

**PROPERTY SUB-COMMITTEE**

**Thursday, 29th September, 2016**

**10.00 am**

**Darent Room, Sessions House, County Hall, Maidstone**







## AGENDA

### PROPERTY SUB-COMMITTEE

**Thursday, 29 September 2016, at 10.00 am**  
**Darent Room, Sessions House, County**  
**Hall, Maidstone**

Ask for: **Theresa Grayell**  
Telephone: **03000 416172**

*Tea/Coffee will be available 15 minutes before the start of the meeting*

#### **Membership (7)**

Conservative (4): Mr A J King, MBE (Chairman), Mr N J D Chard,  
Mr L B Ridings, MBE and Mrs P A V Stockell

UKIP (1) Mr C P D Hoare

Labour (1) Mr D Smyth

Liberal Democrat (1): Mrs T Dean, MBE

#### **UNRESTRICTED ITEMS**

*(During these items the meeting is likely to be open to the public)*

#### **Webcasting Notice**

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By entering the meeting room you are consenting to being filmed. If you do not wish to have your image captured please let the Clerk know immediately.

#### **A - Sub-Committee Business**

- A1 Membership - to note that Mr N J D Chard has joined the Sub-Committee in place of Miss S J Carey
- A2 Election of Vice-Chairman

- A3 Apologies and Substitutes  
To receive apologies for absence and notification of any substitutes present
- A4 Declarations of Interest by Members in Items on the Agenda  
In accordance with the Members' Code of Conduct, Members are requested to declare any interests at the start of the meeting. Members are reminded to specify the agenda item number to which it refers and the nature of the interest being declared
- A5 Minutes of the meeting held on 8 July 2016 (Pages 5 - 8)  
To consider and approve the minutes as a correct record
- A6 The process around identifying school sites as surplus to requirements (Pages 9 - 44)  
To consider and note the details of the process.

**Motion to exclude the press and public for exempt items**

That under Section 100A of the Local Government Act 1972 the press and public be excluded from the meeting for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act.

**EXEMPT ITEMS**

- A7 Strategic acquisition, Maidstone - joint freehold acquisition of the Royal Mail site, with Maidstone Borough Council (Pages 45 - 78)  
To consider and note the update on the acquisition of the Royal Mail sorting warehouse and offices, Sandling Road, Maidstone.
- A8 Total Facilities Management - bi-annual review (Pages 79 - 110)  
To consider a report on the performance of the three Total Facilities Management contractors, in Mid, West and East Kent, since the last review.

Peter Sass  
Head of Democratic Services  
03000 416647

**Wednesday, 21 September 2016**

## KENT COUNTY COUNCIL

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### PROPERTY SUB-COMMITTEE

MINUTES of a meeting of the Property Sub-Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Friday, 8 July 2016.

PRESENT: Mr A J King, MBE (Chairman), Miss S J Carey, Mr D S Daley (Substitute for Mrs T Dean, MBE), Mr C P D Hoare, Mr L B Ridings, MBE and Mrs P A V Stockell

ALSO PRESENT: Mr G Cooke

IN ATTENDANCE: Mrs R Spore (Director of Infrastructure), Ms E Luxton (Operational Portfolio Manager) and Miss T A Grayell (Democratic Services Officer)

### UNRESTRICTED ITEMS

#### **71. Apologies and Substitutes**

*(Item A1)*

Apologies for absence had been received from Mrs T Dean, MBE.

Mr D S Daley was present as a substitute for Mrs Dean.

#### **72. Declarations of Interest by Members in Items on the Agenda**

*(Item A2)*

There were no declarations of interest.

#### **73. Minutes of the meeting held on 12 April 2016**

*(Item A3)*

RESOLVED that the minutes of the meeting held on 12 April 2016 are correctly recorded and they be signed by the Chairman. There were no matters arising.

#### **74. New Ways of Working Programme - Refurbishment of Avenue of Remembrance, Sittingbourne, and St Peter's House, Broadstairs (16/00044a.2 and 44b.2)**

*(Item B1)*

1. Mrs Spore introduced the report and explained that, since last reporting the issue to the Sub-Committee at its 12 April meeting, a key decision had been taken to award two refurbishment contracts subject to finalising some detail. The final costs of the two projects were now known, and these were higher than anticipated. A new key decision was being sought to approve progression of the two projects, subject to the additional funding being available.

2. In response to a question, Mrs Spore confirmed that the savings planned when the New Ways of Working programme had been proposed had already been met and could not be endangered by the increase in costs for the final two projects.

3. The Cabinet Member, Mr Cooke, added that, although the project costs had proved higher than expected, he had been faced with a choice of proceeding at slightly greater cost or abandoning the final two projects and leaving the New Ways of Working programme incomplete. He stated his wish to continue with the projects on the basis set out in the report, subject to the additional funding being available.

4. RESOLVED that the decision proposed to be taken by the Cabinet Member for Corporate and Democratic Services, to award two building contracts to undertake the New Ways of Working Programme at the Avenue of Remembrance, Sittingbourne, and St Peter's House, Broadstairs, subject to the additional funding being available, and to delegate authority to the Director of Infrastructure, in consultation with the Cabinet Member for Corporate and Democratic Services, to finalise terms and enter into the necessary agreements, be endorsed.

#### **75. Motion to Exclude the Press and Public for Exempt Business**

RESOLVED that, under Section 100A of the Local Government Act 1972, the press and public be excluded from the meeting for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act.

(OPEN ACCESS TO MINUTES)

#### **76. Disposal of land at Melbourne Avenue, Ramsgate (16/00063)**

*(Item B2)*

*Mr K Pulsford, Asset Strategy and Disposals Manager, was in attendance for this item.*

1. Mrs Spore introduced the report. The Cabinet Member, Mr Cooke, added that consultation had been undertaken with the local MP, local County Council Members and community groups about the copse part of the site, which was intended for community use, and confirmed that this use presented no obstacle to the County Council continuing with the planned disposal of the main part of the site.

2. RESOLVED that the decision proposed to be taken by the Cabinet Member for Corporate and Democratic Services, to sell the property and to delegate authority to the Director of Infrastructure, in consultation with the Cabinet Member for Corporate and Democratic Services, the Cabinet Member for Finance and Procurement and the Director of Finance and Procurement, to finalise the selected purchaser and terms of the proposed sale, be endorsed.

#### **77. Disposal of Former South Deal Primary School remote playing field, Freemans Way, Deal (14/00068c)**

*(Item B3)*

*Mr S Dodd, Disposal, Acquisition and Development Surveyor, was in attendance for this item.*

1. Mr Dodd introduced the report and, in response to questions and comments from Members, clarified points of detail, including:
  - a) in response to a concern about the impact of the proposed disposal on the County's ability to accommodate future demand to increase school places, Mr Dodd confirmed that the site had been unused since 2006 and was confirmed as surplus to requirements in 2008, and that the Area Education Officer supported the proposed disposal; and
  - b) in response to a question about whether or not open space in the area complied with the National Playing Field Association's requirement for provision of playing field space per head of population, it was suggested that this be made a caveat when endorsing the proposed decision to sell the site, so that it would only go ahead once this point had been clarified.
2. RESOLVED that, subject to the caveat outlined in paragraph 1. b) above, the decision proposed to be taken by the Cabinet Member for Corporate and Democratic Services, to sell the property in line with the heads of terms agreed with a preferred bidder, and to authorise the Director of Infrastructure, in consultation with the Cabinet Member for Corporate and Democratic Services, to finalise the terms of the sale and complete the transaction, be endorsed.

**78. Disposal of parcels of land at Foxwood School, Hythe, Highview School, Folkestone, Chaucer School, Canterbury, Rowhill School, Wilmington and Astor Of Hever School, Maidstone (16/00065)**  
*(Item B4)*

*Mr K Pulsford, Asset Strategy and Disposals Manager, was in attendance for this item.*

1. Mrs Spore introduced the report and confirmed that it was proposed that the parcels of land listed be brought to the market to test their market value and the appetite for conditional or unconditional offers (ie with or without planning permission), in order to achieve best value for public money when disposing of them. Endorsement was thus being sought for the proposed sale of the properties, subject to the outcome of the market testing exercise.
2. Mrs Spore and Mr Cooke answered questions of detail from the Sub-Committee about the sites listed and the impact of their disposal upon the County's ability to accommodate future demand to increase school places, and it was suggested that, to reassure Members, a report setting out in detail the process around identifying school sites as surplus to requirements be made to this Sub-Committee and to the Education and Young People's Services Cabinet Committee.
3. RESOLVED that:-
  - a) the decision proposed to be taken by the Cabinet Member for Corporate and Democratic Services, to sell the properties, subject to the outcome of the market testing exercise, and to delegate authority to the Director of Infrastructure, in conjunction with the Cabinet Member for Corporate and Democratic Services, the Cabinet Member for Finance and Procurement

and the Director of Finance and Procurement, to finalise the selected purchaser and terms of the proposed sale, be endorsed; and

- b) a report setting out in detail the process around identifying school sites as surplus to requirements be made to this Sub-Committee and to the Education and Young People's Services Cabinet Committee.

**79. Disposal of former Spires Academy site, Bredlands Lane, Westbere, Canterbury, CT2 0HD (16/00061)**

*(Item B5)*

*Mr R Lemerle, Disposals Surveyor, was in attendance for this item.*

1. Mr Lemerle introduced the report and confirmed that the proposed disposal was not conditional upon planning permission, as this had already been granted 18 months ago under the former Kier Kent Initiative.
2. RESOLVED that the decision proposed to be taken by the Cabinet Member for Corporate and Democratic Services, to sell the property and to delegate authority to the Director of Infrastructure, in consultation with the Cabinet Member for Corporate and Democratic Services, to finalise the selected purchaser and terms of the proposed sale, be endorsed.

**80. East Kent Property Portfolio (16/00066)**

*(Item B6)*

*Mr K Hollidge, Development Consultant, was in attendance for this item.*

1. Mr Hollidge introduced the report, which updated the Sub-Committee on developments since last reporting the issue in December 2015.
2. RESOLVED that the decision proposed to be taken by the Cabinet Member for Corporate and Democratic Services, to authorise the Director of Infrastructure, in consultation with the Cabinet Member for Finance and Procurement and the Director of Finance and Procurement, to:
  - a) proceed with the proposed simultaneous purchase and sale of the site identified in the report, in accordance with the arrangements set out in the report;
  - b) finalise the terms of the proposed transaction; and
  - c) enter into any necessary documents to effect the proposed transaction, be endorsed.



From: Gary Cooke, Cabinet Member for Corporate and Democratic Services.

Rebecca Spore, Director of Infrastructure

To: Property Sub-Committee – 29 September 2016.

Subject: **The process around identifying school sites as surplus to requirements.**

Classification: **Unrestricted**

**Past Pathway of Paper:** None

**Future Pathway of Paper:** None

**Electoral Division:** all

**Summary:** This paper sets out the current process around identifying school sites as surplus to requirements. Details of the process have been requested by Members at the Property Sub-Committee of 8 July 2016 following a paper regarding the disposal of a number of school sites.

**Recommendation(s):**

The Property Sub-Committee is asked to note details of the process around identifying school sites as surplus to requirements.

## 1. Introduction

1.1 At the Property Sub-Committee on 8 July 2016 Property submitted a paper regarding the disposal of five Kent County Council-owned parcels of land in Kent which had previously been used for educational purposes.

The Sub-Committee asked questions about the sites and the impact of their disposal upon the County's ability to accommodate future demand to increase school places. The Sub-Committee requested a report setting out in detail the process around identifying school sites as surplus to requirements to be submitted to both the Sub-Committee and to the Education and Young People's Services Cabinet Committee.

## 2. The Report

The responsibility for the commissioning, planning and delivery of new school places in Kent is undertaken by the Education and Young People's Service. The 'Commissioning Plan 2016 – 2020 for Education Provision in Kent' is a five year rolling plan updated annually through the Education Directorate, which, amongst other things, ensures an inbuilt surplus of school places for Kent children. The commissioning plan considers births, health and migration throughout Kent and

forecasts on an area basis the number of classrooms, schools and type of schools that will be needed in the following years.

The Commissioning Plan identifies where there may be a specific need for additional classrooms/schools and, accordingly, steps are taken to ensure sufficient capacity. The infrastructure property teams work closely with the Council's education teams to ensure that there are adequate sites identified in the District planning frameworks to support educational requirements. Where housing development is driving additional demand for places, the property and education teams work closely with the S106 teams to ensure that adequate land and contributions are put in place to support the additional requirements. It should be noted that any new schools are required by the DFE to be either free schools or academies.

Subject to the overriding requirement to ensure sufficient school places for Kent children, there are a number of triggers that can start the process of an educational site being ultimately declared surplus to Council requirements:

- The physical closure of a school by the Cabinet Member for Education and Health Reform or by the Department of Education, e.g. Chaucer Technology School and Oasis Secondary School in Hextable.
- The amalgamation of an educational provision onto a single site, e.g. the relocation of Clock House special primary school onto the main Wyvern school site.
- The relocation of an educational provision onto a new site through education or developer's contributions, e.g. Laleham Gap special school and Foreland special school.
- Diocesan/foundation representatives requesting a land swap.
- School land which has been identified as potentially surplus to the school's requirements, based upon the current Department for Education Area Guidelines for Mainstream Schools.

Once a decision to close a school has been made by the Cabinet Member for Education and Health Reform, it may be declared surplus to their requirements by the Corporate Director for Education and Young People's Services. Before doing so the short, medium and long-term possible need for the land/site will be considered. In reaching a decision a balance has to be struck between the value of retaining vacant land and buildings for future long-term need against the opportunity costs of not securing a capital receipt, increased borrowing costs and management costs of vacant premises.

Once it has been established that there is no justifiable operational need for the site, consideration is taken corporately as to whether disposal of the premises is a viable option. Factors taken into consideration will include current costs of holding onto vacant property and the Medium Term Financial Plan target to achieve £52m of capital receipts from the sale of surplus land and buildings on the open market.

### **3 Statutory obligations**

Prior written consent of the Secretary of State for Education is required to dispose of education land and buildings. The relevant legislation for the purposes of this paper are:

Schedule 1 to the Academies Act 2010 and

Section 77 of the School Standards and Framework Act 1998.

The requirement for the Secretary of State's consent applies to all schools and academies where it is proposed to dispose of publicly-funded land, and consent must be granted before completing on a sale. GEN<sup>2</sup> deals with Schedule 1 and Section 77 consent requests as part of the disposal process. Attached to this report is the Department for Education advisory document 'Disposal or Change of use of Playing Field and School Land' published May 2015. This provides the detail around the process of gaining consent to sell playing field and school land and the criteria adopted by the Department for Education when assessing each application.

#### **5. Recommendation(s):**

The Property Sub-Committee is asked to note details of the process around identifying school sites as surplus to requirements.

#### **6. Background Documents**

Department for Education advisory note for local authorities 'Disposal or change of use of playing field and school land'.

#### **7. Contact details**

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Department  
for Education

# **Disposal or change of use of playing field and school land**

**Departmental advice for local authorities,  
maintained schools, special schools,  
academies and free schools**

**May 2015**

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# Summary

## About this departmental advice

1. This is departmental advice from the Department for Education. This advice is non-statutory and sets out the Secretary of State's policy to protect school playing fields and the Secretary of State's powers to protect land for academies and maintained schools.

2. Prior written consent of the Secretary of State for Education is required to dispose of land (which includes any transfer/sale of freehold or leasehold land and the grant/surrender of a lease). Applications and notifications must be made to the Education Funding Agency. Before making an application (or giving notification) to the EFA you should read this summary which explains the evidence you will need to provide and the process to follow.

3. This advice describes the main circumstances in which local authorities, academy trusts, governing bodies and diocesan bodies need to obtain the prior written consent of the Secretary of State for Education to dispose of, or change the use of, land used by maintained schools and academies, including playing field land. It also describes how the Secretary of State will assess applications for such consent.

4. This advice does not influence or affect the procedures for applying for planning permission. The Secretary of State for Education does not have any statutory powers to influence any future development of land.

5. This advice has been produced to help you understand your obligations and duties in relation to:

- Schedule 1 to the Academies Act 2010 ("AA 2010")
- Section 77 of the School Standards and Framework Act 1998 ("SSFA 1998")
- Schedule 14 to the Education Act 2011
- the General Consent Orders 2011, 2012 and 2014
- the Education (Independent Schools Standards) England (Amendment) Regulations 2012
- 'Advice on Standards for School Premises', March 2015<sup>1</sup>

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<sup>1</sup> The 2015 advice refers to the School Premises (England) Regulations 2012 (SPRs) that apply to all schools maintained by a local authority and Part 5 of The Education (Independent School Standards) (England) Regulations 2010 (ISS)



## **Expiry or review date**

We plan to review this advice by May 2016.

## **Who is this advice for?**

This advice is for:

- local authorities
- academy trusts
- diocesan authorities
- governing bodies of maintained schools
- School Playing Field Advisory Panel
- sporting bodies

## Policy

6. The [2015 advice on standards for school premises](#) confirms that all maintained schools and academies must provide suitable outdoor space to enable physical education in accordance with the school curriculum and to enable pupils to play outside. There is a very strong policy presumption against the disposal of school playing field land.

7. The Secretary of State for Education uses the definition of “playing field land” set out in SSFA 1998 as **“land in the open air which is provided for the purposes of physical education or recreation.”** [Annex A](#) provides examples of what this definition includes. You should note this is a wide definition and it does not matter if the land is not currently in use for sport or recreation or is not laid out for formal team games.

# Transactions for which you will need consent

## Disposals

8. The requirement for the Secretary of State's consent applies to all maintained schools and academies<sup>2</sup> where it is proposed to dispose of publicly funded land<sup>3</sup>. [Annex B](#) summarises the legal framework but you should take independent legal advice if you are unsure about any of your statutory obligations. You will need to apply to or notify the Education Funding Agency ("EFA") of any intended transaction to dispose of any playing field land, and you should not assume that approval will be granted. You should not take any step to transfer your interest to another party or start works before receiving the Secretary of State's decision in writing.

9. The Department for Education publishes a [list of all disposals](#) that have been granted consent since May 2010 and updates this each month.

10. A local authority may notify the EFA if it believes a General Consent Order applies, but otherwise, the Secretary of State will consider all applications and make a decision that balances the benefit to the school (or other local schools) against the loss of the playing field land. Three General Consent Orders currently issued can be found at annexes [E](#), [G](#) and [H](#).

11. The Secretary of State may direct that the land is to be used for another educational purpose and what should happen to any receipts, having regard to the sufficiency of playing field land at the applicant's school or those close to it and any representations made including from any authorised community users.

12. You should read [Annex C](#) on how to calculate the need for playing field land and the guidance on consultation at [Annex D](#). You should note that the Secretary of State is unlikely to approve applications that result in the school's playing field provision falling under the area guidelines, and also has the power to direct that the disposal should simply not take place. You should discuss your proposals with Sport England at an early stage as they will be involved as a statutory consultee when you submit any planning application.

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<sup>2</sup> Under Schedule 1 to AA 2010, the prior consent of the Secretary of State for Education is required to dispose of any land – whether or not it is playing field land.

<sup>3</sup> Including land which was originally private but has been enhanced by public funds as set out in Schedule 22 to SSFA 1998 and Schedule 1 to AA 2010.

## Changes of use of playing field land

13. The Secretary of State's consent is also required for a change of use of playing field land, whether for another educational purpose or a non-educational purpose.<sup>4</sup>

14. General Consent Orders apply to some situations on land owned by the local authority. If the conditions set out in the Order are met, the local authority will be able to notify the EFA using the process explained below.

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<sup>4</sup> s.77 School Standards and Framework Act as amended by the Education Act, 2011

## Criteria used to assess playing field applications

15. The criteria which the Secretary of State uses to decide an application are the same for all publicly funded school playing field land. The Secretary of State will consider the overall balance of benefit of the disposal against expected gains, to pupils and existing community users.

16. The criteria applied to the decision will include the area guidelines for a school's outdoor space ([Annex C](#)). Schools occupying restricted sites may need to demonstrate they have access to suitable off-site provision. The criteria include:

### The school's needs

17. By reference to area guidelines, worked examples of how to calculate this are set out below. The guidelines give an indication of what is a suitable amount of space, and any disposal that would reduce the space below the guidelines is unlikely to be approved. The guidelines provide for some flexibility and potential growth in pupil numbers: they are based on the higher of (a) 105% of the current capacity, or (b) forecast pupil numbers five academic years after the application. Artificial pitches are counted as double their surface area to reflect their extended availability as they can be used all year round.

### Curriculum needs

18. Applications for consent to dispose of playing field land should include a detailed assessment of how the proposal would affect the provision of the sports curriculum, and show clearly how the curriculum will be met if consent is granted. You will need to show that the curriculum needs are met at the school seeking to dispose of playing field land and any other school using the land. For example, where alternative off-site provision is proposed, the effect of additional travel time should be taken into account.

### Other schools' needs

19. As part of your consultation exercise, you will need to identify if any primary schools and special schools within half a mile, or secondary schools within a mile of your site, do not meet the DfE's published area guidelines for playing field land. If any of them do not, you must provide evidence from the governing body of those schools that they do not need the land which you propose to dispose of.

### Community use

20. The Secretary of State will take account of community use of playing fields under an authorised agreement. This will include after-school activities and out-of-hours clubs.

If your proposals include a permanent loss of playing fields, you will be asked to show that any existing after-school activities will not be adversely affected.

21. A formal agreement to use the playing fields may be written or oral. The essential test is that the land is used with the express authorised agreement of the school or academy.

22. If your proposals would displace any current authorised community users, you will need to show how the proposals would affect them and, in particular, whether their activities can realistically be moved elsewhere on reasonable terms. If realistic alternative venues cannot be provided, you should give reasons why the Secretary of State should grant consent. Where fencing off of playing fields has already displaced formal community users, you will need to provide evidence giving reasons why the playing fields were closed to those users, and whether the alternative arrangements made are suitable.

23. When considering whether to make a direction about land that is proposed to be disposed of at maintained schools or academies which have closed or are due to close, the Secretary of State will consider whether the views of existing community users of any playing field land have been taken into account, and whether reasonable alternative arrangements have been offered.

## **Reinvestment of proceeds in sport and education facilities**

24. The Secretary of State has the discretion to direct what any sums from the disposal of land (“disposal proceeds”) are to be used for, including that all disposal proceeds are paid to the Secretary of State. Unless pursuant to a General Consent Order or otherwise agreed beforehand by the EFA all applications must include a recent valuation report prepared (preferably) by the District Valuer, or alternatively another Registered Valuer, together with a breakdown of how proceeds will be invested. The Secretary of State will expect that the first priority for reinvestment should be sports facilities where these are needed by the school. A significant factor in exercising this discretion to dispose of playing field land will be whether you ring-fence the disposal proceeds in capital facilities for sport (which will take priority), recreation or education facilities. This investment may be at the school or academy or, where this is not practical or existing facilities do not require investment on site, in facilities that will benefit another maintained school or local academy. Any proposed new facilities should reflect the breadth of physical activity and existing facilities in the area – Sport England can advise on the need for strategic facilities in the area.

25. Sport and recreation can include indoor or outdoor sport, play or activities such as dance and other activities that help engage people in a wide spectrum of physical activity. Applicants should remember, in particular, their duties under the Equality Act 2010.

## Value for money

26. The applicant is responsible for ensuring that the disposal of publicly funded land satisfies the requirements in the Treasury's publication [Managing Public Money](#).

## Affordability

27. Where you propose to spend any disposal proceeds on a capital project, the Secretary of State will expect the project to be affordable, with no funding gap that could jeopardise the financial stability of the school or academy. The affordability considerations must take into account the restrictions on the use of income from disposal of capital assets that are described in the Treasury's publication [Consolidated Budgeting Guidance](#) chapter on "Income and the Capital Budget".

## Application and assessment processes

28. The Secretary of State's decision is informed by the EFA's assessment of the information you provide using the [forms](#).

29. Where your proposal is to dispose of playing field land, you will be expected to have consulted adequately on the proposals before making any application for consent. Annex D provides guidelines that should be followed.

30. When you submit the form, you will need to give the EFA all the information it needs to assess your application for it to be registered and assessed. The EFA asks for this information with the application form to reduce the number of times it has to ask applicants for more information or clarification. You should note that the EFA's time for assessing applications for the disposal of playing fields will vary according to the type of transaction. Where you meet the criteria of a General Consent Order, you should normally receive confirmation soon after submission. Some applications may take longer to assess including when further evidence may be sought. The Secretary of State may ultimately decide not to grant consent. You must not take any steps to dispose of the land before you have received the Secretary of State's written consent or a notification of her decision to make a direction regarding the land.

31. Once you have submitted your application, you will be notified of who is managing the case at the EFA, a reference number to quote in any further communications and an indicative timescale for the Secretary of State's decision.

32. Whether you are applying to dispose of land under s.77 of SSFA 1998 or Schedule 1 to AA 2010, your application will be assessed using the criteria set out in section 6 of this guidance.

## The School Playing Fields Advisory Panel

33. The EFA and the School Playing Fields Advisory Panel (see below) use the same criteria as set out in this advice. S.77 applications are referred to the independent School Playing Fields Advisory Panel which has no decision making or executive function. The Chair of the Panel acts as an impartial and independent Chairman and is appointed by the Secretary of State. The Panel comprises representatives of:

- Fields in Trust
- Learning through Landscapes
- Local Government Association
- National Association of Head Teachers



- Sport and Recreation Alliance
- Sport England attends each Panel meeting in an observer capacity.

34. The purpose of the Panel is to provide the Secretary of State with independent, objective advice on the merits of each application to dispose of school playing fields, and the Panel makes a recommendation to the Secretary of State.

35. Ministers consider the Panel's advice alongside a range of other issues. The existence of the Panel makes it unnecessary for applicants to consult any of these organisations prior to application.

# Annex A: definition of playing field land

## What is playing field land?

1. The EFA adopts the definition in s.77(7) of SSFA 1998 being *'land in the open air which is provided for the purposes of physical education or recreation, other than any prescribed description of land'*. It will include:

- **grass pitches and artificial surface pitches** set out for the playing of sports;
- **hard surface games courts** including multi-games courts, tennis courts, netball courts and hard paving marked out for games;
- **informal and social areas**, including grassed areas, paved areas (including playgrounds), outdoor seating and teaching areas including rest and quiet areas;
- **marginal areas**, around the edges of playing fields for run-off and to allow for the cyclical realignment of pitches;
- **habitat areas**, set aside for the formal teaching of nature or informal curriculum purposes, including meadowland, wildlife habitats (including ponds), gardens, nature trails and outdoor science areas. Allotment gardens are included in the definition as well as woodland habitat areas;
- **local authority parkland** or other open space that is used, or has been used in the last ten years, for the purposes of a maintained school.

2. **A sports pitch** will naturally form part of a school's playing fields and means an area of:

- open grassed land that is capable of forming a small pitch of at least 2,000m<sup>2</sup> (the Football Association's recommended area for games played by under-10's). Its configuration and topography should make it suitable for a sports pitch, whether it is laid out or not; or
- synthetic or artificial playing surface, or dedicated hard games court of more than that is set out for team games.

3. **Hard play area** means incidental recreation area with tarmac, concrete or paved surface. It does not include areas provided mainly for any type of sport.

4. **Enclosed social area** means social areas, not used for any type of sport, which are enclosed on at least 3 sides by school buildings.

5. By contrast, examples of land that is non-playing field land includes:

- land on which a building or other structure stands including sports halls, indoor and outdoor swimming pools and incidental land that is functionally linked to such buildings or structures;

- soft landscaped or grassed areas not suitable for use for physical education or recreation purposes, such as marginal waste land outside a school's physical boundary fence and ornamental or other flower beds which directly surround a building or which are connected to a caretaker's house, and
- roads, car parks, paths, and hard standing areas for storing waste containers.

## Annex B: legal framework for the disposal of playing field land

1. This annex outlines the statutory basis for the protection of playing fields at existing maintained schools and academies. You should seek independent legal advice if you need further explanation.
2. There are two pieces of legislation, explained below, that require any school or academy to obtain the Secretary of State's consent to dispose of playing field land.

### Disposals

3. Schedule 1 to the Academies Act 2010 (AA 2010). This applies to academies (which include Studio Schools, University Technical Colleges, Free Schools and Special Schools) seeking consent to dispose of any publicly funded land, including playing field land. It also applies to (among others) academy trusts, local authorities, governing bodies, and foundation trusts that hold land for academies.

4. Section 77 of the School Standards and Framework Act 1998 (SSFA 1998) This applies to local authorities, governing bodies and trustees (such as those who hold land for voluntary and foundation schools) seeking consent to dispose of land that is being currently used or has been used for playing fields for the purposes of a maintained school in the last 10 years. If a maintained school has converted to an academy, s77 will only apply to a local authority in respect of any playing field land leased from the local authority until the 10-year period has expired. Both during and after the expiry of the 10-year period Schedule 1 to AA 2010 will apply to the disposal of any land held by any person for the purposes of an academy, whether or not it is playing field land. The same assessment criteria will apply to all applications to dispose of playing field land before or after the ten year period has expired.

5. s.77 of SSFA 1998 applies to all schools maintained by a local authority including voluntary schools, foundation schools and special schools. Where a school site is surplus to requirements, normally as a result of closure, amalgamation or consolidation, consent to dispose of the land is required under paragraph 12 of Schedule 1 to AA 2010.

### Changes of use

6. s.77(3) of SSFA 1998 provides that a local authority, governing body, foundation body or trustee of a foundation, voluntary or foundation special school may not *"take any action...which is intended or likely to result in a change of use of any playing fields...whereby the playing fields will be used for the purposes which do not consist of or include their use as playing fields by a maintained school for the purposes of that school."* So a local authority may not erect new school or other buildings on playing fields, or

change their use, without prior consent under s.77(3). (Some changes of use are covered by General Consent Order (No 5) 2014 but only if they are set out in the Schedule to that Order.) A change of use to, for example, a residential care home is not covered by s.77(3) and requires a full application.

7. s.77 of SSFA 1998 does not apply to academy trusts, but it does apply to local authorities. Therefore, if an academy trust holds playing field land under a lease from a local authority, and if the land was used by a maintained school at some time in the previous 10 years, the local authority will need consent to change the use of the land (for example, to build a classroom on the land to address basic need pressures). If the proposed change of use would take the land out of academy use (for example, if a community centre is to be sited on the land), the academy trust will require consent under paragraph 17 of Schedule 1 to AA 2010, and the local authority will also need consent under s 77 of SSFA 1998.

8. If the circumstances described in one of the Class Consents Orders applies and where conditions are met, the applicant is to confirm this to the EFA when applying.

## **Annex C: area guidelines for playing field land at existing schools and academies**

1. The Department for Education has published non-statutory area guidelines for existing maintained schools and academies on the recommended size of playing fields. Some schools may not be able to meet the guidelines, but they are still expected to have access (including possible hire of facilities off-site) to meet their curriculum needs and meet the requirements in the Premises Regulations. New schools are to meet the standards in BB103.
2. The guideline is made up of two elements: a base area and an area per pupil, adjusted for the age of the pupils. An example is shown here for each type of school or academy. For all-through schools or academies, the base area for each age group is 9,000 m<sup>2</sup>.
3. An application has to include type of playing field land (not just land laid out for sport). Artificial (all weather) pitches are able to be included at double their superficial area as they can be used more than a grass pitch throughout the year.
4. Grassed sports pitches should also be capable of sustaining the playing of team games by pupils at each school that use those pitches for 7 hours per week during term-time

**Table 1: area guidelines for playing field land at maintained schools and academies (KS=Key Stage)**

	<b>KS1: mainstream schools and academies</b>	<b>KS2: mainstream schools and academies</b>	<b>KS3-KS4 &amp; post 16: mainstream schools and academies</b>	<b>KS1 Special Schools (including academies)</b>	<b>KS2–KS4, post 16 &amp; Special Schools (including academies)</b>
Number of pupils (105% of existing capacity or 100% of future capacity 5 academic years from application date. NB The need is to be based on the <u>higher</u> figure.	90 x 1.05 = 95	120 x 1.05 = 126	1,000 (current capacity) x 1.05 = 1,050 but 1,600 projected pupil numbers = 1,600 So, use 1,600	120	250
<b>Base area</b>	<b>2,000 m<sup>2</sup></b>	<b>2,000 m<sup>2</sup></b>	<b>9,000 m<sup>2</sup></b>	<b>2,000 m<sup>2</sup></b>	<b>2,000 m<sup>2</sup></b>
<b>Area per pupil</b>	<b>11 m<sup>2</sup></b>	<b>50 m<sup>2</sup></b>	<b>50 m<sup>2</sup></b>	<b>11 m<sup>2</sup></b>	<b>50 m<sup>2</sup></b>
Base area	2,000 m <sup>2</sup>	2,000 m <sup>2</sup>	9,000 m <sup>2</sup>	2,000 m <sup>2</sup>	2,000 m <sup>2</sup>
Pupil area	(95 x 11) = 1,045 m <sup>2</sup>	(126 x 50) = 6,300 m <sup>2</sup>	(1,600 x 50) = 80,000 m <sup>2</sup>	(120 x 11) = 1,320 m <sup>2</sup>	(250 x 50) = 12,500 m <sup>2</sup>
Total recommended area required	2,000 m <sup>2</sup> <u>1,045 m<sup>2</sup></u> 3,045 m <sup>2</sup>	2,000 m <sup>2</sup> <u>8,300</u> m <sup>2</sup> 8,300 m <sup>2</sup>	=9,000 m <sup>2</sup> <u>80,000 m<sup>2</sup></u> 89,000 m <sup>2</sup>	2,000 m <sup>2</sup> <u>1,320 m<sup>2</sup></u> 3,320 m <sup>2</sup>	=2,000 m <sup>2</sup> <u>12,500 m<sup>2</sup></u> 14,500 m <sup>2</sup>
Hectares	= 0.30 Ha	= 0.83 Ha =	= 8.9 Ha	= 0.33 Ha	= 1.45 Ha
Acres	= 0.75 acres	2.03 acres	= 21.98 acres	= 0.82 acres	= 3.58 acres

**Table 2: stage, age and year group**

<b>Stage</b>	<b>Age</b>	<b>Year group</b>
Early Years Foundation Stage	Ages 3 to 5	Nursery and reception
Key stage 1	Ages 5 to 7	Years 1 and 2
Key stage 2	Ages 7 to 11	Years 3, 4, 5 and 6
Key stage 3	Ages 11 to 14	Years 7, 8 and 9
Key stage 4	Ages 14 to 16	Years 10 and 11
Post-16	Ages 16 to 18	Years 12 and 13

## Annex D: playing field consultation guidelines

1. Any applicant proposing to dispose of playing field land must consult adequately. The Secretary of State expects the consultation period to be no less than 6 weeks, 4 of which should be in term time. In all cases, you will need to provide evidence of the means of consultation and the results before any application will be assessed.

2. The Secretary of State expects consultation to be open and transparent. This means you should have consulted relevant stakeholders on any proposal before requesting consent to dispose of any land defined as playing fields.

3. Consultation is to be within one year of any application for consent to dispose of the land, so it reflects the up to date views of local people. Evidence will be expected to be provided of the results of consultation with:

- the headteacher
- the chair of the governing body, (evidence of the decision of the governing body or academy trust will be required as part of your application)
- parents of pupils attending the school or academy
- any group or organisation with permission to use the playing field
- the local community generally
- any minor authority in whose area the playing field is situated
- the local authority in whose area the playing field is situated and adjacent local authorities likely to be affected
- any publicly funded primary schools and special schools within a half-mile radius and secondary schools within a mile radius of the playing field if their current playing field provision falls below the minimum area recommended in the guidelines.

4. Possible methods of consulting include use of the local press, direct contact with parties such as staff, pupils and parents, other local maintained schools and academies and the local authorities and inviting the public to a meeting. The results of the consultation should be summarised where required by the EFA.



## Annex E: General Consent Orders

1. The Secretary of State has agreed that some types of disposal fall within the type where she would routinely expect to grant consent. Accordingly, she has agreed General Consent Orders (GCOs) which provide a blanket consent in these cases. These are only available to those who require consent under s.77 of the School Standards and Framework Act, 1998 and Schedule 1 of the Academies Act 2010. These are: local authorities and academies holding their land under a lease from the local authority, governing bodies and foundation trusts. The applicant is to notify the EFA that they consider a specific GCO applies. If you would like to notify the EFA that a GCO applies, this is to be done using the EFA's online notification and application process. The EFA has sought to mirror the simple requirements that apply to GCOs to applications for consent to those who do not fall under s77 so it is no more burdensome for academies owning the freehold of their land.

2. There are currently three General Consent Orders:

2.1. The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014. This applies only to the changes of use falling into one of the ten types set out in the Schedule to that General Consent Order.

2.2. The Academies General Disposal and Appropriation Consent (No 2) 2012. This applies only to land to which sub-paragraph 4(2) of 6(20 of Schedule 1 of the Academies Act, 2010 applies, where the disposal or appropriation is of one of the five types specified in the Schedule to the General Consent Order.

2.3. The General Consent or Disposal of Playing Fields by Restriction 2011. This applies only to entering a Restriction where circumstances where a grant has been awarded for the purposes of upgrading the playing fields (or facilities on them).

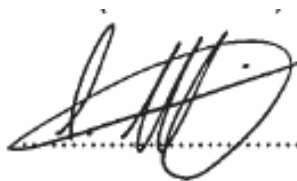
3. Each of the GCOs is provided in Annexes F-H below.

## **Annex F: General Consents: Section 77 School Standards and Framework Act 1998**

### The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014

1. The Secretary of State for Education, in exercise of the powers conferred on her by section 77 (5) of the School Standards and Framework Act 1998, hereby grants the following consent.
2. This consent comes into force on 1 October 2014 and may be cited as “The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014”.
3. In this consent:
  - ‘the 1998 Act’ means the School Standards and Framework Act 1998
  - ‘change of use’ means a change of use falling within section 77(3) of the 1998 Act
  - ‘playing fields’ has the same meaning as in section 77(7) of the 1998 Act
4. Consent is hereby granted to the disposal or change of use of playing fields to which section 77(1) or (3) of the 1998 Act applies, where the disposal or change of use is of a description specified in the Schedule.
5. This consent is granted subject to the condition that body disposing or changing the use of the playing field provides the Secretary of State with:
  - a) details of the location and area (in square metres) of the playing fields to be disposed of or have their use changed
  - b) the area (in square metres); of the remaining playing field land
  - c) detail of the total site area of the school (in square metres)
  - d) details of the number of pupils on the school’s roll
  - e) the date or proposed date of the disposal or change of use
  - f) an explanation as to why the body thinks that the disposal or the change of use is covered by a class consent
  - g) a plan clearly showing the area in question in relation to the whole of the school site
  - h) where the disposal or change of use is at an operating school, the views of the head teacher and governing body.

6. The School Playing Fields General Disposal and Change of Use Consent (No.4) 2012 (as amended) is hereby revoked.



Department for Education

Dated 1/10/19

### Schedule

1. The disposal of hard play areas and enclosed social areas and other ancillary social and recreation or habitat areas that surround the buildings at closed or closing school sites provided that either:

- a) no other schools share or border the site
- b) the body seeking to dispose of the land can satisfy the Secretary of State that the areas in question are not needed by any other schools which share or border the site

'Hard play area' means incidental recreation area with tarmac, concrete or paved surface. It does not include areas provided mainly for any type of sport.

'Enclosed social area' means social areas, not used for any type of sport, which are enclosed on at least 3 sides by school buildings.

2. The grant of an easement and/or a way leave over playing fields where such land is required for the purpose of constructing, maintaining or servicing a highway, or for health and safety requirements or enabling provision of gas, water or electricity.

3. Temporary disposal or change of use of a school playing field provided that:

- a) the lease or temporary change of use is for no longer than 3 school terms;
- b) the Secretary of State is satisfied that the school is still able to carry out the curriculum to at least the same extent
- c) the land is returned to at least the same condition that it was beforehand

4. The disposal of an area of land less than 50m<sup>2</sup>, where such land is required for purposes of constructing, maintaining or servicing a highway, or for health and safety requirements or enabling provision of gas, water or electricity.

5. The disposal of playing fields to an organisation which does not have the principal purpose of making a profit from commercial sports schemes when the following conditions are met:

- a) the terms of the disposal agreement provide that any school or community user group using the playing fields in the 6 months immediately before the transfer may continue to do so for at least 10 years following the date of the disposal, during which time they will have access to the playing fields for at least the same periods and on the same, or more favourable, terms as they did before the disposal; and either
- b) the constitution of the receiving organisation obliges that organisation to maintain them as playing fields; or
- c) the terms of the disposal agreement require that organisation to maintain them as playing fields for at least 10 years from the date of disposal; or
- d) the disposal is to a local authority and the receiving authority has given an undertaking that the playing fields will continue to be used as school/community playing fields for at least 10 years from the date of disposal

6. A disposal which involves the granting of a leasehold interest in the whole school site, including the playing fields to facilitate an agreement under a Private Finance Initiative, provided there is no net loss of school playing fields.

7. The disposal or change of use of playing fields (“the original playing fields”) where, upon that disposal or change of use, any school which used the original playing fields in the 6 months immediately before the disposal will have made available to it newly created, alternative playing fields, provided that all of the following requirements are met:

- a) the replacement playing fields are of at least the same area as the original playing fields
- b) the replacement playing fields are capable of sustaining 7 hours use a week per school that will have use of those playing fields
- c) the replacement playing fields are immediately available to any schools which used the original playing fields on the same, or more favourable terms as the original fields had been
- d) the replacement playing fields have the same or better standards of facilities as the original playing fields
- e) the location of the replacement playing fields is such that the schools using them are able to carry out the curriculum to at least the same extent as they were on the original playing fields
- f) there is no reduction in the amount or type of sports provision currently available to the schools who used the original playing fields

8. The disposal of playing fields where they are not a school's own provision of playing fields but fall within Section 77 only by reason of a school's temporary or occasional use of them.

9. 'School's temporary use' means use as a school's main playing fields for a maximum of 3 school terms in the last 10 years or use only whilst the school's own playing fields could not be used by the school for reasons outside the school's or local authority's control.

10. 'School's occasional use' means either an infrequent and informal use without prior agreement, or a formal use but only by specific pupils or for a set purpose on an infrequent basis.

11. The change of use of playing field land to allow the reconfiguration of school sites, where the following conditions are satisfied:

- after the project is completed the school will have at least the same size and quality of playing field land as it had before - there must be no net loss
- there is no disposal of school playing field land
- the local authority and/or school ensures that the requirements of the School Premises Regulations 2012 continue to be met

12. The disposal of an interest in land in favour of a person for the purposes of an academy for no [or nominal] consideration where an Academy Order has effect in respect of a maintained school which uses the land and the school is to be an academy.

# Annex G: General Consents: Schedule 1 Academies Act 2010

## The Academies General Disposal and Appropriation Consent (No 2) 2012

1. The Secretary of State for Education, in exercise of the powers conferred on him by Schedule 1 to the Academies Act 2010, hereby grants the following consent.
2. This consent comes into force on 31 October 2012 and may be cited as “The Academies General Disposal and Appropriation Consent (No 2) 2012”.
3. In this consent:
  - ‘the 2010 Act’ means the Academies Act 2010
  - ‘appropriation’ means an appropriation of land under section 122 of the Local Government Act 1972
  - ‘a disposal’ includes entering into a contract to make a disposal or granting an option to make an acquisition
4. Consent is hereby granted to the disposal or the appropriation of a freehold or leasehold interest in land to which sub-paragraph 4(2) or 6(2) of Schedule 1 of the 2010 Act applies, where the disposal or appropriation is of a description specified in the Schedule.
5. This consent is granted subject to the condition that the local authority disposing of or appropriating the land provides the Secretary of State with:
  - a) details of the location and area (in square metres) of the land to be disposed of or appropriated; and
  - b) details of the total site area (in square metres) of the school or former school; and
  - c) the date (or the proposed date) of the disposal or appropriation; and
  - d) an explanation as to why the local authority thinks that the disposal or the appropriation is covered by a general consent

Signed 

on behalf of the Secretary of State

Dated .....11/11/12

## Schedule

6. The disposal of an interest in land in favour of a person for the purposes of an academy for no [or nominal] consideration where an Academy Order has effect in respect of a maintained school which uses the land and the school is to be an academy (including free schools, studio schools and university technical colleges).

7. The disposal in respect of land consists of a grant of a lease to facilitate an agreement under the Private Finance Initiative or a Public Private Partnership.

8. The disposal or appropriation of an area of land [which is part of a single school estate or land title] less than 250 square metres provided that the following qualifications are met:

- a) the disposal or appropriation is not part of a disposal or appropriation of a larger area of land;
- b) the land to be disposed of or appropriated does not, taken together with any areas of land in which the local authority holds a leasehold or freehold interest which have been disposed of in the last 5 years, form a combined area of 250 square metres or more; and
- c) the land to be disposed of or appropriated does not constitute an access to an area of land in which the local authority have a leasehold or freehold interest and which consists of an area of 250 square metres or more

9. For the avoidance of doubt, any disposal of an interest in land by a local authority in order to fulfil its statutory duty; for example, under paragraph 9 of Schedule 3 to the School Standards and Framework 1998 Act to transfer to an existing voluntary aided school any premises which it is providing for that school to use by way of assistance.

10. The disposal of an area of land less than 50 square metres where such land is required for purposes of constructing, maintaining, or servicing a highway, or for health and safety requirements or enabling provision of gas, water or electricity.

## Annex H: General Consent for disposal of school playing fields by restriction

In the exercise of his powers under section 77(5) of the School Standards and Framework Act 1998, the Secretary of State for Education gives the following consent.

This consent may be cited as the General Consent of Disposal of Playing Fields by Restriction 2011 and comes into force on 22 August 2011.

In this consent:

- “the Act” means the School Standards and Framework Act 1998
- “person” includes a body of person corporate or unincorporated
- “restriction” means Restriction in the Register of Title kept by the Chief Land Registrar in accordance with the Land Registration Act 2002

Consent is given in relation to the disposal of any playing fields to which section 77(1) of the Act applies, where the disposal consists only of a person entering a Restriction in relation to the playing fields (to apply to any subsequent disposal of them), in circumstances where that person has awarded a grant for purpose of upgrading the playing fields (or facilities thereon).

This consent is given subject to the following conditions.

1. Prior to the disposal, the body (or trustees) disposing of the playing fields provides the Secretary of State with:
  - a) the name and address of the school and the address of the playing fields to be disposed of (if different);
  - b) a plan of the site on which the playing fields are situated;
  - c) the proposed date of the disposal;
  - d) the reason for the disposal;
  - e) the wording of the proposed Restriction;
  - f) a copy of the undertaking referred to below
2. Prior to the disposal, the person entering the Restriction provides the body (or trustees) disposing of the playing fields with a written undertaking that they will not withhold consent to a subsequent disposal of the playing fields to another maintained school or an academy, where the governing body (or trustees) of that maintained school or the proprietor of that academy agree in writing:



- a) that the playing fields will continue to be used by that maintained school or academy as playing fields in accordance with the conditions of the grant, failing which they will repay the grant; and
- b) to the entering of a Restriction, in the same terms as the original Restriction, to apply to any subsequent disposal of the playing fields.

Signed:  JANE CUNLIFFE

Deputy Director, Central Capital Unit

Department for Education

Date: 22<sup>nd</sup> August 2011

## Further information

### Other relevant departmental advice and statutory guidance

- [Glossary and terminology](#)
- [Property Information Notes and forms](#)
- [2015 advice on standards for school premises](#)
- [Academies Act 2010](#)
- [School Standards and Framework Act 1998](#)
- [Education Act 2011](#)
- [General Consent Orders 2011, 2012 and 2014](#)
- [Education \(Independent Schools Standards\) England \(Amendment\) Regulations 2012](#)

### Useful resources and external organisations

- HMT: [Managing Public Money](#)
- HMT: [Consolidated Budgeting Guidance](#)



Department  
for Education

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From: **Gary Cooke, Cabinet Member for Corporate and Democratic Services**

**Rebecca Spore, Director of Infrastructure**

To: **Property Sub-Committee – 29 September 2016**

Decision No: **15/00069 - Update**

Subject: **Strategic Acquisition, Maidstone – Joint Freehold acquisition of the Royal Mail Site with Maidstone Borough Council**

Key decision – *No*

Classification: **Unrestricted**

**Past Pathway of Paper:**

Proposed acquisition reported to PAG on 03/07/2015 and published on the Forward Plan on 13/07/2015.

Executive Decision reported to P&R SubCo on 23/09/2015

Record of Decision signed and dated on 25/09/2015

**Future Pathway of Paper:** *n/a*

**Electoral Division:** Maidstone Central

**Summary:** This report provides an overview and update in respect of the joint strategic acquisition of the Royal Mail Sorting Warehouse & Offices, Sandling Road, Maidstone (the Royal Mail Site) with MBC, following the last Strategic Property Asset Forum (SPAF) meeting dated 15 July 2016.

A Collaboration Agreement between KCC and MBC was completed on 28<sup>th</sup> July 2016 simultaneously to the Exchange of Contracts in respect of the joint 50/50 freehold site purchase (Completion due to take place on 16<sup>th</sup> September 2016) documenting in detail the partnership's shared aims and objectives in both the short and long term.

The current priority over the next 3-6 months is to execute the short term holding strategy (creating c.250 temporary car parking spaces and reuse of existing buildings for charity lettings, subject to all necessary consents) in order to mitigate holding costs, meet strategic requirements for KCC and with the intention to generate a positive income stream for the partnering Councils.

In parallel to the short term plan, Councils will be procuring a multidisciplinary Masterplanning Team including a Development Manager to support the design, project management and delivery of the long term objectives to create an aspirational and commercially viable comprehensive mixed use redevelopment of the Maidstone East area.

## **Recommendation(s):**

**The Policy & Resources Property Sub Committee** is asked to note and comment on the joint acquisition, the short term holding strategy and long term objectives.

### **1. Introduction**

- 1.1 KCC, in partnership with MBC, took the opportunity to purchase the freehold of a prominent and accessible land holding in the center of Maidstone with short and long term strategic benefits to KCC. KCC is a significant stakeholder in the immediate vicinity through its existing property ownership (Cantium House, Invicta House and Sessions House). A site plan showing The Royal Mail Site and illustrating land ownership is attached.
- 1.2 Following protracted negotiations, the Councils Exchanged contracts with Royal Mail to acquire the Site on 28<sup>th</sup> July 2016 at on revised terms to reflect site conditions. Completion is due to take place on 16<sup>th</sup> September 2016.
- 1.3 The project is governed by both short term and long terms objectives detailed within a Collaboration Agreement (which completed simultaneously to the Exchange of Contracts) which shall endeavour to provide economic and commercial benefits to the councils and a return on respective investments.

#### 1.3.1 Short term objectives:

- use of the Site for temporary car parking, and where agreed by the Parties, commercial and/or charitable uses under short terms lease of licence
- the use of the whole or part of the Site by KCC for car parking by way of a Licence Agreement
- the procurement and appointment of a jointly funded Development Manager and multi-disciplinary Masterplanning team
- day to day management of the Site by GEN<sup>2</sup> with the pay & display car park management element undertaken by MBC Parking Services as per pre agreed service agreements

#### 1.3.2 Long term Objectives:

- To agree with Network Rail to combine the Site with Maidstone East Railway Station to enable a comprehensive mixed use development
- Strengthen the town centre retail offer at the north end of Week Street
- Improve the Station and connectivity with the town centre

- Provide much needed residential accommodation
  - Create a better setting for Kent County Council's Sessions House and County Hall
- 1.3.3 As a result, there are a number of short term / additional benefits to KCC through the acquisition of the Site which include:
- temporary car parking provision whilst Invicta House car park is either repaired or redeveloped;
  - short term provision to allow the final consolidation of social care staff into Invicta House;
  - revenue generation opportunities forming part of the initial holding strategy via pay & display car parking and other potential short term lettings;
  - Potential to enhance the value of adjacent property holdings through the strategic masterplanning of the site.

## **2. Governance**

- 2.1 A joint KCC/MBC Strategic Board has been established comprising of two senior officers and two senior Members from each Council. KCC's Strategic Board members are:
- Gary Cooke, Cabinet Member for Corporate & Democratic Services
  - Mark Dance, Cabinet member for Economic Development
  - Rebecca Spore, Director of Infrastructure
  - David Smith, Director of Growth Environment & Transport
- 2.2 KCC/MBC Strategic Board members formally met for the first time on 3<sup>rd</sup> May 2016. Following a debrief on the project and update on due diligence from officers the Strategic Board endorsed the parameters for negotiation with Royal Mail which led to the revised terms being agreed.
- 2.3 In addition to the objectives, the Collaboration Agreement sets out provisions for decision making, deadlock and dispute resolution including mediation with ultimately the ability for each Council have first refusal to buy out the other or dispose of its interest to a third party in the event a fundamental dispute that could not be settled in a timely manner.

## **3. Revised & Agreed Acquisition Terms**

- 3.1 Record of Decision dated 25/9/2015 (ref 15/00069) endorsed the recommendations for a joint 50/50 purchase with Maidstone Borough Council

for the freehold interest of the Royal Mail site and enter into all the necessary documents to facilitate the acquisition and short term holding strategy.

#### **4. Preferred Short Term Holding Strategy**

- 4.1 The Councils preferred short term holding strategy following initial feasibility studies is to create c.250 car parking spaces (including conversion of one of the warehouse spaces to indoor parking) on the site and to reuse the remaining existing buildings for charity lettings where viable to do so.
- 4.2 Heads of terms are in the process of being agreed with a number of Charities to use some of the existing buildings under short term leases.

#### **5. Phase One Station Improvement Works**

- 5.1 SE LEP funding has been allocated for Maidstone East Station improvements and has been matched with a contribution by Network Rail. The work in connection with the demolition of the Vic public house and station ticket hall and surrounding public realm improvements was due to commence in August 2016. However, we have been advised these works have been delayed due to complications with the sensitive demolition of the buildings over the train tunnel.
- 5.2 It is recognised by KCC and MBC that this is a real opportunity to rebrand Maidstone East station and its surrounds as the gateway into the County Town of Kent.

#### **6. Long Term Redevelopment Plans**

- 6.1 During the acquisition bid process a number of conceptual scheme options were developed for modelling purposes to show the likely return levels on KCC/MBC investment and the viability of bringing forward development on both the Royal Mail Site and the adjoining Network Rail land.
- 6.2 The Councils will be procuring a multidisciplinary Masterplanning Team including a Development Manager to support the design, project management and delivery of the long term objectives to create an aspirational and commercially viable comprehensive mixed use redevelopment of the Maidstone East area.
- 6.3 All stakeholders including members of the public and local businesses will be consulted throughout the masterplanning process so their views can be considered within the Councils emerging plans for the area.

#### **7. Recommendation(s):**

**The Property Sub-Committee** is asked to note and comment on the joint acquisition, the short term holding strategy and long term objectives.



## 8. Contact details

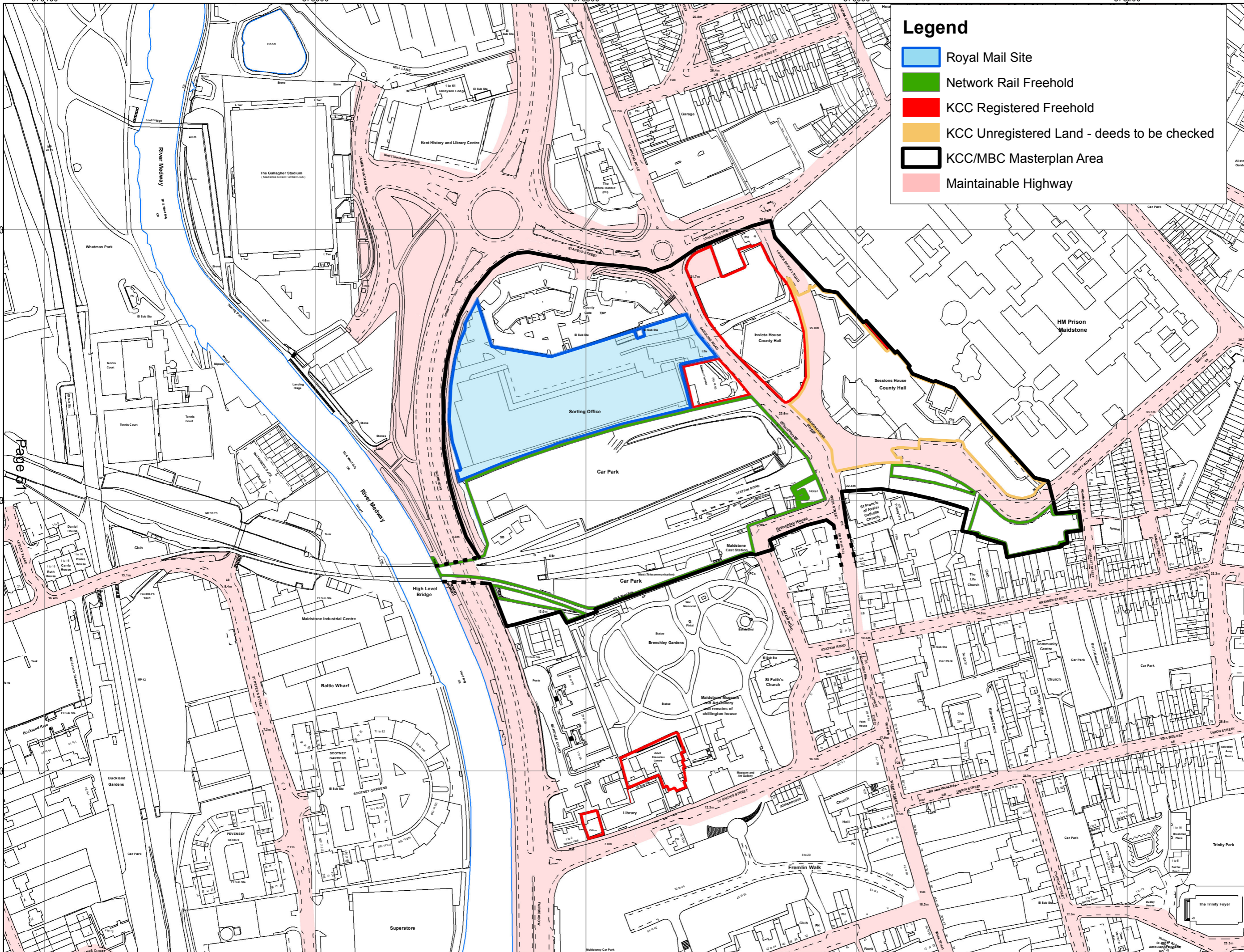
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### Legend

- Royal Mail Site
- Network Rail Freehold
- KCC Registered Freehold
- KCC Unregistered Land - deeds to be checked
- KCC/MBC Masterplan Area
- Maintainable Highway



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MIDSTONE EAST AREA

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From: Gary Cooke, Cabinet Member for Corporate and Democratic Services  
 Rebecca Spore, Director of Infrastructure

To: Property Sub-Committee – 29 September 2016

Decision No: N/A

Subject: **Total Facilities Management – Biannual Review**

Classification: **Unrestricted**

**Past Pathway of Paper:** N/A – regular item

**Electoral Division:** All

**Summary:** This biannual report seeks to update the Property Sub-Committee on the performance of the three Total Facilities Management (TFM) contractors since the 2nd biannual review. The TFM contractors and their areas are - Mid Kent with Amey, West Kent with Skanska, and East Kent with Kier.

This report includes the Performance Deductions of the Mid, West and East Kent TFM contractors since the 2nd biannual review, a summary of performance, the issues encountered by KCC services and management action taken.

This approach is in line with the commissioning cycle principles as set out in the County Council Paper on the 15<sup>th</sup> May 2014 titled 'Facing the Challenge: Towards a Strategic Commissioning Authority', with a view to providing wider scrutiny of the contracts performance.

**Recommendation(s):** The Property Sub-Committee is asked to:

- (1) Note the performance of the Mid Kent, West Kent, and East Kent TFM contractors since the 2nd biannual review;
- (2) Note the issues which have occurred and actions to resolve these items; and
- (3) Note the existing County Council contract governance in place to manage and monitor the performance of the Total Facilities Management contracts.

## 1. Introduction

- 1.1 Following discussion, the Cabinet Member responsible for this portfolio took the decision on the 11 January 2013 (Decision No. 12/01838) to proceed with the implementation of a Total Facilities Management solution. Following a competitive procurement, contracts commenced with Amey and Skanska on 31 October 2014 and with Kier on 21 January 2015. The Property Sub-Committee reviews the performance of these contracts on a bi-annual basis to provide Member oversight and assurance.

This report is intended to update Members on the performance of these contracts since the previous biannual review, and to provide members with assurance that management and monitoring of the three TFM contracts are in place.

## **2. Financial Implications**

- 2.1 The financial savings identified in the Medium Term Financial Plan of £1 million have been delivered following the implementation of the TFM Contracts.

## **3. Bold Steps for Kent and Policy Framework**

- 3.1 The implementation of a Total Facilities Management solution directly relates to the delivery of the benefits from implementing a corporate landlord model as part of the change to keep succeeding plans, ensuring that our buildings are able to support front-line service delivery and the delivery of the financial position, as set out in the medium term financial plan.

## **4. The Report**

- 4.1 The principles behind the contracts are:

- The delivery of outcomes. The authority's requirements were set out in an Output Specification. Bidders provided solutions to deliver the outcomes required by the Council. Bidders took the risk on how they were to deliver the required outcomes.
- Performance in the delivery of outcomes is measured against a set of Key Performance Indicators (KPIs). This is supported by a performance regime where deduction penalties are made for poor performance. The contracts are for 5 years with an option to extend for 2 years and are designed to foster a partnering relationship.

- 4.2 As with all substantial contracts (approximately £25 million spend per annum across the three contracts) there is a need to ensure that there is a robust client function and contract management process in place to manage performance. Gen2 Property provides managing agent services for the TFM contracts on behalf of the County Council. Gen2 is a newly-formed LATCO company wholly owned by the County Council. Gen2 Property has put in place a number of contract managers and support officers who are managing and monitoring activity. This is supported by monthly performance review meetings with the County Council Director of Infrastructure and a quarterly review with the Cabinet Member for Corporate and Democratic Services.

- 4.3 In order to ensure that Members have oversight as to the ongoing performance of this contract, it has been agreed that a biannual performance review is undertaken by the Property Sub-Committee on behalf of the Policy and Resources Cabinet Committee. This approach is in line with the commissioning cycle principles set out in the County Council Paper on 15 May 2014 titled 'Facing the Challenge: Towards a Strategic Commissioning Authority', with a view to providing wider scrutiny of the contracts performance.

## **5. Performance Review**

5.1 The current summary report of the TFM contractors is included in the exempt Appendix 1.

5.2 The contract management teams of both Gen2 and the TFM contractors have worked hard to actively manage the contracts. Actions have included:

- Deployment of Gen2 Property contract management team
- Rewarding good contract performance by offering increased scope of works in the case of the East Kent service provider - Kier
- Working closely with TFM Contractors to mobilise Schools Capital Projects and Soft FM Services for circa 500 schools
- Meetings arranged and attended with area managers and stakeholders from the services that have raised concern with the new service. These meetings are also used to explain the TFM services and service matrix.
- Gen2 Property team being the point of escalation for service users if a request has not been actioned or is unresolved.
- The use by the TFM contractors of the County Council's Health and Safety, Incident, and complaints procedures for consistency across all three areas.
- Daily clarification to site users at meetings, by phone and email, on the scope of individual works.
- Daily contact between both teams to resolve items which require contractual clarification.
- Weekly and monthly operation and quarterly partnership meetings with contractors to review issues and services, and management and monitoring of the contracts. These include monthly contract review meetings and Monthly Performance/KPI meetings.
- Detailed analysis of Help Desk Calls to identify recurring reports of issues regarding FM services, to enable a more strategic approach to Property Management.
- Implementation of Improvement plans with the contractors, resulting in significantly improved performance.
- Software improvements on their CAFM systems.
- Supporting a number of audits as part of the County Council's internal audit and assurance plan.

## **6. Conclusions**

6.1 During this six month period, the three TFM contractors have faced many challenges in providing the services to the County Council, which have generally been actioned and resolved, or plans agreed to help resolve these issues. Gen2 Property continues to manage robustly the three TFM providers.

6.2 The Property Sub-Committee noted the current position and performance of the three contracts. The committee noted those areas where performance had improved and the contract management arrangements that had been put in place to oversee these contracts.

## 7. Recommendation(s)

### Recommendation(s):

**The Property Sub-Committee** is asked to:

- (1) Note the performance and of the Mid Kent, West Kent, and East Kent TFM contractors since the 2nd biannual review;
- (2) Note the issues which have occurred and actions to resolve these items; and
- (3) Note the existing County Council & Gen2 contract governance in place to manage and monitor the performance of the Total Facilities Management contracts.

## 8. Background Documents

8.1 Policy and Resources Cabinet Committee Report 27 September 2012

8.2 Record of Decision No: 12/01838

8.3 Attachments: Exempt Appendices 1 and 1a to 1c - West Kent Quarterly Dashboard Report, Mid Kent Quarterly Dashboard Report & East Kent Quarterly Dashboard Report.

## 9. Contact details

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- Director of Infrastructure
- 03000 416716

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