

EXECUTIVE SUB-COMMITTEE FOR PROPERTY

Report title	Potential Site for Discovery Special Academy	
Executive Member*	Cllr Brunton Dobson – Executive Member for Education and Skills	
Chief Executive or Director	Helen Watson – Executive Director of Children’s Services	
Date	13 June 2018	
Purpose of the report	To seek approval of the disposal of part of the Nature’s World site by private treaty, for the purposes of a new Special School.	
Summary of the report	The report provides the case for disposal of the land, currently allocated as Open Space in the Local Plan, to the Secretary of State for Housing, Communities and Local Government for the purpose of providing a new Special Free School to meet the demand of pupils with Special Educational Needs.	
If this is a key decision, which key decision test applies?*	Over the financial threshold (£150,000)	X
	Amends the Council’s policy framework	
	Affects two or more wards	
	Non-key	
For the purposes of scrutiny call in procedure this report is*	Exempt under s.12a Local Government Act 1972	
	Urgent	
	Non-urgent	X
If this is a confidential report, which category of exemption(s) from the Schedule 12a of the Local Government Act 1972 applies?	The report is not confidential.	
Decision(s) asked for	That the Executive Sub-Committee for Property approves the site for disposal via private treaty, for the purposes of providing a new Special Free School.	
Impact of decision(s)	<p>The decision would:</p> <p>Result in improved educational opportunity for primary-age pupils with Special Education Needs.</p> <p>Enable the Council to fulfil its statutory duty to ensure there are sufficient school places in the town to meet demand.</p> <p>Reduce the need to use out-of area placements with associated transport costs, or placements in local mainstream schools with expensive support costs.</p> <p>Result in a capital receipt for the Council and inward investment in the construction and staffing of a new school.</p>	

What is the purpose of this report?

1. The report sets out the case for Executive Sub-Committee for Property to approve the site identified at Appendix 2 for disposal via private treaty, to enable the establishment of a new Special Free School catering for 84 primary-age pupils with Special Educational Needs (SEN).

Why is this report necessary?

2. The report is necessary because the Council's Asset Disposal Policy reserves decisions of this nature to the Executive Sub-Committee for Property.

Report Detail

3. On 12 April 2017, Tees Valley Education (TVEd) Trust was successful in securing approval from the Government's Free School Programme to establish a new special school in Middlesbrough for up to 84 children aged 4-11. TVEd is a locally based multi-academy trust that operates two primary schools in Middlesbrough and one in Redcar & Cleveland.
4. Named the Discovery Special Academy, the free school would provide a specialist education for children with complex and significant learning, communication, physical and medical needs. It is proposed to open the school in temporary accommodation in September 2018, with the construction of the school's building to be completed in 2019/20.
5. Demand for this type of specialist education in Middlesbrough is outstripping supply. In anticipation of the school opening the Council has therefore used its 2018/19 SEN capital to provide a limited amount of temporary accommodation at Pennyman Primary Academy. Five Middlesbrough pupils were admitted to this provision in September 2017, on the roll of Priory Woods School, and will transfer to the Discovery Special Academy upon opening in 2018. This is a value for money approach to avoid out-of-area placements at a much higher cost to the Council and inconvenience to families.
6. Middlesbrough Council's Special Educational Needs Assessment Team 0-25 has committed to commissioning a further 30 places at the school in the 2018/19 academic year and anticipates commissioning another 10 places in 2019/20. It is understood Redcar & Cleveland Council are also commissioning places.
7. In order to accommodate these pupils in advance of the new school building being ready, TVEd has made further temporary arrangements utilising accommodation at Pennyman and Brambles primary academies.
8. The Education and Skills Funding Agency (ESFA) has taken responsibility for delivering the school, including its construction and securing a site in Middlesbrough. The initial proposal was to locate the school building on the playing fields of Pennyman Primary Academy, which is already subject to a 125 Academy lease to the trust. However, after a number of problems arose with the site, the ESFA started searching for viable alternatives in private or public ownership.
9. In order for the Secretary of State for Education to agree to the school opening in September 2018, the ESFA are required to agree Heads of Terms on an identified site. The scheme is therefore at a critical stage in its development – without a site being identified and Heads of Terms being agreed, the school will not be able to

open in September and will not be able to register and teach the pupils that Middlesbrough Council has allocated. All partners are currently working together to achieve the following timetable:

Agree Heads of Terms	Jun 2018
Secretary of State signs school funding agreement	Jul 2018
School opens in temporary accommodation	Sep 2018
Design, planning and construction	2019
School relocates to new building	2020

10. Following the completion of its searches, the ESFA has approached the Council to negotiate locating the school on land at Sandy Flatts Lane, which has the potential to be used for this purpose.
11. Shown edged on the plan attached at Appendix 2, the site is made up of a vacant parcel of land previously used as recreational open space within the now defunct and much larger Natures Word site, situated immediately to the north. Appendix 3 shows the full Natures Word site for reference.
12. The subject site is situated within the Kader Ward of Middlesbrough, in an area of the town characterised by a mix of leisure, recreation and residential land uses. It measures @ 4.50 Acres [1.82 Ha] and has its own access on, as well as significant frontage to Sandy Flatts Lane. The exact site boundary of interest to the ESFA and potential location of the school within are still to be determined.
13. Undulating in terms of its topography, and with significant earthworks to the northern, western and eastern boundaries, the site has a band of mature trees running along its eastern and southern boundaries.
14. The land is currently identified as open space in the Local Plan. It is not envisaged that the disposal of the site, as proposed, would impact upon existing third party leasehold arrangements or current uses of the adjoining Natures World site, all of which could be continued. Going forward, the remainder of the site would need to be fully assessed to secure its future use.
15. A decision for the disposal of the site is necessary in order to comply with the Council's Asset Disposal Policy, the remit of which covers disposal of land assets. In accordance with this policy, the report is put before the Council's Executive Sub-Committee for Property as the value of the land exceeds the financial threshold of £150,000. The Asset Disposal Business Case is attached at Appendix 1.
16. Agreement to dispose of the site would not prejudice the outcome of the formal planning process, which would involve considerable consultation and community engagement.

What decision(s) are being asked for?

17. That the Executive Sub-Committee for Property:
 - Approves the site identified at Appendix B for disposal via private treaty, enabling negotiations to commence to allow it to be used for the purposes of a Special Free School for 84 primary-aged pupils with Special Educational Needs;
 - Requests a further report be brought to them prior to any sale of the land setting out timescales and expected capital receipt, as necessary and in accordance with the Council's Asset Disposal Policy.

Why is this being recommended?

18. Demand for the specialist type of education proposed to be offered by the school is greater than the local supply of school places. Although capacity at the existing Priory Woods Special School has recently been increased, each year there are more children meeting the admissions criteria than there are places available.
19. Middlesbrough Council is under a statutory duty to ensure that there are sufficient places to meet demand. However, it no longer has the powers necessary to establish new school provision. All new schools must now be Free Schools established by academy trusts such as TVEd. TVEd is currently the only trust with approval to establish a new special school in Middlesbrough to meet the identified demand.
20. Middlesbrough Council also has a duty to secure provision to meet pupils' needs. Where there is a shortage of local places this can mean out-of-area placements with additional transport costs or, in the case of mainstream provision, with significantly increased support costs. In general terms, the most cost efficient way of educating these pupils is in local specialist schools such as the Discovery Special Academy.
21. Without an appropriate site on which to locate the new school, its delivery would not be possible. The sale of the site, following further negotiations, would also result in a capital receipt to the Council which could be reinvested into the Council's capital programme. It is envisaged that the value of the site would be determined by a joint, independent valuation.
22. Officers are of the view that the site is well located for use as a special school for pupils of primary school age. The site is large enough to provide good levels of playing field provision and recreational space alongside the school building and would lend itself to a building design which is sympathetic to the surrounding area. There are good transport links to facilitate pupils' journeys, especially those travelling from Redcar and Cleveland. The existing community involvement in the area would also provide an opportunity for the school to build good community links which would benefit the community, the school and the pupils.
23. The proposal would contribute to the social regeneration of Middlesbrough: providing more local school places for pupils with complex learning and developmental needs, ensuring that young people can get the right education, learning experiences and qualifications they need. The school would support pupils and their families, in partnership with other agencies, with access to therapies, equipment, trained staff and resources to give them the best start in life.

24. The subject of the report has not been examined by the Overview and Scrutiny Board or by a Scrutiny Panel.

Other potential decisions and why these have not been recommended

25. The ESFA has considered a range of other sites within Middlesbrough including Middlehaven (adjacent to the police station); North Ormesby Road; Whitestone Weavers; Hutton Road; and Cargo Fleet Lane. More detailed consideration has also been given to the playing fields of the current Pennyman Primary Academy and sites at Springfield Road (Ayresome) and land adjacent to MyPlace in Middlehaven.
26. The ESFA's approach to the Council regarding the Sandy Flatts site has been made following their own appraisal of the options available, balancing identifiable barriers to delivery, delivery timescales and the benefits of each location for the purposes of a special school in consultation with TVEd. Reasons for rejection of sites include the sites being too small, having poor access, or not being appropriately located for use by a school or for the age of the pupils.
27. The ESFA have also undertaken a wider trawl of sites available outside of Middlesbrough's boundary but have asserted that, due to school registration and revenue funding complications, the school must be located in Middlesbrough. This is also of benefit to Middlesbrough Council and local families.
28. The Council could choose not to agree the disposal of the site. This is likely to lead to a significant delay in the delivery of the free school and may jeopardise the scheme altogether. Any significant delay to the delivery of the school would put at risk the Council's ability to secure places for pupils with SEN in the coming years and significantly increase the Council's costs. The negative impact on those young people who would benefit from a place at Discovery Special School would be significant.

Impact(s) of recommended decision(s)

Legal

29. The decision would assist the Council in meeting its statutory duty, under Section 14 of the Education Act 1996, to ensure there are sufficient school places to educate pupils with Special Educational Needs.
30. The Council also has a duty to secure appropriate provision for pupils with SEN. Where there is a lack of local publicly maintained places, this can mean the council needing to commission out-of-area places or, where necessary, places in mainstream schools with significant and costly support. The provision of this site to facilitate the establishment of the Discovery Special Academy would assist the Council in fulfilling this duty in a more economical manner.
31. The property would be disposed of freehold with vacant possession.

Financial

32. The success of TVEd will result in upwards of £3million of inward capital investment in Middlesbrough's education infrastructure over the next two years. This is particularly significant in the context of the low level of SEN capital funding allocated to the Council to meet increasing demand for special school places. With £616k

allocated over the three years 2018/19-2020/21, the Council has insufficient funds to achieve anything on this scale. There is no requirement for Middlesbrough Council to contribute to the costs of building the school.

33. The successful sale of the site, following negotiations and further approval in accordance with the Council's Asset Disposal Policy, would result in the Council receiving a capital receipt and fees without the need to incur any further costs of marketing. It is envisaged that the value of the capital receipt would be determined by a joint independent valuation and would be re-invested in the Council's capital programme.
34. The ESFA would pay the school's revenue budget directly for the first two years of operation. After this period, Middlesbrough Council would include the places at the school its High Needs return to the Department for Education (DfE), in order to secure the place-led revenue funding that will become the school's baseline operational budget. Top-up funding based on the needs of the pupils attending the school will be paid by the commissioning local authority, either Middlesbrough or Redcar & Cleveland.
35. Increased transport costs are incurred for pupils placed outside of Middlesbrough. During the 2017/18 academic year, each out-of-area placement cost approximately £4,900 more for taxis and buses compared to local placements. If 75% of the school roll were pupils from Middlesbrough, the Council could avoid an upward pressure of approximately £309k per annum on its school transport budget. There would be further avoidance of increased costs in the provision of passenger assistants and medical staff.
36. The costs of meeting the needs of a child requiring long-term support in a maintained specialist school can range from £13,200 to £40,000 a year for the most complex cases. The cost of placements in independent specialist schools can be much higher.
37. The alternative of supporting these children in mainstream settings comes with significant costs, as staff in these schools do not generally have the required level of expertise to support such complex needs and new staff would need to be recruited. It is estimated that the cost of providing the required level of support in mainstream schools would be at the higher end of £40,000 per pupil per annum.

The Mayor's Vision for Middlesbrough

38. The decision aligns to the Mayor's Vision by:
 - Facilitating fair access to secure well paid jobs and meaningful training by working with local schools and other partners to ensure that local people have access to the best education to enable them to achieve the right qualifications and skills;
 - Ensuring safer, independent lives for our young people - ensuring our children are protected;
 - Strengthening our town through bold and innovative regeneration.

Policy Framework

39. No policy framework implications have been identified.

Wards

40. The property is situated in the Kader Ward and the respective Ward Members have been consulted. The feedback received has been positive, acknowledging the benefits of the site for use by a school and in particular the transport links, quiet location and the educational value of the neighbouring Nature's World site. Ward Members have emphasised the opportunities the site affords for the school to build links with the community.
41. Members will also be consulted on any subsequent proposal as part of the normal planning process.

Equality and Diversity

42. A Level 1 Impact Assessment has been undertaken and is attached at Appendix 4. The proposal presents no specific issues relating to equalities or disability discrimination or impingement on human rights. The decision being sought aims to positively affect educational outcomes for young people aged 4-11 and in particular those with Special Education Needs and Disabilities, reducing the need for these children to travel greater distances to places outside of the town to access appropriate education.

Risk

43. The recommendations included in the report would help to address the following risks included in the Children's Services risk register:
 - **O4-010** - If there are insufficient services in place to meet SEND needs from 0-25 this will impact on high needs funding and lead to increased costs as the Council has to source services from outside the area.
 - **O4-014** - If the Council is not able to secure funding for schools from developers or council funding grants then this will put pressure on corporate capital resources or the Council will fail in its duty to secure sufficient school places.
44. The approval of the site for disposal for the purposes of a new special school would reduce the risk the Council of not being able to secure enough places for pupils with complex Special Educational Needs and Disabilities. Without a site being identified and made available, there is a risk that the school will not be delivered.
45. Without additional special educational needs places being provided, it is anticipated that the cost to the Council's High Needs budget of securing appropriate provision will increase in order to fund out-of-area placements with associated transport costs to other specialist school settings, or in local mainstream schools with expensive support arrangements.

Actions to be taken to implement the decision(s)

46. Upon approval for disposal, Council officers would seek to agree Heads of Terms for negotiations going forward, with a view to agreeing the sale of the site via private treaty for a value determined by a joint independent valuation.

47. Subject to successful negotiations and site investigations/due diligence by the ESFA, a further report would be brought to Executive to seek approval of the sale of the site, detailing timescales, expected capital receipt etc.
48. The Discovery Academy is being proposed and will be operated by TVEd, with the school building being delivered by the ESFA. Beyond the provision of a school site, and ongoing partnership working with TVEd around the commissioning of places, Middlesbrough Council does not anticipate involvement in the delivery of the scheme.

Appendices

Appendix 1 – Asset Disposal Business Case

Appendix 2 – Potential Location of Discovery Academy

Appendix 3 – Natures World Site

Appendix 4 – Impact Assessment

Background papers

No background papers were used in the preparation of this report.