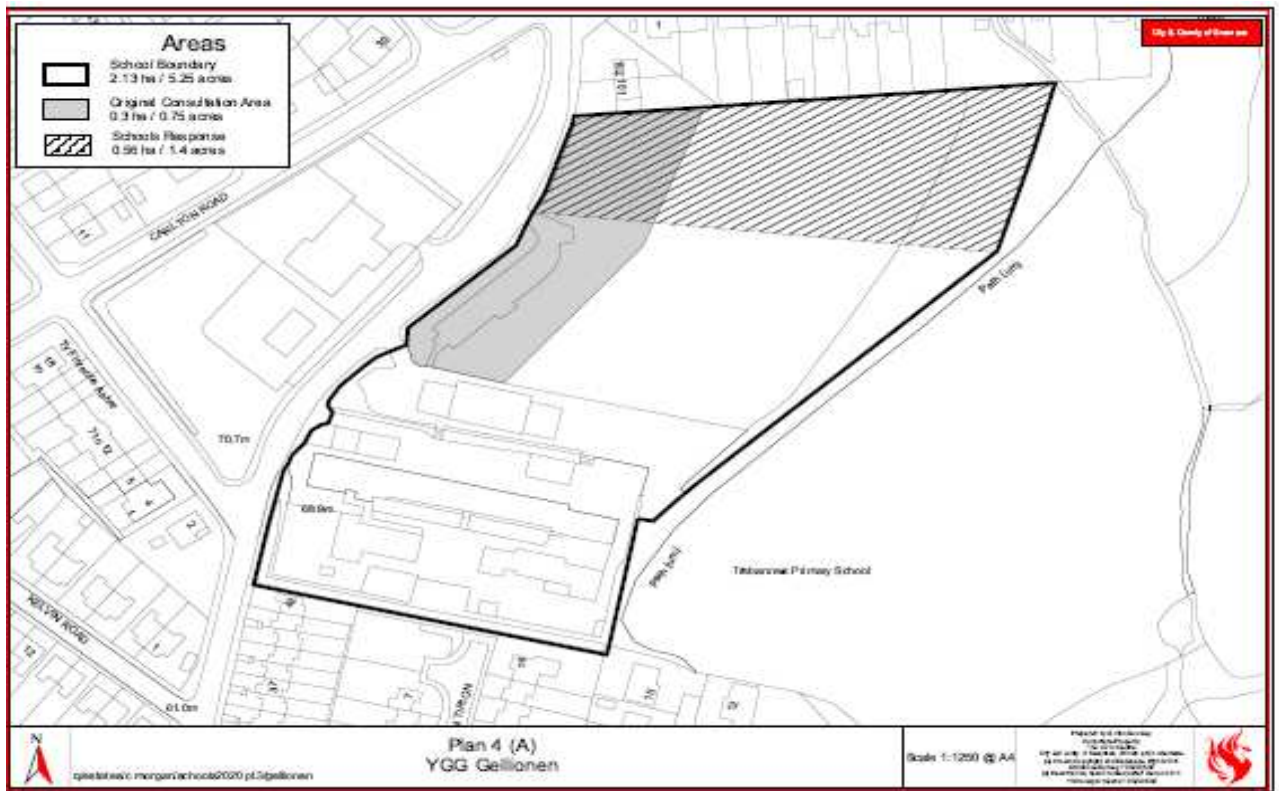
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Prepared by Gillian Burdley
Corporate Property
The Civic Centre
City & County of Swansea · Drive a Se Aberthaw.

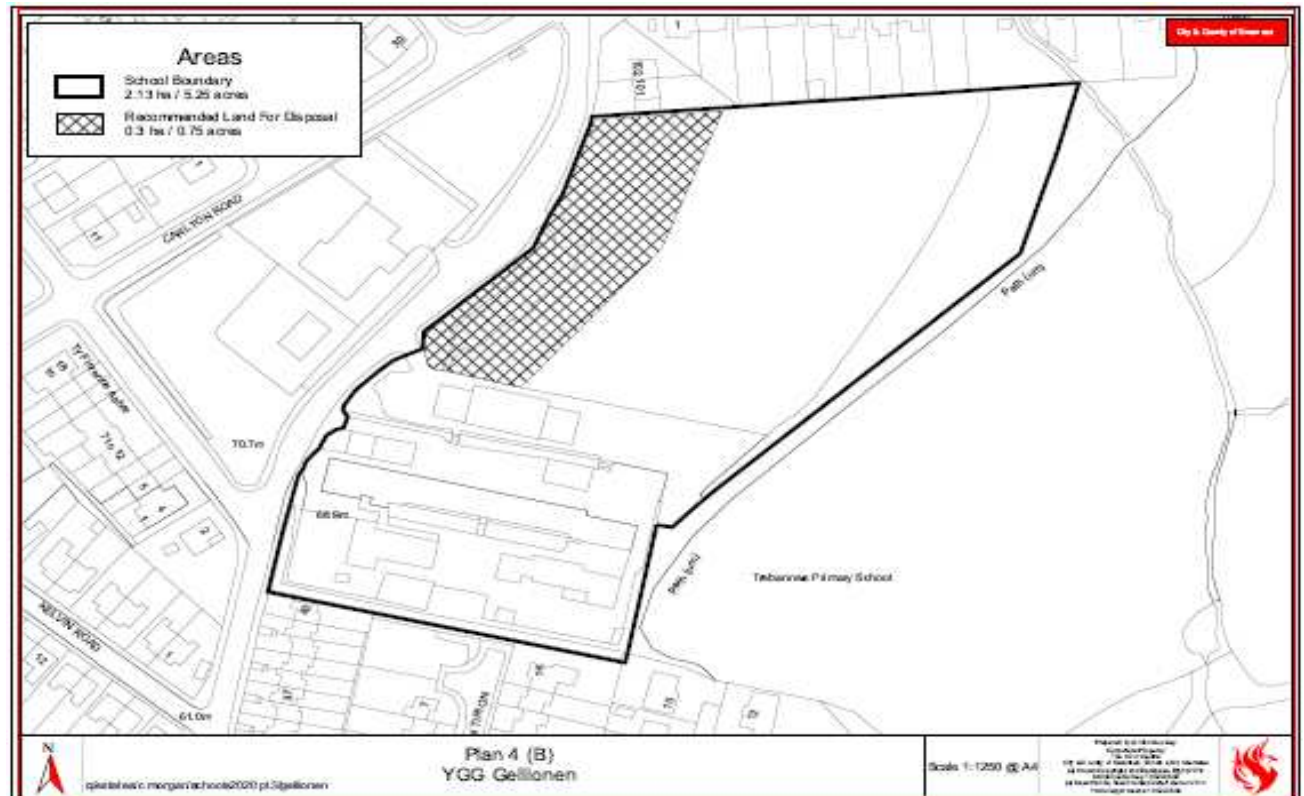


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YGG Gellionnen Plan 4A



YGG Gellionnen Plan 4B



Appendix 2: Site Evaluations

The Valuation figures have been redacted due to commercial sensitivity and reported as an exempt item in Part 2 of the Cabinet agenda.

Site Location	Blaenymaes Primary School		Plan ref: 1
Capacity 2013/14: 260		Numbers on Roll September 2013: 154	
Original Valuation: [REDACTED]	Estimated selling costs: [REDACTED]	Incentive Value: [REDACTED]	Estimated net capital receipt: [REDACTED]
Total School Acreage: 5.81	Proposed developable area: 1.31		Area remaining: 4.5
Date letter and plan sent to the School: 21.06.2013	Date response received: 31.10.2013		Objections received: Yes
<p>Summary of responses received from Governing Body:</p> <ul style="list-style-type: none"> • The land makes up most of our playing fields. • The school has to provide a safe green space that can be easily policed and kept at a high health and safety standard. • School grounds are well utilised. • Disposal of the land would mean the loss of a flat entrance to the school particularly the Flying Start part of the school, where families attend with young children in prams and some who have disabilities. • Losing this land would mean a loss of a flat entrance to the school. 			
<p>Evaluation:</p> <p>The development potential of this site is likely to be limited to Registered Social Landlords.</p> <p>Facilities Management have surveyed the site; there is sufficient space remaining for the existing pitches to be realigned to still provide a usable area.</p> <p>The School has planted a small woodland recently on the site, which is understood is funded through grant funding. The site proposed for disposal impinges on that slightly; however the trees are still only whips and so should be able to be replanted.</p> <p>The detailed boundary lines will have to secure an access for grounds maintenance and emergency vehicles.</p> <p>At the time of the inspection the Head flagged problems currently being experienced with neighbours throwing rubbish onto the School grounds; the proximity of housing to the School boundary and proposed layouts will require this issue to be considered.</p> <p>The remainder of the site would only be accessible for a future development if either the development on the proposed area is designed in such a way so as to allow access from it via a hammerhead, or from Broughton Avenue across the School site.</p>			

Equality considerations – the School stated that the disposal of the land would mean the loss of a flat entrance to the school particularly the Flying Start part of the school, where families attend with young children in prams and / or disabled adults/children. Although the access referred to cuts across the area proposed for disposal, it is recommended that a rear flat access to the School including the Flying Start is preserved.

Recommendation: That the Director of Place be authorised to work towards the disposal of the site as shown on Plan 1B, and subject to the preservation of a rear flat access to the School including the Flying Start.

Updated valuation based on recommendations: ████████	Estimated selling costs: ████████	Incentive Value: ████████	Estimated net capital receipt: ████████
Updated developable area based on recommendations: 1.31		Area remaining: 4.5	

Site Location	Knelston Primary School		Plan ref: 2
Capacity 2013/14: 132		Numbers on Roll September 2013: 107	
Original Valuation: ████████	Estimated selling costs: ████████	Incentive Value: ████████	Estimated net capital receipt: ████████
Total School Acreage: 5.2	Proposed developable area: 1.2		Area remaining: 4
Date letter and plan sent to the School: 21.06.13	Date response received: 22.07.13		Objections received: Yes
<p>Summary of responses received from Governing Body:</p> <ul style="list-style-type: none"> • The Governing Body do not agree that the land identified and proposed for sale is surplus to requirements. • Various grants have been awarded to the school which will have to be paid back. • Concern over visibility into the school from a new housing development, concern over resiting bus bay. • Negative impact on education through restriction of outdoor learning. • No scope for further expansion. • No safe route to walk to school. • Memorial trees planted. • Sale would leave zero parking on a busy road, wheelchair users will have to walk on road with no pavement. • Land previously identified as a flood plain. • Farmland nearby which is believed to be owned by the council could be sold. • Land adjacent to the school and an allotment area which supports a large part of the EDDGC and ECO committee • Sale of land would disadvantage and discriminate against disabled pupils 			
Evaluation:			
Two key concerns raised by the School are;			
1. Safety, particularly with regard to the square plot of land at the front centre of			

the site.

2. The development of part of the School grounds with grant funding amounting to £16,500.

The development of both the square and L shaped areas is unlikely to be acceptable from a planning perspective, and the development of the square area would as the School indicate present a conflict with the bus layby.

The L shaped area may be a viable proposition particularly if it included some affordable housing which is in demand in these rural areas. It is unlikely that the whole of that area would be capable of development given planning and highway constraints, however it may be possible (subject to planning consent) to develop a site of say up to 2 or 3 dwellings including one of which is affordable.

Such disposal and development may impact on an area of the site that has been developed by the School as woodland / nature area using grant funding. The value of this is understood to be £16,500. There are young trees, fencing and a bird hide in the L Shaped area; it is likely that the bird hide to be relocated, and it is proposed to endeavour to mitigate any issues with regard to grant funding.

The Roundhouse is situated elsewhere on the site and would be unaffected.

Facilities Management have surveyed the site; the recommendations do not appear to impact on the existing pitch, however if required there is sufficient space to realign the existing pitch.

The detailed boundary lines will have to secure an access for grounds maintenance and emergency vehicles.

The School do informally use the access to the site between the School House and the L Shaped area of land for vehicles to park on the grass at events. The sale and development of the L shaped area would impact on that.

If only the L Shaped area of land is sold the remainder of the site could potentially be accessed from the square area at the front of the site.

Equality considerations - the site recommended for disposal now excludes that square section adjacent to the bus bay; and so the proposals should not therefore impact on parking or pedestrian access in proximity of the School. The other issue of concern was relating to the footpath around the playing field which is a means of access to the playing fields by wheelchair users, similarly as the site recommended for disposal now excludes that square section adjacent to the bus bay, the footpath around the playing fields would remain within the School curtilage.

Recommendation: That the Director of Place be authorised to work towards the disposal of the site as shown on Plan 2B.

Updated valuation based on recommendations: ████████	Estimated selling costs: ████████	Incentive Value: ████████	Estimated net capital receipt: ████████
Updated developable are based on		Area remaining: 4.22	

recommendations: 0.98	
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Site Location	Tre Uchaf Primary School	Plan ref: 3
Capacity 2013/14: 206		Numbers on Roll September 2013: 140
Original Valuation: ██████████	Estimated selling costs: ██████████	Incentive Value: ██████████
		Estimated net capital receipt: ██████████
Total School Acreage: 8.82	Proposed developable area: 4.37	Area remaining: 4.45
Date letter and plan sent to the School: 21.06.2013	Date response received: 19.07.2013	Objections received: Yes
<p>Summary of responses received from Governing Body:</p> <ul style="list-style-type: none"> • The area is used on a daily basis by the school, community and local residents. • Currently catering for 18 children with learning difficulties, regularly host open day for children from SEN classes across Swansea. • This field is the only remaining large, safe green space in Upper Loughor. • It is used extensively for both educational and leisure purposes. • Safety issues have been highlighted as a concern in relation to this proposal. • Concerns have been raised from parents regarding the proximity of the housing development so close to the school and the possible impact of children being watched at play. • There are plans for a MUGA on the section for proposed development there would be wide spread disappointment in the neighbourhood if this facility was stopped. 		
<p>Evaluation:</p> <p>Initial investigations indicate that access for a development on the site on which the school were consulted can be achieved off Heol Cae Copyn which may facilitate a development of 30-35 houses. This would involve a land take of 3.91 acres approximately, which would leave the School with a site area of approximately 4.91 acres.</p> <p>The Governing body response indicates an outright objection, however it was understood from the discussions at the School in June 2013 that the area to the south west of the hatched area is unused by the School, although this area can become quite wet.</p> <p>Facilities Management have now surveyed the site; the area originally proposed for disposal and cross hatched Option 1 on Plan 3B has been marked with a mini football pitch, running track and a rounders diamond.</p> <p>The remaining area to the south west is large enough to accommodate the same areas, and is fairly level.</p> <p>However at the time of the inspection it was very wet and drainage investigation/works would be required before it is marked and used.</p>		

In view of this an alternative Option 2 is now being recommended shown shaded on Plan 3B. This would involve a land take of 4.81 acres approximately, which would leave the School with a site area of approximately 4.01 acres. Also indicated on the plan with a rectangle is the available space remaining that could be marked as a mini pitch and running track. At the time of inspection, the area was dry.

Further surveys and investigations are required to establish the most appropriate boundary line, and also to ensure that a suitable access is secured for grounds maintenance and emergency vehicles.

s. 106 funding has previously been secured for the locality for the provision of sports facilities for the community. It is proposed that a portion of this is used to provide a facility at Tre Uchaf Primary School. The maximum land take for such a facility will be 35m x 25m. The extent and possible location of this is excluded from the area recommended for disposal. However given the time that it has taken to realise the benefit of this s.106 funding at Tre Uchaf it is suggested that this is reviewed in 6 months time prior to disposal, and if there is no indication that this is progressing, the land is included in the disposal site.

The sale and development would not land lock the remainder of the site.

Equality considerations – the School have said that the proposal will negatively impact disabled children and adults as they currently are catering for 18 children with learning difficulties, regularly host open day for children from SEN classes across Swansea. The site recommended for disposal is no longer immediately adjacent to the School and therefore there will remain direct access to a playing field area by the School.

Recommendation: That the Director of Place be authorised to work towards the disposal of the site as shown as option 2 on Plan 3B.

Updated valuation based on recommendations: ████████	Estimated selling costs: ████████	Incentive Value: ████████	Estimated net capital receipt: ████████
Updated developable are based on recommendations: 4.81		Area remaining: 4.01	

Site Location	YGG Gellionnen		Plan ref: 4
Capacity 2013/14: 305		Numbers on Roll September 2013: 220	
Original Valuation: ████████	Estimated selling costs: ████████	Incentive Value: ████████	Estimated net capital receipt: ████████
Total School Acreage: 5.25	Proposed developable area: 0.75		Area remaining: 4.5
Date letter and plan sent to the School: 21.6.2013	Date response received: 11.10.2013		Objections received: Not in principle, but alternative area requested.

Summary of responses received from Governing Body:

- **The Governing Body were not in disagreement of land disposal but were against the proposal of which part of the field was under consideration.**
- It was also felt that a Risk Assessment would be required as to the appropriateness of building work being carried out during school time as the road is narrow and traffic congestion and parking is a problem.

Evaluation:

The alternative area suggested by the School is not a viable proposition as the site would be too narrow to accommodate an access road, and even if achievable this would not be a cost effective solution, and would result in an increased land take.

Facilities Management have surveyed the site; and the indications are there is sufficient space for the existing pitches to be realigned. At the time of the inspection the remaining area did not have any apparent drainage issues.

The detailed boundary lines will have to secure an access for grounds maintenance and emergency vehicles.

This site may be marketed in conjunction with the Teacher Centre site across the road.

The remainder of the site would only be accessible for a future development if either the development on the proposed area is designed in such a way so as to allow access to the side of it, or from Gellionen Road across the School site.

Equality considerations – the School have suggested that there will be less parking spaces outside the school which could affect access for disabled children and adults. Highway issues will be addressed as part of the formal planning application process, which would include a disabled/ restricted drop off point.

Recommendation: That the Director of Place be authorised to work towards the disposal of the site as shown on Plan 4B.

Updated valuation based on recommendations: ██████████	Estimated selling costs: ██████████	Incentive Value: ██████████	Estimated net capital receipt: ██████████
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Updated developable are based on recommendations: 0.75	Area remaining: 4.5
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