

Report of the Cabinet Member for Education

Cabinet - 21 July 2016

DISPOSAL OF SURPLUS LAND ON SCHOOL SITES – CLASE PRIMARY SCHOOL

Purpose:	To consider the response to the consultation carried out with Clase Governing Body on the proposed land sale.
Policy Framework:	Capital Budget and Programme 2015/2016 - 2019/2020
Reason for Decision:	To report back on the consultation with Clase Primary School Governing Body on the proposed land sale with a view to declaring the land surplus to requirements and progressing to serve notice served in accordance with The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015. If it is determined that the land sale proceeds subject to further consideration of any response to the notice as set out above, the receipt will be used to support not only the 21 st Century Schools programme but the General Fund Capital Programme as a whole as set out in the Capital Budget and Programme 2015/2016 - 2019/2020
Consultation:	Clase Primary School, Corporate Property, Cultural Services, Finance, Legal.
Recommendation(s):	<ol style="list-style-type: none">1) That Cabinet declares the site as indicated on plans attached being approximately 3.54 acres as surplus to requirements,2) That notice is served and the required consultation of communities and other interested parties, about the proposed disposal of land consisting, or forming part, of a playing field, is undertaken in accordance with The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015,3) That if responses/objections to the proposed disposal are received, that a report is brought back to Cabinet to consider those responses/objections,4) That if no responses/objections are received that the Interim Director of Place is authorised to proceed to market the land identified for

disposal and report back to Cabinet in due course upon completion of that exercise.

- 5) That the incentive scheme is applied in accordance with the policy.

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1.0 Background

The report to Council on the 25 February 2016, Capital Budget and Programme 2015/2016 - 2019/2020 explained there is an ambitious programme of Council asset disposals which shall be used to support not only the 21st Century Schools programme but the General Fund capital programme as a whole.

- 1.1 In the case of land which forms part of school premises, a disposal will only proceed on the basis of agreement with the governing body and then the support of Cabinet on a case by case basis.

- 1.2 The criteria to be applied is as follows;

Primary School Sites

- more than 4.5 acres based on a generous interpretation of Building Bulletin (BB)99 guidance for a two form entry school;
- the parcel of land is physically capable of being separated and developed;
- advice from Planning and Highways indicating that the land has development potential, so identifying the sites which offer the greatest potential capital receipts;
- confirmation of any legal constraints on the title;
- other constraints/issues eg current educational and school organisation strategies.

Primary School Sites

- evaluated on an individual basis rather than a generic filter based on site acreage; there are fewer sites to consider and each case is very different;
- the parcel of land is physically capable of being separated and developed.

1.3 The process is as follows:

- 1.3.1 a formal approach to the governing body to obtain written consent to proceed;
- 1.3.2 where consent is obtained, proceed to formal evaluation;
- 1.3.3 the criteria will then be applied fully with the benefit where necessary of more intrusive site surveys. If any shortfall is identified in educational facilities then there would be no further consideration unless the school were supportive of the disposal for security or other practical educational reasons. If no shortfall is identified then the review would proceed to Cabinet;
- 1.3.4 the review would then be reported to Cabinet for a decision as to whether to accept the officer recommendations and declare the parcel of land surplus to educational requirements, and whether to proceed with the disposal of the site or agree an alternative use (subject to a clear business case which demonstrates sustainability).

1.4 Incentive Scheme

- 1.5 The Council has previously agreed that a proportion of any net receipt generated from a school site/building disposal is passed to the Education Directorate to hold on behalf of the school.
- 1.6 This receipt will be capped at the level of 5%, up to a maximum total receipt amount of £50,000 per individual sale. There would be nothing where the sum was less than £5,000.
- 1.7 This is not however a blanket arrangement as there may be particular circumstances when it would be inappropriate that the capital receipt available to Education should be allocated in this way. Consequently, there may be some occasions, due to exceptional circumstances, when this scheme would be varied, for example:
 - a) where investment in facilities on the remaining site would enable a greater or more valuable disposal and this is demonstrated through a robust business case;
 - b) where a school has already, or will, directly benefit from significant capital investment through the QEd Programme, or

- c) where a school is considered to hold excessive surplus reserves, as set out in the Scheme for Financing Schools.

1.8 To benefit under the incentive scheme, the governing body of the school affected will need to agree to the disposal within a period of 12 months following the initial notification by the local authority.

1.9 In Clase's case it is considered that the incentive scheme applies.

2.0 Clase Primary School - Consultation

2.1 Key Facts;

Capacity – 280 plus 44 nursery places as at January 2016.

Pupil numbers – Total numbers on roll including Nursery and STF pupils (as at January 2016 PLASC) was 282.

Pupil numbers within catchment – last analysed in May 2016; for pupils in Reception to year 6, 166 of 220 lived within the schools catchment area (75%). Of the pupils from outside the catchment area, most were from either Pentre'rGraig (10.9%), Gwyrosydd (1.4%) or Terrace Road (1.8%) catchments.

Total School Acreage - 9.95

2.2 In 2013, the governing body were consulted on the possible sale of 4.74 acres which would have left 5.21 acres.

2.3 The governing body responded advising that they were agreeable to the disposal of one of the three areas consulted on being approximately 3.54 acres.

2.4 As summary of their response is as follows;

2.5 *'Agreed that the largest piece of land to the side of the school and outside the palisade fencing, with the exception of Coed Clase was surplus to the school's current requirements and agreed in principle for it to be considered for sale. However the Governing body were not agreeable to the disposal of the two smaller areas.'*

3.0 Consultation 2016

3.1 In consideration of Clase's response the governing body were again consulted in May 2016. The basis of that consultation is outlined below.

4.0 External areas

- 4.1 BB99 sets out simple, realistic, non-statutory area guidelines for primary school buildings and grounds that we would use for example if we were building a new primary school.
- 4.2 Calculating the requirements for the worst case scenario has been factored, based on the 2021 pupil projections, and the maximum existing and potential development plan impact.
- 4.3 If the hatched area were released for sale, the overall external areas at Clase would satisfy the requirements of BB99, with an excess area of almost two acres. This is illustrated on the plan attached at Appendix A.
- 4.4 Clase does and would still have a shortfall of pitch area as defined by BB99, but it would still satisfy the pitch allowance as defined in The Education (School Premises) Regulations 1999.
- 4.5 Potential benefits to the school of the proposed land sale include:
- loss of liability for an area of land that is not currently used by the school, including
 - reduced grounds maintenance liability; and
 - a possible opportunity to enhance the security of the whole site
- 4.6 Proposal
- 4.7 Clase Primary School has 9.95 acres and it was proposed that with the potential land release shown (hatched) on the plan attached at Appendix B of 3.54 acres, a remaining area would be left at around 6.41 acres.
- 4.8 The governing body were previously asked to consider
1. Whether it agrees that the land indicated is surplus to requirements and can be sold, subject to;
 - Fencing to be realigned as appropriate.
 - Flexibility around the exact boundary positions which would not be confirmed until a developer is on board.
 2. Whether it considers the disposal of the land would have an effect on any disabled children at the school, or any disabled adults visiting the school or working at the school or any person who comes within the protected characteristics under the Equality Act 2010.”
- 4.9 The governing body’s response to the consultation in 2013, which relates to the hatched area on the plan at Appendix B is below. The governing body was asked if its response in 2013 was still relevant.

'Area 1

- *Agreed that the largest piece of land to the side of the school and outside the palisade fencing, with the exception of Coed Clase was surplus to the school's current requirements and agreed in principle for it to be considered for sale.'*

4.10 In 2013, we also consulted on two additional areas referred to as areas 2 and 3 below in the governing body's response in 2013.

4.11 Those areas were excluded from the consultation 2016 in view of the governing body's response in 2013 below.

'Area 2

- *Coed Clase was created within the fencing as a woodland garden; it has been created and is supported from the school, community grants from national organisations.*

Area 3

- *This area of land is the main point of access and parents attending Flying Start and the Foundation Phase.*
- *Main access area for taxis and parents transporting children to the STF area.*
- *It allows the community to view the school from the road and places it at the heart of the community*
- *Any development which would obscure the school may have consequences in relation to security and vandalism.'*

4.12 *'Any change would mean considering significant changes to the building to ensure disabled parents are not treated less fairly than those who are not.'*

5.0 Impact of new developments

5.1 The governing body were advised as part of the consultation that if the school is extended or developed in future years, it is not expected that this would impact on the available pitch area.

6.0 Response

6.1 The Chair of Governors advised in a letter of the 27 May 2016 that the governing body's response to the consultation in 2016 was; *'I am writing to advise you that the Finance Committee of the governing body at Clase Primary School met on May 20 2016. The committee reviewed your proposal again, which we originally agreed in 2013, and I confirm that we are as a governing body in agreement of the original proposal'.*

7.0 Incentive policy

7.1 It is considered that the incentive policy applies in this instance.

8.0 Equality and engagement implications

8.1 A full Equality Impact Assessment (EIA) has been drafted and shows this project will have a positive impact on;

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

8.3 Disability – the money being invested in schools will improve access for disabled children and young people, as well as school staff, parents and carers. So, for example in the case of Burlais Primary School which has recently benefited from such investment in a new school build on a single site, its former buildings had significant access issues. The new school building is now 100% accessible and specialist teaching facilities are located appropriately within the school so that the needs of all pupils are met effectively.

8.4 The full EIA will be available on line when the Cabinet papers are published on the website at <http://www.swansea.gov.uk/eia>.

8.5 In accordance with the requirements of The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015 a further impact assessment has also considered the how the proposed disposal would impact on any relevant strategies, plans or assessments.

8.6 Local Development Plan (LDP) – The scale of the LDP for the Clase catchment is mainly centred around candidate site reference MB0009. This proposal is for 95 units. If it is agreed to proceed with the land sale outlined in this report, it has been estimated this land could be developed with approximately 50 units.

8.7 The number of pupils that could be generated from these developments in accordance with the Supplementary Planning Guidance is tabled below.

Site	Primary Catchment	No. of units (approx.)	Primary (SPG)	Secondary (SPG)
MB009	Clase primary	95	29.45	20.9
MB014 (Clase primary proposed land sale)	Clase primary	50	15.5	11
Total (approx.)		145	44.95	31.9

- 8.8 The above figures are of course subject to change all the time, and even if and when planning approval is secured there is no guarantee that the developments will go ahead.
- 8.9 The proposed land sale would not impact on any extension or remodelling required to accommodate additional pupils. A modest extension (one to two classes) or internal remodelling could be undertaken to accommodate the additional pupils that could be generated from the sites as indicated above. The remaining area/acreage of the school would be well within recommendations quoted above.
- 8.10 Play sufficiency assessment – the proposed land sale is for an area of natural green space, which the school has confirmed it is not using. Opportunities for play for the wider community could potentially be affected, however, the Mynyddbach Ward meets all of the required targets (see 8.16 below) for children’s playing space – 1.2ha, although it does not meet its target for equipped playgrounds (0.06 ha). Clase Primary School could also consider signing up as a ‘Playful School’, and benefit from the support of the authority’s Play Team to look to maximise its usage for play.
- 8.11 The local authority’s statutory responsibility arises from the Child and Families (Wales) Measure 2010 this statutory guidance to the Play Sufficiency Duty on all local authority’s states;

Schools ensure that children are provided with a rich play environment for breaks during the school day
Schools provide play opportunities during out of teaching hours
Schools provide access to school grounds for playing out of school times
The local authority offers guidance to ensure schools understand and ensure that regular outdoor play is not curtailed

- 8.12 Community, health, social care and well-being strategies – this proposal could have a positive impact by the use of the incentive scheme providing the opportunity for the school to use for improvements at the school that could also be made available for community use. This will be explored further.
- 8.13 Open space assessment – is undertaken by the local authority’s Planning Policy Team who identify specific surpluses or deficiencies within communities, to encourage in areas of limited open space the creation of new spaces and that existing spaces are retained and improved where possible. So that valuable existing facilities should be protected whilst the provision of new and improved open spaces should be facilitated.

- 8.14 The open space assessment undertaken by the Planning Policy Team of the authority shows that Clase Primary which lies in the Mynyddbach Ward, has three hectares per 1000 head of population of Fields in Trust (FIT) which is 0.6ha over the recommended target. FIT recommends breaking down the standard to identify outdoor sport, children's playing space and then further breaking down the children's playing space to identify equipped playgrounds. Mynyddbach Ward meets all of the required targets (outdoor sport – 1.8 ha and children's playing space – 1.2ha) but does not meet its target for equipped playgrounds (0.06 ha). The Mynyddbach Ward has 7.6ha per 1000 head of population of accessible, natural green spaces (ANGS) 5.6ha above the recommended target.
- 8.15 Based on this information the proposed disposal of land forming part of Clase Primary School would not have a detrimental impact on the open space assessment for the area.
- 8.16 All key stakeholders will be consulted and communicated with throughout the projects delivery.

9.0 Financial implications

- 9.1 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.
- 9.2 The valuations and costs detailed below 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.

10.0 Capital

- 10.1 The figures below represent the site valuation and financial information which will be redacted from a future Cabinet Report as they are not for publication by virtue of Paragraph 14 of Part A of Schedule 12a of the Local Government 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, and will be contained in a separate part 2 report.
- 10.2 The estimated gross capital value for the site is in the region of [REDACTED]. Any final net receipt will be dependent upon the responses from a full marketing campaign, subject to site investigations, site specific costs such as realignment of boundary fences and any conditions that would be enforced following submission of any detailed planning application.
- 10.3 The estimated incentive payment is [REDACTED].

10.4 This would result in a final net capital receipt of approximately [REDACTED] less any further reductions as a result of any issues as identified in 10.2 above

11.0 Revenue

11.0 The school may benefit from some savings in their delegated budget for the grounds maintenance and security.

12.0 Legal implications

12.1 Whilst all land held by the local authority is held corporately, the Governors of the School have day to day control over the premises under the School Standards and Framework Act 1998. Therefore the local authority must seek the views of the governing body and take those views into account prior to making any final decision on disposal.

12.2 Playing Fields

12.2.1 In order to dispose of the land the local authority must also comply with The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015 (“the Regulations”).

12.2.2 Section 1 of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010 provides power for the Welsh Ministers, under the Regulations, to require the involvement of communities and other interested parties in decisions by local authorities about the proposed disposal of land consisting, or forming part, of a playing field.

12.2.3 The Regulations require a local authority to serve notices and publish information on the impact of the proposed disposal of a playing field on the health and well-being of the community, by reference to a number of key strategies, plans and assessments for the area in which the playing field is located; and strengthen arrangements for consulting the community, playing field users and relevant national bodies before a local authority takes a final decision to proceed with a proposed disposal.

12.2.4 In addition to these national bodies, the local authority must consult such other persons or bodies which appear to it to represent the interests of persons or bodies who are in the local authority’s area, or in the area of a local authority which shares a boundary with any part of the playing field, and who make use of the playing field. This means, for example, that a local authority would need to consult representatives of local sports teams which play sport.

12.3 Best Value

12.3.1 The Council has a legal obligation under Section 123 of the Local Government Act 1972 that it shall not dispose of land for a consideration less than the best that can be reasonably obtained. Under the Council's constitution, compliance with this responsibility must be certified by the Council's Interim Director of Place or his nominee.

12.3.2 It is for the Interim Director of Place or his nominee to determine a marketing strategy where appropriate, either in-house or through an appropriate agent in the disposal of any land. Under the Council's constitution, the Interim Director of Place or his nominee will determine whether disposals will be made by way of a sealed offer, private treaty or auction and such determination will be made so as to achieve the best price reasonably obtainable.

12.3.3 In any disposal of Council land which does not fall within the delegated authority of responsible officers as defined in the constitution have to be reported to Cabinet.

Background papers:

Report of Cabinet Member for Learning and Skills and Cabinet Member for Finance and Resources to Cabinet April 2013; 21st Century Schools Programme.

Report of Cabinet Member for Learning and Skills to Cabinet 28 May 2013; Capital receipts from sale of land / property on school sites proposed incentive scheme.

Capital Budget & Programme 2015/16 - 2019/20, Council 25 February 2016.

Equality impact assessment which can be found at <http://www.swansea.gov.uk/eia>.

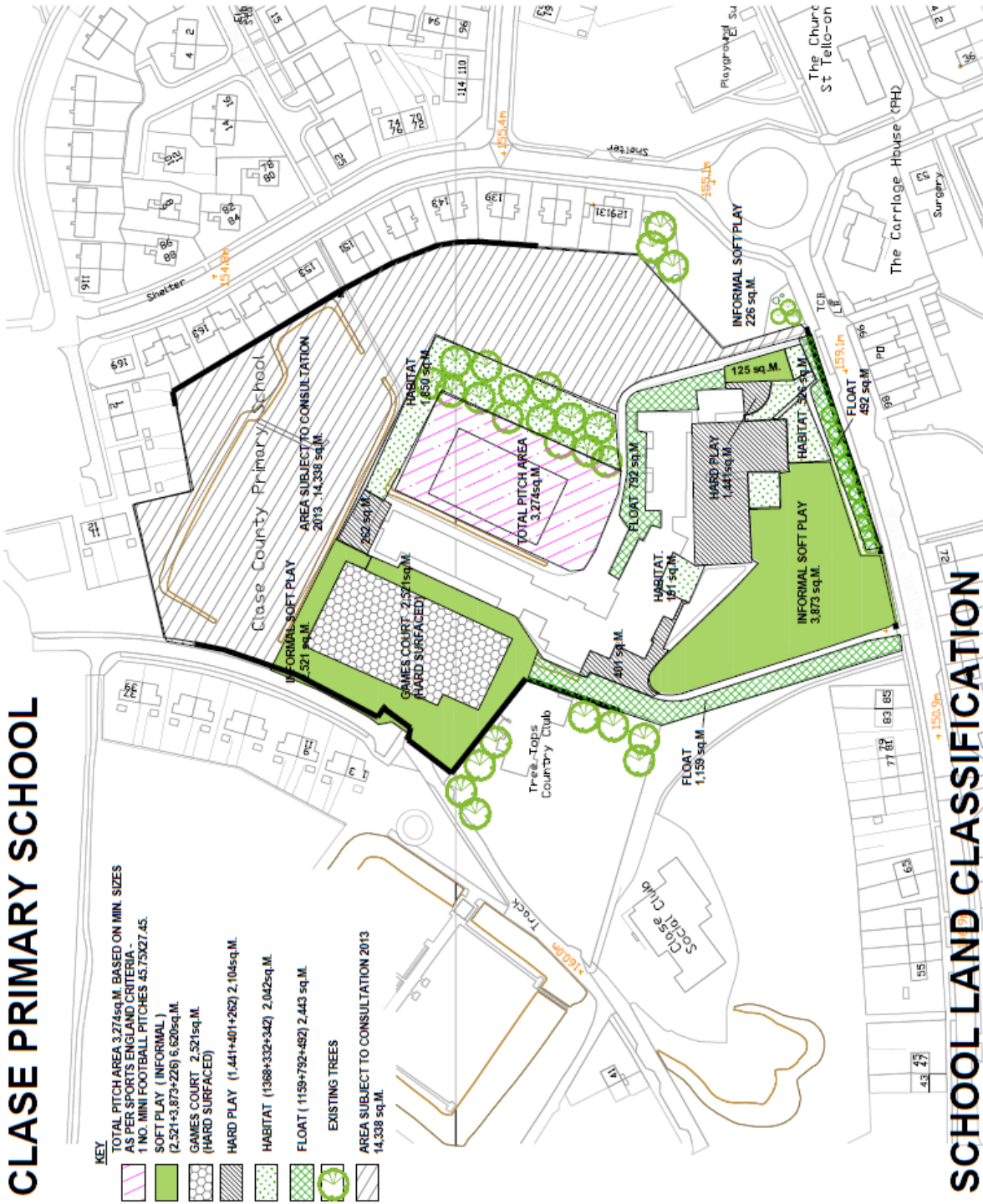
Appendices:

Appendix A Building Bulletin 99 (BB99) analysis

Appendix B Proposed land sale area

Appendix A Building Bulletin 99 (BB99) analysis

CLASE PRIMARY SCHOOL



SCHOOL LAND CLASSIFICATION

