

# BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO CABINET

12 APRIL 2016

### REPORT OF THE CORPORATE DIRECTOR – EDUCATION AND TRANSFORMATION & CORPORATE DIRECTOR - COMMUNITIES

#### SCHOOL MODERNISATION PROGRAMME: OUTCOME OF CONSULTATION ON APPROPRIATION OF LAND FOR EDUCATIONAL PURPOSES AT BETTWS ROAD, BETTWS

#### 1. Purpose of Report

- 1.1 To consider the appropriation of land that is currently held for a Leisure Function for educational purposes at Bettws Road, Bettws that currently forms part of an open space.

#### 2. Connection to Corporate Improvement Plan / Other Corporate Priorities

- 2.1 The school modernisation programme supports the following corporate priorities:

- Smarter use of resources
- Supporting a successful economy

- 2.2 In 2006, Cabinet considered a report entitled '*Learning Communities: Schools of the future – Strategy, Principles, Policy and Planning Framework*' and agreed to support the report as the basis for taking forward proposals for school modernisation. The framework was subsequently adopted by the Council in September 2006 ('*Learning communities – schools of the future – strategy, principles, policy and planning framework*').

- 2.3 On 3<sup>rd</sup> March 2015, Cabinet approved revised principles which were adopted as a framework for school organisation in Bridgend (Cabinet Report 3<sup>rd</sup> March 2015 '*Principles Document*')

- 2.4 The framework includes 5 key principles that inform the organisation and modernisation of our schools:

1. Commitment to high standards and excellence in provision
2. Equality of opportunity, so that all pupils can access quality learning opportunities, regardless of which school they attend
3. Inclusive schools, which cater for the learning needs of all their pupils
4. Community focused schools, where the school actively engages with its local community
5. Value for money

Particularly relevant to this report are 1 and 5. The framework provides that primary schools need to be large enough to secure the full range of necessary provision and that value for money and efficiency are achieved.

### **3. Background**

- 3.1 The land hatched in red on the plan contained in Appendix 1 was acquired by the former Ogmore & Garw Urban District Council on 13 December 1957. An agreement was reached in late 1969 / early 1970 between Ogmore & Garw UDC and Glamorgan County Council that the land be developed for joint use by both Authorities as playing fields.
- 3.2 Council records indicate that Betws Primary School has had exclusive use of the open space during school hours for school activities since 1970.
- 3.3 The Council's Parks Department have inspected and maintained the play equipment located within the land shown hatched red on the attached plan and Betws Primary School has maintained the playing fields.
- 3.4 On 31<sup>st</sup> March 2015 Cabinet agreed to proceed with a replacement of Betws Primary School on the playing fields of the existing school site. On 1<sup>st</sup> September 2015 Cabinet approved the proposal to relocate Ysgol Gynradd Gymraeg Cwm Garw to the existing Betws Primary School site with effect from September 2018.
- 3.5 A planning application for the new schools (reference P/15/791/BCB) was submitted on 25<sup>th</sup> November 2015 that encompassed both the existing primary school site and the adjacent school playing fields and open space. As part of the planning process an objection has been received to the proposed loss of public open space.
- 3.6 Due to the existing dual use of the land, as playing fields and open space, appropriation of the land under Section 122 (1) Local Government Act 1972 for educational purposes was recommended by the Council's legal officer, as the land is currently held for Leisure purposes but used for educational purposes during the school day, and informal recreational space outside school hours.
- 3.7 Section 122(2A) of the Local Government Act 1972 provides that the Council may not appropriate land forming part of an open space unless before appropriating the land it has advertised its intention to do so in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and considers any objections to the proposed appropriation which may be made to them
- 3.8 On 16<sup>th</sup> February 2016 Cabinet gave approval for the publication of the Section 122 (2A) Notices and to receive a further report considering any objections received, prior to any decision to appropriate the land for educational purposes.
- 3.9 Section 122 (1) Local Government Act 1972 states that the Council may appropriate land for any purpose for which the Council are authorised to acquire land by agreement and which belongs to the Council and is no longer required for the purpose for which it is currently held. In reaching a decision whether to appropriate the land, the legislation does not require the existing use ie as an area of open space, to fall into disuse before the Authority may appropriate it for some other purpose i.e. exclusively for an educational purpose. The legal test is whether at the

time of the appropriation the land is not needed in the public interest of the locality for Leisure purposes. In reaching a decision the Council must consider and balance the following matters. The land will be used to facilitate the relocation of Betws Primary School and Ysgol Gynradd Gymraeg Cwm Garw to the existing Betws Primary School Site and the area of land that is the subject of the proposed appropriation. Council records indicate that Betws Primary School has had exclusive use of the open space during school hours for school activities since 1970. In terms of alternative provision in the area, children's playgrounds are located at Heol Y Felin, Betws (near No.13), Betws North at Y Wern Betws (Near No.13) and a playing field and all weather pitch are located off Heol Richard Price, Betws. The replacement Betws Primary School and Ysgol Gynradd Gymraeg Cwm Garw will have all-weather pitches to serve the school and this provision may be offered for community use. In addition, both schools will have a school hall which may also be offered for community use.

3.10 In respect of Section 122 Local Government Act 1972 case law clarifies the following:-

1) whether land is still or is no longer required for a particular purpose, meaning no longer needed in the public interest of the locality for that purpose, is a question for the local authority, subject to Wednesbury principles (Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1 KB 223, [1947] 2 All ER 680), and not the court.

2) the statute is concerned with relative needs or uses for which public land has been or may be put. It does not require it to fall into disuse before the authority may appropriate it for some other purpose.

3) the authority is entitled when exercising its appropriation power to seek to strike the balance between comparative local (public interest) needs: between the need for one use of the land another with the wider community interests at heart. It is for it to keep under review the needs of the locality and is entitled to take a broad view of local needs.

#### **4. Current situation / proposal**

4.1 A section 122 (2A) notice was published in the press on two consecutive weeks and copies were placed on site. The notice period commenced on Friday 26<sup>th</sup> February 2016 and closed on 30<sup>th</sup> March 2016.

4.2 No objections were received during the consultation period in respect of the proposed appropriation of land forming an open space for educational purposes.

#### **5. Effect upon Policy Framework and Procedure Rules.**

5.1 There is no effect upon the policy frameworks or procedure rules.

#### **6. Equality Impact Assessment**

6.1 An equalities impact assessment has been undertaken in respect of the proposal, the outcome of which has indicated that there is no differential impact on protected groups.

## **7. Financial Implications**

- 7.1 Costs associated with the publication of the notice were met by the Education and Transformation Department's revenue budget.

## **8. Recommendations**

Cabinet is recommended to:

- 8.1 Approve the appropriation of land shown hatched red on the plan in appendix 1 which includes land forming part of an open space currently held for a Leisure function, for educational purposes.

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Appendix 1

Plan

## **Background documents**

Council Report 13<sup>th</sup> September 2006, "LEARNING COMMUNITIES – SCHOOLS OF THE FUTURE – STRATEGY, PRINCIPLES, POLICY AND PLANNING FRAMEWORK".

Cabinet Report 12<sup>th</sup> December 2006, "LEARNING COMMUNITIES: SCHOOLS OF THE FUTURE" – SCHOOL MODERNISATION PROPOSALS.

Cabinet Report 3<sup>rd</sup> March 2015 "PRINCIPLES DOCUMENT"

Cabinet Report 31<sup>st</sup> March 2015 "SCHOOL MODERNISATION PROGRAMME: GARW VALLEY SOUTH SCHEME (BETWS PRIMARY AND YSGOL GYNRADD GYMRAEG CWM GARW)"

Cabinet Report 1<sup>st</sup> September 2015 "SCHOOL MODERNISATION PROGRAMME: OUTCOME OF PUBLIC NOTICE ON PROPOSAL TO MAKE A REGULATED

ALTERATION TO YSGOL GYNRADD GYMRAEG CWM GARW BY RELOCATING THE SCHOOL”

Cabinet Report 16<sup>th</sup> February 2016 SCHOOL “MODERNISATION PROGRAMME: PROPOSAL TO CONSULT ON APPROPRIATION OF LAND FOR EDUCATIONAL PURPOSES AT BETTWS ROAD, BETTWS”