

DERBYSHIRE COUNTY COUNCIL

CABINET

28 July 2015

**Report of the Strategic Director Children and Younger Adults
and Strategic Director Corporate Resources**

REQUESTS TO BUY SCHOOL PLAYING FIELD LAND

(Children and Young People)

1. Purpose of the Report

To seek approval to a general presumption against the sale of school playing field land where the capital receipt is likely to be less than £100,000 (figure to be inflated each year in line with increases in tender price indices), except where there is a clear benefit to the school or the Authority.

2. Information and Analysis

The Authority regularly receives requests from third parties to purchase land that makes up part of the site of a school. These often relate to neighbours wishing to incorporate small parcels of school land into their gardens.

All of the land occupied by a school is identified by the Department for Education as 'playing field' unless it is within the footprint of a building or is covered by an access road or car park. School playing field is subject to the protection of Section 77 of the School Standards and Framework Act 1998.

The latest guidance on the protection of playing fields produced by the Department for Education indicates that 'there is a general presumption against the need to change the current pattern of school playing field by disposal.' The process to be followed for any application to sell school playing fields includes consultation with the following:

- a. the Head teacher, governing body and parents of pupils attending the school;
- b. any group or organisation with permission to use the playing field;

- c. the local community generally;
- d. any minor authority in whose area the playing field is situated;
- e. the local authority, where the proposal is being made by a governing body or foundation body or trustees;
- f. the local authority in whose area the playing field is situated, if that is different from the local authority intending to dispose, or to change the use, of the playing field.

A panel made up of representatives from the following organisations:-

- Fields in Trust
- Learning through Landscapes
- Local Government Association
- National Association of Head Teachers
- Sport & Recreation Alliance

advise the Secretary of State on applications for disposal of school playing fields.

The cost to the Authority in terms of officer time in making any application to the Secretary of State to dispose of school playing field land is therefore significant and the Secretary of State has indicated that proposals will only be approved if the proceeds of sale are used to enhance other facilities, particularly sports facilities at the schools concerned.

The income received by the Council for any minor disposal (e.g. for a garden extension) would be unlikely to justify the investment in administrative effort by the Authority or the Department for Education in pursuing an application for consent to dispose and would be insufficient to pay for any meaningful enhancement to other school facilities. Furthermore it is not considered that a reduction in the maintenance burden of the land in question to a school would be sufficient to justify any proposal as this would be unlikely to meet the Secretary of State's criteria for approval.

It is therefore proposed that except where a disposal would be in the school's or Council's interest or in some other exceptional circumstance, requests to purchase school land will only be considered where the proceeds of sale are likely to exceed £100,000 (one hundred thousand pounds). This would be the scale of investment that would be required to provide a sports or other facility at the school such as a multi-use games area (MUGA) and justify the cost of seeking approval. It is proposed this financial threshold be increased each year in line with increases in tender price indices. Tender price indices measure the movement in tender prices (competitive or negotiated) for building contracts. Adjusting the threshold in line with these indices each year will always ensure the Council would

recover a sufficient capital receipt from the sale of any school playing field land to at least cover the cost of a MUGA.

Where proposals have the potential to realise a capital receipt greater than £100,000, the Authority will assess whether the school site has sufficient land (under Building Bulletin 103) to provide the maximum site area both for the existing number of pupils and for an expansion of either 20% of pupils numbers or a greater expansion if it is judged that known and suspected housing development in the area of the school is considered to justify a higher figure.

The Secretary of State does give a 'class consent' for certain types of disposal, for which there is a simpler approval process. These include for example, the granting of easements for the purpose of supply of gas or electricity or the disposal of less than 50m² of land for the same purpose. Such proposals would continue to be taken forward, subject to the appropriate formal approval.

3. Financial Considerations

It is estimated that processing an application to the Secretary of State could involve approximately 3-5 days of officer time. Based on the hourly rate for a Grade 12 officer this equates to £715.

The average cost of providing the smallest Sport England standard MUGA at a school is in the region of £100,000. This figure has been used to arrive at the proposed £100,000 threshold for the sale of school playing field land.

4. Legal Considerations

The Secretary of State for Education published information and guidance in March 2014, which was updated in February 2015, in connection with the protection of school playing fields and disposal of assets.

Local authorities wishing to dispose of playing field land require consent under Section 77 of the Schools Standards and Framework Act 1998 and consent is also required for disposal of any land used by a school or academy under Schedule 1 of the Academies Act 2010.

The Director of Legal Services would be involved in any application made to the Secretary of State for disposal of land and, subject to appropriate consent being given by the Secretary of State, would also be involved in all contracts for sale of land.

5. Other Considerations

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, equality and diversity, human resources, environmental, health and transport considerations.

6. Key Decision YES

7. Call-in

Is it required that call-in be waived for any decision on this report? **NO**

8. Background Papers

There are no background papers to this report.

9. Officer's Recommendation

That Cabinet agrees that applications from third parties to purchase areas of school playing field land from the Authority should not be progressed unless the likely capital receipt is at least £100,000 (figure to be inflated each year in line with increases in tender price indices), except where there is a clear benefit to the school or the Authority.

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