



Report of the Cabinet Member for Delivery and Operations

Cabinet – 21 January 2021

Proposed Appropriation of Bryn House, 78 Walter Road, Swansea, SA1 4PS

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| Purpose: | To decide whether Bryn House, 78 Walter Road, Swansea should be appropriated under s122 Local Government Act 1972 for the purposes of Housing. The land proposed to be appropriated is currently held by the Council as Education land and is considered to be surplus to requirements for those purposes. |
| Policy Framework: | Council Constitution. |
| Consultation: | Access to Services, Finance, Legal. |
| Recommendation(s): | It is recommended that: 1) Cabinet notes that the property identified on the plan at Appendix B is surplus to requirements and no longer required for Education purposes. 2) The property identified above is appropriated under s122 Local Government Act 1972 for the purposes of Housing, namely the provision of eight residential units for council housing upon the terms set out in paragraph 3 of this report. |
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1. Introduction

- 1.1 There is no express provision within the Council's Land Transaction Procedure Rules for officers to utilise delegated authority for the

appropriation of a surplus property between departments. Consequently, Cabinet approval is sought to the proposed transaction.

2. Background

- 2.1 The Cabinet Member for Better Communities and Cabinet Member for Education Improvement, Learning and Skills submitted a joint report to Cabinet on 18th July last, entitled, "Relocation of Lifelong Learning from Bryn House". This report set out the proposed relocation of the Lifelong Learning Service from Bryn House Community Education Centre.
- 2.2 Cabinet approved and as a consequence the service re-located from Bryn House to the Civic Centre, with teaching delivered from alternative venues across the County. Bryn House therefore became surplus to Education's operational requirements and was declared surplus and scheduled for disposal. **(Appendix A)**.
- 2.3 In turn, the Head of Housing and Public Health has confirmed that the Housing Department wishes to re-configure the building to provide four general needs one bedroom flats to the existing Bryn House. In addition, the demountable, former classroom building within the grounds will be demolished and replaced with four one bedroom Passivhaus pods.
- 2.4 This Housing scheme will be funded via the WG Covid-19 Homelessness and Housing Related Support Services Phase 2 capital grant.

3. General Issues

- 3.1 It is agreed between the service departments that the proposed appropriation would take place at Market Value. There is a requirement for the "payment" due to the fact that the Housing Revenue account is ring-fenced and as such any acquisition requires the appropriate payment to be made to the general fund.
- 3.2 Market Value is accepted as being £250,000.
- 3.3 The terms of the prospective acquisition will be in accordance with the principles of best value.
- 3.4 The Director of Place certifies that he is satisfied that the property represents a reasonable proposition for purchase at the provisionally agreed price.

4. Equality and Engagement Implications

- 4.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 4.2 HRA advise that they will look to refurbish the existing property to WHQS standards in order to provide four one bedroom flats to meet demand. In addition four further, one bedroom, “passivhaus” units are intended to be developed within the site.
- 4.3 An EIA screening form has been completed and reviewed (**Appendix C**). The agreed outcome was that a full EIA report was not required as there are no equalities and engagement implications at this time. Any developments will be subject to normal planning procedures.

5. Financial Implications

- 5.1 The Housing Department have advised that the proposed purchase is within the budgetary constraints previously agreed for them by Cabinet and that they have a budget in place to complete the proposed purchase.
- 5.2 The capital receipt is not “ring fenced” for any specific purpose and will therefore be allocated to the General Fund.
- 5.3 There are no further financial implications associated with this report.

6. Legal Implications

- 6.1 Section 122(1) of the Local Government Act 1972 provides that a principal council may appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation.
- 6.2 The key procedural points are:
- a. The land must already belong to the Council;
 - b. The land must no longer be required for the purpose for which it is currently appropriated; and
 - c. The purpose for which the Council is appropriating must be authorised by statute.

The case of *Dowty Boulton Paul v Wolverhampton Corporation* (1973) established that the Local Authority is the sole judge of whether or not the land in question is not required for the purpose for which it is held

immediately before the appropriation and its decision cannot be challenged in the absence of bad faith.

The Council must be able to demonstrate the purpose for the appropriation and that it has taken all the relevant considerations into account and not taken any irrelevant considerations into account. The appropriate Head of Service has confirmed that the land is deemed to be ‘surplus to requirements’ in accordance with Part 4, paragraph 7 of the Land Transaction Procedure Rules.

The Council’s decision must be based on the available evidence and be rational in the sense that it cannot be said that no reasonable local authority could, on the evidence before it, have arrived at that decision: *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* (1948) 1 KB 223).

The proposal to appropriate must be the subject of a report and decision record or minute, which should evidence that the Council intends to formally appropriate the land under s.122 of the Local Government Act 1972. It must also be recorded that the land is no longer required for the purpose for which it is currently appropriated.

Background Papers:

None

Appendices:

Appendix A: Site Photo

Appendix B: Site Plan

Appendix C: EIA Screening Form