

CABINET

9 JULY 2019

PROPOSED USE OF PART OF THE CORNWALLIS AVENUE SITE FOR SCHOOL PROVISION

Portfolio Holder: Councillor Mrs Josie Iles, Children's Services
(Lead Member)
Councillor Adrian Gulvin, Resources

Report from: Ian Sutherland, Director of Children and Adults Services

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Summary

Cabinet is asked to approve the grant of an agreement for a lease and a lease or leases of land at Cornwallis Avenue, Gillingham, to a third party for the purpose of developing education facilities to meet pressure on specialist school places.

1. Budget and Policy Framework

- 1.1 Medway Council, as the local authority, has a statutory duty to provide sufficient school places. The School Place Planning Strategy, approved by Cabinet in July 2018, describes the principles, methods and challenges of this duty and covers all sectors within the education system.
- 1.2 The Council has no statutory duty to provide burial spaces.
- 1.3 The granting of leases for Academies is usually dealt with using the Chief Legal Officer's delegated authority, since they are at a peppercorn rent for 125 years. Property decisions are a matter for Cabinet.

2. Background

- 2.1 The land at Cornwallis Avenue as shown edged black and hatched black on the attached plan was previously used as a detached playing field for Gillingham Community College until its closure in August 2001. Since then it has been used for

boot fair lettings and football matches and in 2007/2008 there were proposals to set up football and tennis Academies on part of the land, but these never came to fruition.

- 2.2 The current local plan designation for the land is CF8 (Cemetery Extension). However, as part of the review of the Local Plan which is out to consultation but not due for adoption until 2020, the proposal is that part of the site is allocated for cemetery use and part educational use. Approval of the recommendations in this report will simply advance that position and allow proposals to be progressed to meet the pressure on school places. The decision on change of use is a matter for the Planning Committee.
- 2.3 Bereavement and Registration Services has identified that from the total land available of 3.35ha, only 1.75ha would be required to ensure sufficient burial space for the next 100 years. This leaves approximately 1.60ha for school use.
- 2.4 In respect of future demand for both services, local and national attitudes towards burial are almost certain to change over the next 100 years and options for 'lift and deepen'; increasing ground levels; re-using grave space, and an increasing reliance upon 'cremation' will serve to mitigate against the local authority running out of capacity across its cemetery portfolio.
- 2.5 In contrast, demand for school places in Medway is rising across all sectors of the education system, and having the remaining 1.6ha of the Cornwallis Avenue land available for education use, will facilitate meeting these pressures and the local authority's statutory duties in respect of school sufficiency.
- 2.6 The Cornwallis Avenue site is currently used as playing field land by a local youth football team for weekend games, mainly through the winter months and in the summer months for boot fairs. These arrangements could continue whilst the land is still available, with the part which is to remain allocated for a cemetery extension likely to still be available for many years. Once the land is developed for cemetery and school use, the football team will need to relocate and it will be encouraged to make use of the 70 Council owned football pitches within Medway, for example, Beechings Crossing which is less than 0.5 miles from Cornwallis Avenue.
- 2.7 On 4 September 2018 the Cabinet approved the leasing of the proposed 1.5ha education land at Cornwallis Avenue (as shown hatched black on the plan set out in Appendix 1 to the report*) to Medway Commercial Group in a format approved by the Chief Legal Officer for a period of no more than 125 years in order to secure the delivery of educational and associated uses subject to appropriate planning approvals (decision no. 112/2018 refers). The Cabinet also agreed to delegate authority to the Chief Legal Officer in consultation with the Portfolio Holder for Resources to complete the lease and any other necessary agreements of part of the site at Cornwallis Avenue as shown hatched black on the plan set out in Appendix 1 to the report* for the provision of educational and associated uses (decision no. 113/2018 refers) (* Cabinet report 4 September 2018 refers).
- 2.8 This proposal supersedes that decision. This report requests the Cabinet revokes decisions 112/2018 and 113/2018 as set out in paragraph 2.7 and agrees to delegate authority to the Chief Legal Officer in consultation with the Portfolio Holder

for Resources to complete (i) an agreement for a lease and then (ii) a lease or leases and any other necessary agreements of part of the site at Cornwallis Avenue for the provision of educational and associated uses to another third party.

3. Options

- 3.1 Option 1 - To approve the leasing of part of the land shown on the attached plan to a third party for the purposes of educational provision, in line with Department for Education (DfE) requirements.
- 3.2 Option 2 - To not approve the leasing of part of the land shown on the attached plan for the purposes of educational provision.
- 3.3 Option 1 is the recommended option.

4. Advice and analysis

- 4.1 As stated above, the retention of the part of the land on the attached plan for Cemetery use will mean that sufficient land is available for burials for the next 100 years and options exist to further extend that. Beyond that, securing additional burial land, should the need arise, would be a significant challenge in terms of location, obtaining consents, ground conditions and budget. In addition to this if the retained land is not needed for Cemetery use then subject to planning, the area could be brought forward for other uses.
- 4.2 However, with the need to find appropriate land for expansion to the school system in Medway in order to meet known and expected demand, using the land for education use is seen as being of greater community and public benefit than retaining the land for a cemetery extension that may not be needed until some way into the 22nd century.
- 4.3 The Council has a statutory duty to ensure sufficient school places are available. In recent years, a significant programme of expansions and new schools in the primary sector has been undertaken to meet this duty, but demand continues to increase across all sectors including mainstream secondary, special school provision and alternative provision, as highlighted within the School Place Planning Strategy.
- 4.4 With Medway's population expected to increase steadily from 278,000 to 317,500 by 2035, additional school places will be needed across all sectors. How best to utilise this land for educational uses to meet emerging need will be determined subject to approval of this proposal.
- 4.5 With the MCG proposal not progressing, officers have been exploring alternative opportunities with the DfE to bring forward a suitable solution for this site.
- 4.6 In line with DfE requirements it is expected that the land will be leased to an appropriate education provider for a period of 125 years at a peppercorn rent, subject to planning approval for the new provision. It has also been suggested that the remaining land could be used as sports playing fields for the new provision. This could be agreed in conjunction with continued community use.

4.7 No Diversity Impact Assessment will accompany this report, however one will be provided for future reports on specific proposals for the educational use of the land.

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
The Council's statutory duty to provide sufficient good quality school places is not met.	If sufficient school places are not made available to meet demand, the Council would be failing to meet its obligations	Approval of this proposal will help to provide additional good quality places in areas of demand	B2
Insufficient land for burials beyond the next 100 years	Although there is no statutory duty for local authorities to provide burial spaces, this proposal could mean that in the 22 nd century, no more burial space is available in Woodlands cemetery	Set aside a proportion of burial fees to secure further land elsewhere should it be required in the future.	D3
Objections from Sport England	The loss of playing field is likely to result in an objection from Sport England to any building proposals put forward for the land.	Ensure that land held for the cemetery extension continues to be used as playing field and any playing field land formed as part of the new school provision includes proposals for community use.	A2

6. Consultation

6.1 No consultation is necessary as part of this report, however all appropriate and statutory consultation will be undertaken when specific proposals for use of the land are determined.

7. Financial implications

7.1 There are no direct financial implications related to this report. If there are any specific proposals that emanate from the explorations into the most appropriate and effective use of the land that involve the council having to fund the project then a full and detailed financial analysis and options appraisal will be prepared for consideration by the Cabinet. This will be included within a business case for the new educational provision as a whole.

7.2 When assessing educational proposals for the site, full consideration will be given to achieving best value for the Council and all appropriate approvals will be sought as part of that process.

8. Legal implications

- 8.1 The Council must obtain best value for land transactions under section 123 of the Local Government Act 1972 however exemptions apply in respect of grants of leases for Academy schools.
- 8.2 If approved the Lease or Leases to the third party should be in format approved by the Chief Legal Officer.
- 8.3 Section 14 of the Education Act 1996 states that Local Authorities must make provision for sufficient school places to be available in their area.

9. Recommendations

- 9.1 Cabinet is asked to revoke decisions 112/2018 and 113/2018 made on 4 September 2018 as set out in paragraph 2.7 of the report.
- 9.2 Cabinet is asked to grant delegated authority to the Chief Legal Officer, in consultation with the Portfolio Holder for Resources, to complete (i) an agreement for a lease and then (ii) a lease or leases and any other necessary agreements of part of the site at Cornwallis Avenue, as set out in the plan at Appendix 1 to the report, for the provision of educational and associated uses.

10 Suggested reasons for decision(s)

- 10.1 To ensure that sufficient land is available for additional education provision to meet expected demand from across all sectors of the place planning system, which will help to ensure that the Council meets its statutory duty to provide sufficient school places.

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Appendices

Appendix 1 – Plan of the Cornwallis site

Background Papers

School Place Planning Strategy

<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=4052> (item 4 refers)

Cabinet report 4 September 2018.

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=43412>