

**COUNCIL'S APPROACH TO DEVELOPMENT FOR VALUE OF SURPLUS LAND
ON ACADEMY SITES**

To: **Assets and Investment Committee**

Meeting Date: **16th September 2016**

From: **Head of Strategic Assets/Head of 0-19 Place Planning and
Organisation Service**

Electoral division(s): **All**

Forward Plan ref: **N/A** *Key decision:* **No**

Purpose: **To consider the need for a policy approach where the
Council's residual freehold land ownership in Academy
sites is promoted for development**

Recommendation: **That the Committee confirms that the Council should
adopt Option 2.4.4 as its policy when agreeing the
disposal of land subject to leases granted pursuant to the
Academies Act 2010**

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1. BACKGROUND

- 1.1 Under the Academies Act 2010, the governing body of a maintained school in England may apply to the Secretary of State for an Academy Order to be made in respect of the school, giving the schools greater independence from local authorities, and including the transfer of property assets
- 1.2 In addition, the 2011 Education Act requires local authorities to seek proposals for an Academy or Free School whenever they identify the need to establish a new school in their area of responsibility
- 1.3 In the case of existing schools which convert to become Academies, the transfer of assets is carried out through the grant of a 125 year lease of the land in use for the delivery of the school functions at the time of the application. The lease from the Council to the new Academy Trust is generally on standard terms, including a peppercorn rental, and a restriction on use to education and ancillary purposes
- 1.4 An assessment is made at the date of transfer as to the extent of land and buildings in use by the school, and the Council has the ability to exclude land not used in the delivery of school from the lease. In reality, if there is any dispute over the extent of the land to be transferred, these are determined by the Secretary of State. To date, in Cambridgeshire, it has not proved necessary to secure a resolution in this way, although experience from other authorities would indicate that if needed, the Secretary of State would be likely to support the Academy Trust, either because of the configuration of the site, or because the degree of use test required is low. As a result, schools can convert to Academy status with more land than is strictly required by Department for Education (DfE) standards.
- 1.5 As Academy Trusts control the future of their education provision, they are able to decide whether they wish to expand the school, develop new buildings, or even move sites, and they are responsible for providing their own business cases and securing funding from the Education Funding Agency (EFA). The exception to this is where a local authority has an identified basic need for an Academy to increase in size in response to demand for places within its catchment area. The authority would expect to fund this from its basic need allocation and/or from S106 or Community Infrastructure Levy (CIL) contributions where the need for additional places results from planned housing development.
- 1.6 One route for funding is the potential to release value from surplus land. However, in this aspect the Academy Trust does not have full control, because it requires the Council's agreement as landowner to amend the terms of the lease, and to the sale of its reversionary freehold interest in the land.

2. MAIN ISSUES

- 2.1 As outlined in section 1.5, there are circumstances in which an Academy may wish to promote the development of part of its site in order to generate a capital receipt:-
 - For school-identified purposes (e.g. to address condition needs or to

enhance curriculum delivery)

- To generate value to invest in school buildings or curriculum development
- For additional capacity (this may even be promoted or commissioned by the Council if it supports Basic Need provision)

2.2 Because any of these motives would support the general provision of education in the county, it is likely that the Council will be asked by the Academy to release land for development without taking either cost or value. A recent example is the approach made by the Abbey College in Ramsey to the Council to sell part of their site to fund replacement of the school buildings.

2.3 The Council could consider each case on its merits, as at the moment, instances of this happening are low. However, dealing with requests on a case-by-case basis will make it harder for the Council to evidence consistency and transparency of approach, especially if it requires a share of any receipts for use to support its wider services

2.4 It would be preferable for the Council to have an agreed policy, detailing how it will treat applications for Landlord's Consent to develop surplus land on Academy school sites. In all cases it would be important to engage early with the EFA to determine whether an Academy's proposals would align with their priorities and whether the DFE itself would declare a site surplus to education need. The following alternative policy options have been identified:-

2.4.1 **Presumption in favour of consent where proceeds are re-invested in the School to improve teaching and learning** - this would incentivise Academies to release land for development, but the money would be spent at the discretion of the Trust on the Trust's site only, and may fund projects which are not the Council's priority.

2.4.2 **Presumption in favour of consent only where proceeds being re-invested in the School to meet a Basic Need requirement** – this would meet dual aspirations for Trusts and the Council, but may not incentivise Trusts to release land. The capital released would only be spent on the Trust's site, but may release pressure on the Council's overall Basic Need funding

2.4.3 **Setting a fixed % share of any enhanced value or receipt to be returned to the Council to be re-invested in wider education needs across the county** – there would still be an incentive for Trusts to release land for development, and whilst the full value may not be spent on Council priorities, part would be available to help support education provision across the county

2.4.4 **Setting a fixed % share of any enhanced value or receipt to be returned to the Council to be re-invested in wider Council services across the county** – as 2.4.3 above, but a proportion of the funds would be available to support council budgets

2.5 Officers' recommendation is that, as land remains a corporate asset, Option 2.4.4 should be adopted as the Council's policy position. This would be

consistent with the Council's broader objectives to maximise the value of its assets to support the delivery of frontline services

3. ALIGNMENT WITH CORPORATE PRIORITIES

3.1 Developing the local economy for the benefit of all

There are no significant implications for this priority.

3.2 Helping people live healthy and independent lives

There are no significant implications for this priority.

3.3 Supporting and protecting vulnerable people

There are no significant implications for this priority.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource Implications

The report above sets out details of significant implications in paras 1.5 and 1.6 above

4.2 Statutory, Risk and Legal Implications

There are no significant implications within this category.

4.3 Equality and Diversity Implications

There are no significant implications within this category.

4.4 Engagement and Consultation Implications

The following bullet points set out details of significant implications identified by officers:

- No consultation has been undertaken with Academy Schools or the Schools Forum, on the basis that this is policy issue for the Council to consider

4.5 Localism and Local Member Involvement

The following bullet points set out details of significant implications identified by officers:

- No consultation has been undertaken with Local Members or Childrens and Young Persons Committee, on the basis that this is property policy issue for the Council to consider

4.6 Public Health Implications

There are no significant implications within this category.

Source Documents	Location
None	

Implications	Officer Clearance
Have the resource implications been cleared by Finance?	Yes or No Name of Financial Officer: Martin Wade
Has the impact on Statutory, Legal and Risk implications been cleared by LGSS Law?	Yes or No Name of Legal Officer: Kim Farebrother
Are there any Equality and Diversity implications?	No Name of Officer: Roger Moore
Have any engagement and communication implications been cleared by Communications?	Yes or No Name of Officer: Mark Miller
Are there any Localism and Local Member involvement issues?	No Name of Officer: Roger Moore
Have any Public Health implications been cleared by Public Health	Yes or No Name of Officer: Tess Campbell