

Title of report: Disposal of the old Colwall CE Primary School

Decision maker: Corporate Director - Children & Young People

Decision date: 25th July 2022

**Report by: Sufficiency Planning and Capital Investment Manager, Head of
Educational Development**

Classification

Open

Decision type

Non-key

Wards affected

Hope End;

Purpose

To approve the disposal of the council owned land formerly occupied by Colwall CE Primary School subject to the agreement from the Secretary of State.

Colwall CE primary school was relocated into a new build school on a new site in January 2018 due to severe water ingress problems in the building. No use has been made of the buildings since this date and therefore they are no longer required as an educational establishment.

Recommendation(s)

That:

- a) The council owned land formerly occupied by Colwall CE Primary School, as identified edged in blue on the plan at appendix 1, be approved for disposal; and**
- b) The service director education, skills and learning be authorised to take all operational decisions necessary to implement the disposal subject to Secretary of State consent being secured.**

Alternative options

1. The site is retained. The opportunity to realise a capital receipt would be lost and costs would be incurred to maintain the site or demolish the building to reduce council liability. This is not recommended.

Key considerations

2. Colwall CE primary school was relocated to a new building on a new site in Colwall in January 2018. The school had been experiencing a severe water ingress problem and had already been decanted into mobile accommodation whilst the new build was in progress.
3. No use has been made of the building or any other part of the site by any party since it was vacated.
4. The old Colwall CE primary school site falls under the ownership of several parties, Herefordshire Council, Hereford Diocesan Board of Finance and the Archdeacon of Hereford. The area owned by the council is shown edged blue on the plan included as Appendix 1.
5. The playing fields for the school were leased from the diocese when the school was in use under land registry title HE26591 as shown in Appendix 3. This lease has been terminated and the land reverted back to the diocese.
6. The original part of the school building was unregistered but has since been registered in 2018 under land registry title HE60935 as shown in Appendix 3 to the Archdeacon of Hereford.
7. The remaining area used by the school is owned by the council and consists of two parcels of land with terrier numbers 5759 and 5819 as shown in Appendix 2. Parcel 7077 forms part of the larger area of land registered to the Hereford Diocesan Board of Finance under land registry title HE35728 as shown in Appendix 3. This parcel was purchased from the diocese in October 1981 for school use. The agreement covering the purchase stipulated that the parcel of land could not be registered with the council and on cessation of use for a school would offer to sell the land back to the diocese.
8. Parcels 5759 and 5819 are currently unregistered with the land registry but are owned by the council.
9. The application to the Secretary of State is for consent under Section 77 of the School Standards and Framework Act 1998 to dispose of school playing field land. The requirement for applications to the Secretary of State has been recently clarified in a guidance document released by the Department for Education "Involving the Secretary of State in land transactions- Non-statutory guidance on how and when to involve the Secretary of State in transactions involving land held for the purpose of a school". This guidance includes the disposal of non-playing field land.
10. We are therefore seeking to dispose of the council owned land formerly occupied by Colwall CE primary school as identified edged in blue on the plan attached as Appendix 1. This consists of the two parcels of land identified by terrier numbers 5759 and 5819 on the plan in Appendix 2. As owners of the land the duty to make the application to the Secretary of State to dispose of the non-playing field land falls to the council.
11. As a Voluntary Controlled school these parcels of land should have been registered with the Diocese, as part of the statutory obligation to transfer to the Diocese under the School Standards and Framework Act 1998 Schedule 3 Paragraph 2, to be held in trust for the use as a school. Trustees are legally bound to provide proceeds from the sale of the site if the new

site is worth more or the same as the old site. Once approval from the Secretary of State has been received, the council land will be sold to the Diocese at an agreed market value. The disposal of the site will see this transaction finalised and the sale will equate to the trustees contribution towards the new build school.

12. The corporate property strategy guides how we dispose of corporate property once approval from the Secretary of State has been received.
13. The receipts received will be dealt with in accordance with the council's capital policies and future school needs are guided by the schools capital investment strategy.

Community impact

9. There is no adverse impact on the local community in approving the disposal of this land. The school building has not been used by any party since it was vacated in January 2018.
10. The current building is a potential target for vandalism and a health and safety risk should anyone consider trying to break in. Even though the building is empty and not in use, the council has to ensure that the building is safe and secure and must take precautions to ensure the safety of anyone entering the site, including trespassers, so far as is reasonable practicable.
11. The capital receipts secured as a result of the disposal would support the council's priority of 'securing better services, quality of life and value for money'.
12. The capital receipts may also be used to invest in other schools around the county to improve their facilities and bring the buildings in line with the specifications included in the Department for Education) DfE's building bulletins. This could support the council's County Plan Ambition to strengthen communities to ensure that everyone lives well and safely together and the Children & Young people's Plan Pledge of helping children and young people succeed – be amazing and hence could promote the life chances of looked after children and care leavers.

Environmental Impact

13. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
14. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy.

Equality duty

15. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 16. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.
- 17. We are not aware of any significant impact on the community in approving the disposal of the land. The site has not been used for educational or recreational purposes for over four years and therefore we do not believe that it will have a detrimental impact against any individual that shares a protected characteristic. The capital receipts may also be used to address equality issues in near-by schools.

Resource implications

- 18. The total plot area to be sold is 0.62 acres. This includes the land owned by the council, land owned by the Archdeacon of Hereford under land registry title HE60935 and a piece of land owned by the diocese which is currently unregistered. A valuation for the land has been produced by McCartneys based on the best value that can be derived by demolishing the old school buildings and redeveloping the remainder of the site for residential purposes. This valuation equates to £180k.
- 19. The diocese have agreed for the full value of the 0.62 acres to be paid to the council as the value of the historic trustees' site that is judged to be fair given the permanent value of the new site.
- 20. There will be legal and other administrative costs in relation to the preparation and completion of the sale, which will be deducted from the overall capital receipt received. These would equate to approximately 4% of the sale price.
- 21. Costs in previous years to maintain the building have equated to £15k per year for business rates alone. There will also have been additional costs for site security and safety. There would therefore be a revenue saving for the children & families directorate in future years of at least £15,000.
- 22. Any receipts received will be dealt with in accordance with the council's financial procedure rules and future school needs are guided by the schools capital investment strategy.

Legal implications

- 23. Under Part 1 of Schedule 1 to the Academies Act 2010, the Council requires the Secretary of State's prior consent to dispose of school land (whether playing field or non-playing field land) which has been used wholly or mainly by a school or 16-19 academy in the last eight years, whether still open or now closed.
- 24. In addition to the requirements under the Academies Act 2010, the Council requires the prior consent of the Secretary of State under Section 77 of the School Standards and Framework Act 1998 if the land is, or has been in the last 10 years, used by a maintained school.

Risk management

- 25. There are no significant risks associated with this disposal. However, if the sale is not approved or is delayed then there will continue to be a cost to the council for the maintenance of the site and buildings.

Consultees

26. Consultation took place in 2017 with pupils, parents and carers, staff, governors, the local community, the Parish Council, Diocese of Hereford, ward member and other interested parties on the provision and relocation of Colwall CE primary school. This resulted in a new build school on a new site in the village. The old school was vacated in January 2018 and the building has not been used since.
27. The cabinet member for children & families and the cabinet member for commissioning, procurement and asserts have been consulted and are supportive of the disposal of the land.

Appendices

- Appendix 1 – Colwall CE Primary Old School ownership plan
- Appendix 2 – Colwall CE Primary Old School terrier plan
- Appendix 3 – Colwall CE Primary Old School land registry plan

Background papers

None identified.

Report Reviewers Used for appraising this report:

Governance	Sarah Buffrey	Date 23/03/2022
Finance	Karen Morris	Date 08/03/2022
Legal	Alex Reece	Date 23/06/2022
Communications	Luenne Featherstone	Date 02/03/2022
Equality Duty	Carol Trachonitis	Date 03/03/2022
Procurement	Mark Cage	Date 04/03/2022
Risk	Chris Jones	Date 04/03/2022

Approved by Darryl Freeman Date 28/06/2022

Please include a glossary of terms, abbreviations and acronyms used in this report.