

## CABINET

9 JULY 2013

### CHILDREN'S NURSERY, KINGFISHER PRIMARY SCHOOL AND FORMER CHATHAM SOUTH SECONDARY SCHOOL SITE

Portfolio Holder: Councillor Alan Jarrett, Deputy Leader and Finance

Report from: Perry Holmes, Assistant Director Legal & Corporate Services

Author: Nick Anthony, Head of Asset & Property Services

#### Summary

This report requests that Cabinet grants delegated authority to officers to let a children's nursery at Kingfisher Primary School, Chatham (shown edged black on the attached plan) and transfer some of the redundant land and buildings at the former Chatham South School site to Chatham Grammar School for Boys.

#### 1. Budget and Policy Framework

- 1.1 As the annual rent for the nursery property will be over £20,000 and the unrestricted capital value of the land and buildings at the Chatham South site exceeds £100,000, this is a matter for Cabinet.
- 1.2 Cabinet is asked to accept this report as an urgent item to enable officers to progress both of these matters at the earliest opportunity.

#### 2. Background

##### **Children's Nursery, Kingfisher Primary School, Chatham**

- 2.1 The existing tenant has operated a nursery from Kingfisher Primary School since 30 January 2004. The premises comprise a 360 square metre modular building, playground and car park. The nursery offers facilities for up to 80 children for day care for babies, toddlers and pre-school children, plus a before/after school service and holiday club sessions.

- 2.2 The existing tenant's 5-year lease is due to expire on 29 January 2014. They have advised that they are unlikely to renew and are seeking a purchaser for the business.
- 2.3 The existing tenant has agreed terms for the sale of the business to another nursery provider and the council has provisionally agreed terms to take a surrender of the existing tenant's lease and grant a lease of up to 10 years to the new nursery provider. The new nursery provider is the twentieth largest nursery chain in the UK and Ireland with 10 sites offering 931 places including sites in the Medway area.
- 2.4 If the new provider is successful in acquiring the lease it intends to make a substantial investment in upgrading and refurbishing the premises and replacing equipment and toys.

#### **Former Chatham South Secondary School site**

- 2.5 Some of the land and buildings at the site are not required for the creation of the new primary age Academy, which was approved by Cabinet at its meeting on 12 June 2012. These include the former secondary school's sports hall and performing arts centre, as shown approximately edged black on the attached plan. Cabinet at its meeting of 12 June 2012 amongst other things, approved the transfer of part of the accommodation to meet the curriculum needs of Chatham Grammar School for Boys.
- 2.6 Chatham Grammar School for Boys has approached the Council to add these buildings to its existing leasehold interest for use by the School in delivering its curriculum.
- 2.7 In particular this will allow the School to meet its existing curriculum needs and enable the School to offer an improved performing arts curriculum for the whole school and in particular for the Sixth Form.
- 2.8 The 2013-14 academic year is the School's 100<sup>th</sup> anniversary and naturally it is very keen to enhance its facilities in its centenary year.

### **3. Options**

- 3.1 With respect to the nursery the council has complete control over how it deals with the premises, as the existing tenant's lease contains an absolute bar against assigning, underletting or parting with possession of the premises. The council could refuse to take a surrender of the lease and let it run its course. It could then grant a lease to another nursery operator.
- 3.2 With respect to the Chatham South site, the Council could retain the surplus land and buildings, as they are not required for the new primary school. However, since the Council does not have an identified use for

them they could be transferred to the Grammar School to enable enhanced secondary school facilities to be provided.

#### 4. Advice and analysis

- 4.1 If the council were to refuse to take a surrender of the current nursery lease, it is likely the existing tenant will continue to operate until the end of its lease but not renew. This could impact on the school and local residents that require childcare services.
- 4.2 If the council accepts a surrender of the current nursery lease and grants a lease to the new provider, the service will be maintained, the premises and equipment will be improved and the council will receive a premium payment for early surrender plus an increase in rent.
- 4.3 It is considered that the preferred option commercially and in terms of service delivery is to accept a surrender of the existing nursery lease and grant a new lease of up to 10 years to another approved provider. Cabinet is therefore requested to grant the Assistant Director of Legal and Corporate Services delegated authority to take a surrender of the existing lease and re-let the Children's Nursery at Kingfisher Primary School.
- 4.4 With regard to those parts of the former Chatham South School site not essential for the new primary school provision, it is considered the Grammar School has demonstrated a genuine need for the land and buildings. Therefore in the absence of an alternative operational use a transfer is being recommended.

#### 5 Risk Management

Risk	Description	Action to avoid or mitigate risk	Risk rating
The Council fails to take a surrender of the nursery lease and fails to grant a new lease.	Loss of income and disruption to service.	Accept surrender and grant a new lease.	C2.
The Council fails to take a surrender of the nursery lease and grant a new lease.	Children's education, welfare and development suffer.	Accept surrender and grant a new lease.	C2
With regard to the Chatham South site, empty properties are expensive and	Empty properties become a target of antisocial, behaviour,	Let or dispose of the unwanted land and buildings as soon as reasonably possible.	C2

difficult to manage pending disposal.	vandalism, squatters and theft pending disposal.		
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## 6. Consultation

- 6.1 Kingfisher Primary School is due to transfer to the Griffin School Trust on 1 September 2013 as an Academy School and the Trust will be granted a 125 year lease of the school site excluding the nursery. The Children and Adults Directorate and the Griffin School Trust have been consulted and have no objections to these proposals.
- 6.2 With regard to the Chatham South site, consultation has taken place with the Portfolio Holder and service directorate and no objections to this proposal have been received.

## 7. Financial and legal implications

- 7.1 The letting of the nursery will minimise management costs and produce a rental income, which accords with that anticipated in the setting of the 2013-14 revenue budget.
- 7.2 In accordance with section 123 of the Local Government Act 1972; the rent of the nursery for a lease for a term of more than seven years needs to be at best consideration. Council officers are satisfied that the proposed terms will represent best consideration.
- 7.3 Should Cabinet authorise officers to dispose of part of the Chatham South site to the Grammar School then an application will be made to the Department for Education for the requisite permissions.
- 7.4 Chatham Grammar School for Boys is an Academy. Under the Academies Act 2010 the best consideration provisions of section 123 of the Local Government Act 1972 do not apply to the disposal of land for the purposes of an Academy.

## 8. Recommendations

### **Children's Nursery, Kingfisher Primary School, Chatham**

- 8.1 It is recommended that Cabinet grants delegated authority to the Assistant Director of Legal and Corporate Services in consultation with the Portfolio Holder for Finance to take a surrender of the current lease and grant a new lease or leases of the nursery site at Kingfisher Primary School.

### **Former Chatham South School site**

- 8.2 It is recommended that Cabinet delegates authority to the Assistant Director of Legal and Corporate Services in consultation with the Portfolio Holder for Finance to:

- 8.2.1 Declare surplus to requirements those areas of the former Chatham South School site not needed for the new primary school provision and to dispose of these areas for use by Chatham Grammar School for Boys.
- 8.2.2 Vary or take a surrender of the existing lease to the Chatham Grammar School for Boys and grant a new lease(s) to the School of a revised area.

## **9. Suggested reasons for decision**

- 9.1 In respect of the Nursery at Kingfisher Primary School, to provide continuity of the nursery service to local residents and the school and to maintain a revenue stream from the asset.
- 9.2 So that Chatham Grammar School for Boys can meet its existing curriculum needs and to enable the School to offer an improved performing arts curriculum for the whole School and in particular for the Sixth Form.

## **Background Papers**

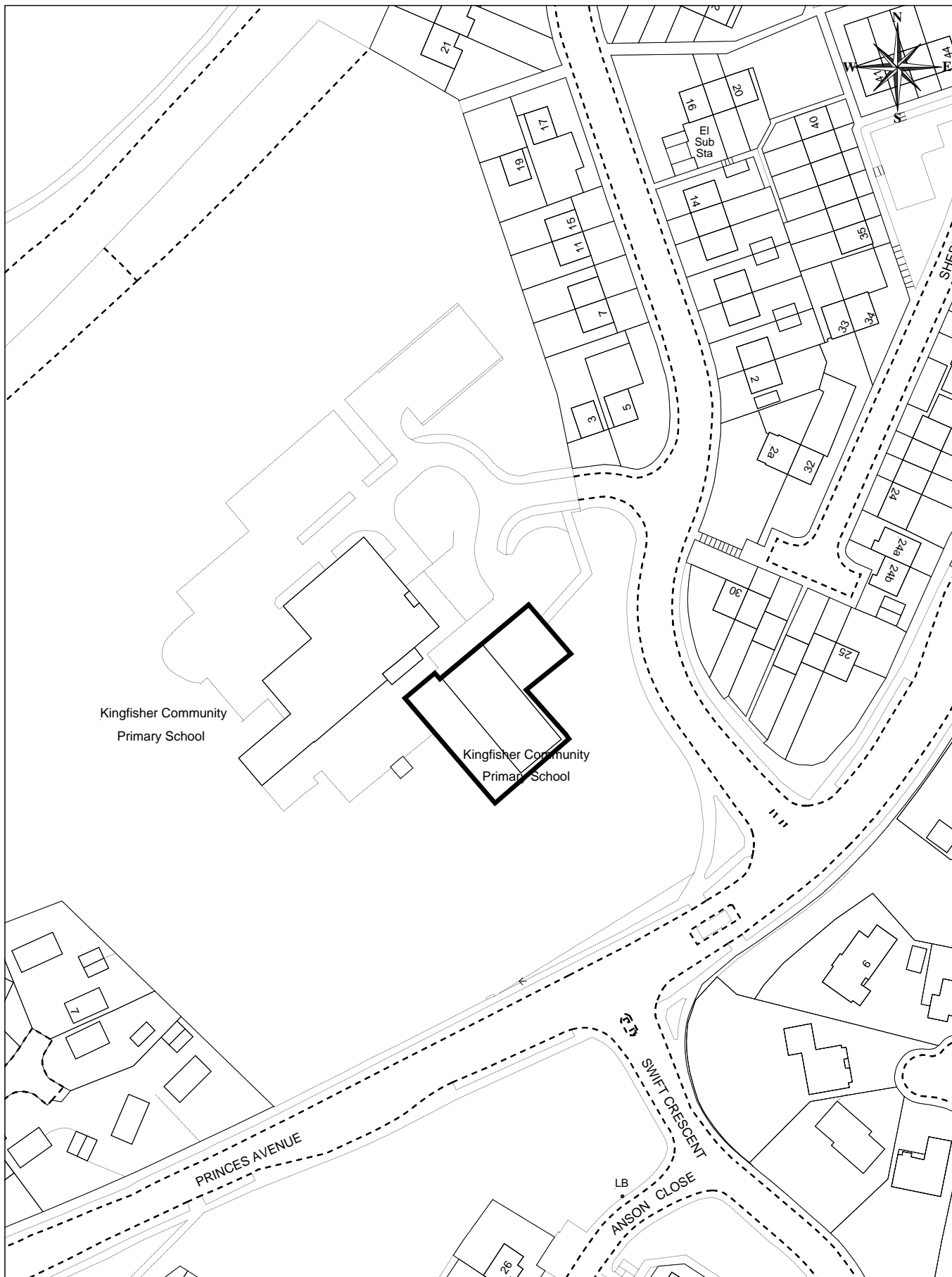
Cabinet Report 12 June 2012: Proposals for the development of additional primary age provision in Chatham.

<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=8862>

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Kingfisher Community  
Primary School

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# Kingfisher School Kingfisher Drive, Chatham

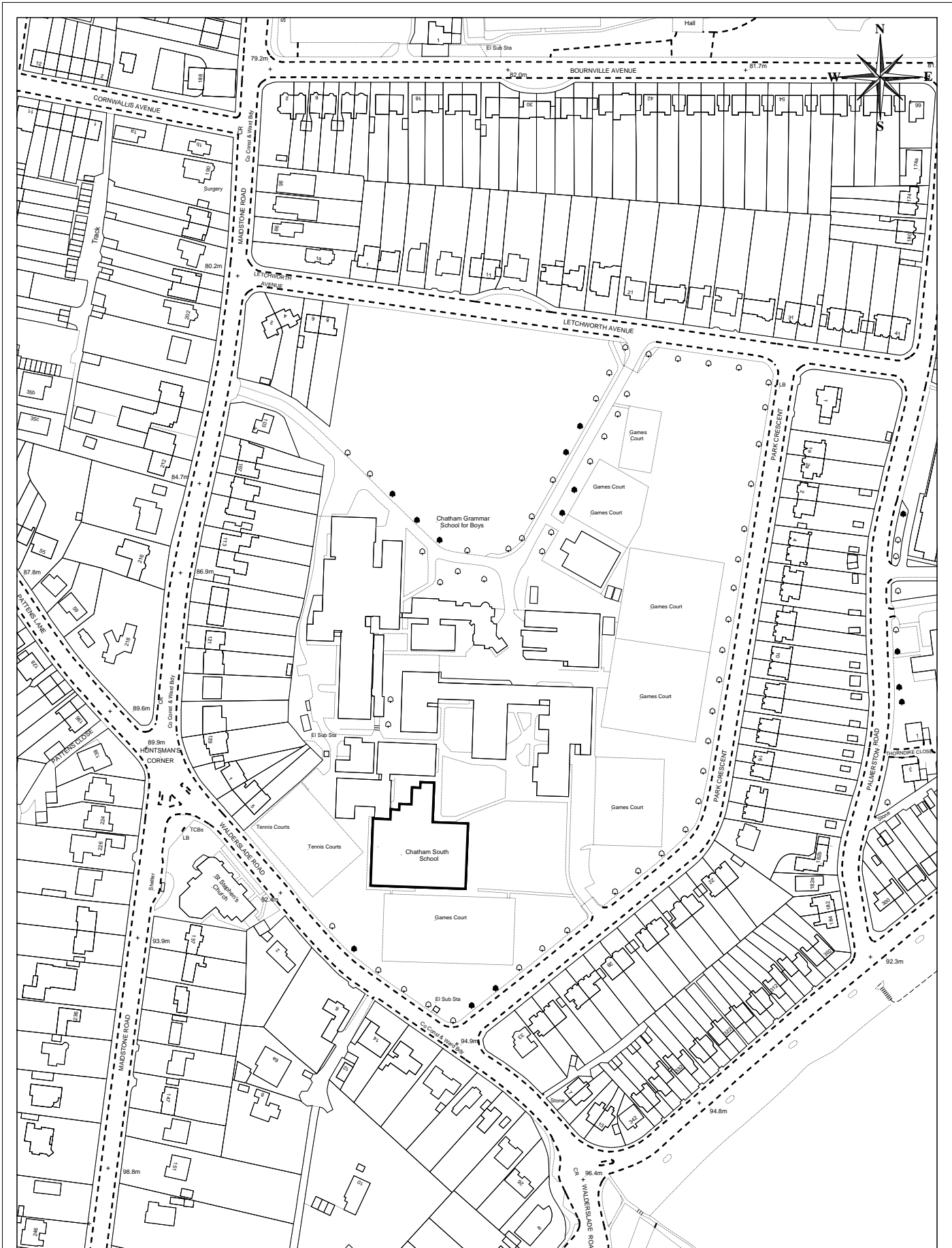


Serving You

Scale: 1:1250 17/06/13







**Sports Hall & Performing Arts Centre  
Former Chatham South Secondary School Site**



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Scale: 1:2500 02/07/13

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