

**London Borough of Enfield**

**Cabinet Meeting - October 2021**

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**Subject:** STRATEGY FOR THE USE OF VACANT SITE MANAGERS RESIDENTIAL DWELLINGS AT COMMUNITY SCHOOLS

**Cabinet Member:** Cllr Mahtab Uddin

**Executive Director:** Tony Theodoulou

**Key Decision:** KD 5373

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**Purpose of Report**

1. The purpose of this report is to seek member approval and ratification alternative use and selective disposal of site managers (caretakers) properties owned and managed by the Council and for capital receipts to be invested in the education estate and to in the provision of Special Education Needs and Disability (SEND) places.
2. This report also seeks approval to re-purpose properties where appropriate to extend and enhance provision for teaching and learning within specific schools.
3. In addition, this report set out the agreed principles for the future as these properties become available.
4. This report supersedes Key Decision 3561, which approved a Policy in February 2013 regarding "The disposal/retention of site managers' dwellings on Maintained School sites".

**Background**

5. The Council has a stock of 21 residential site managers' dwellings located on community school sites across the Borough (Appendix A). These properties vary in age and construction and some are integral to the school building or campus. At the time of drafting this report 7 of the residential caretaker's houses are vacant and are now available for reuse or disposal.
6. In 2013 the Council agreed to no longer employ residential site managers. The role of the site manager has changed significantly since housing was first provided for caretakers. Traditionally, on-site accommodation was provided to allow the caretaker easy access and to provide an on-site presence. Such requirements have diminished over the years through advancement of measures to secure and maintain school's sites (CCTV, security lighting, monitored intruder alarms, secured access-controlled, etc.) and a clear protocol of non-intervention if there are incursions on to school sites out of hours. The role of the site manager has evolved beyond the need to live in proximity to the school site.

## APPENDIX 3

Approximately 70% of maintained schools do not have residential site managers and the Education Service is not aware that schools have been disadvantaged by this. Site manager accommodation is not provided in any new build schools.

7. The cost to the Education service of maintaining vacant properties and the heavily subsidised nature of the 'service occupancy' contract arrangements with site managers means the Council are not obtaining best value from its ownership of these properties. Schools are responsible for the ongoing upkeep and maintenance of site managers' dwellings in line with the local scheme of Fair Funding. The Council becomes responsible where the cost of repairs or essential improvements exceed the de minimis thresholds (currently £15k) and for all costs where houses that are vacant. There is an increasing demand for homes within the borough as well as a need to maintain, improve and extend spaces for teaching and learning particularly for Special Educational Needs.
8. The disposal of school land held by the Council requires the Secretary of State's prior consent under paragraph 4 of Part 1 of Schedule 1 to the Academies Act 2010. This applies to all land (whether playing field or non-playing field land) which has been used wholly or mainly by a school in the last eight years
9. The Secretary of State has the discretion to direct how 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 ESFA. The Secretary of State will expect that the first priority for reinvestment will be back into the Education facilities.
10. For the Council to obtain permission for disposal or reuse from the Secretary of State each school will need to declare the house surplus to their teaching and learning requirements.

### Proposal

11. To approve this new approach in relation to the disposal/retention of site managers' dwellings on maintained school sites. By re-purposing vacant properties where possible and disposing of others investing profits from any sale back into the education estate.
12. To agree ringfencing of capital receipts from the disposal of any properties be reinvested into the Schools Capital Programme to directly support the Education Capital Maintenance Programme and the provision of additional Special Educational Needs places.
13. That delegated authority is given to the Cabinet Member for Finance & Procurement in consultation with the Cabinet Member for Children's Services and the Director of Education, to approve the disposal of a vacant dwelling or repurposing, following consultation with the school and other Council departments and based on technical advice from Property Services.

### Reason for Proposal(s)

14. The key reasons for this recommendation are:

- (a) The need to lay out a clear and consistent procedure going forward to allow the decisions to be made expediently so that benefits of the asset are quickly realised
- (b) To ensure that all schools with site manager houses are treated consistently and fairly
- (c) To ensure that land and buildings within the education estate are used to provide benefit to the Education Service and schools directly.
- (d) To provide additional residential properties where possible to meet the demand for housing within the borough
- (e) To assist the Local Authority by providing additional funding through disposal by way of capital receipt to improve and extend the education estate specifically through investment in delivering additional SEND places
- (f) To assist in funding the delivery of additional statutory places within Enfield so local children can be educated in our communities
- (g) To assist the Council in alleviating pressure on budgets by realising a capital receipt and reinvesting this in to the Education Capital Programme

### **Implementation - Repurposing or Disposal**

15. The Education Service will consult with all schools advising them of the proposed approach where vacant properties can be disposed of, these will be dealt with on a site-by-site basis. Empty properties that cannot be disposed of will be made available to enhance their curriculum delivery (where possible). Site clearance may be considered if alternative uses cannot be found. It is proposed that capital receipts raised from the sale of caretaker housing are used to support high priority works in the Education and Schools capital programme. For each school where disposal is agreed the Education Service (where possible) will identify and fund condition works to ensure the school receives some benefit from the disposal. Any condition works will be agreed by the Head of Strategic Resourcing and delivered through the Education Capital Delivery Team (Maintenance Programme).
16. Currently vacant properties will be immediately addressed and their future use discussed and determined with individual schools.
17. The trigger for considering a review of the future use of currently occupied housing would be confirmation that a site manager is leaving his / her employment with the Council.
18. There is no timeline to the disposal of these houses given that retirement date or the decision to end employment lies with the individual and/or the school. Staff currently residing in these properties will not be affected by this proposal unless they leave the Council's employment, at which time they would be obliged to vacate the property regardless of future use of the property.
19. To deliver on the objectives of this strategic approach the following processes/actions need to be undertaken;

## APPENDIX 3

- (a) Strategic Property Services (SPS) and Construction, Maintenance and Facilities Management Service (CMFM) to undertake an asset review of all caretaker houses to ascertain building conditions, the appropriateness for disposal, further educational use or alternate Council operational purposes (considering location and safeguarding issues) and provide a current valuation. Where properties are deemed inappropriate for disposal these will be repurposed for Education use as a priority.
- (b) Education to inform all schools through existing engagement mechanisms through Education Resources Group
- (c) Education to collate information on current occupancy and to confirm the contractual arrangement with the occupant and the school once employment is terminated to ensure sites are vacated promptly
- (d) Education to clarify the responsibility of schools to maintain the asset to ensure their condition to reduce the need for works if the house is to be disposed of, or reused to obtain best value in its future use
- (e) Education Strategic Resourcing and Partnerships Service will lead discussions with individual schools regarding their specific site manager property. Where no suitable alternative use is appropriate, a disposal will be recommended in consultation with the Cabinet Member for Children's Services as advised by the Director of Education and subject to any approval required from the ESFA and/or the Secretary of State for Education
- (f) The Director of Education to inform the DfE through the ESFA schools assets team of the Council intentions and to clarify the procedure in line with guidance provided by the DfE to obtain consent for disposal of Education land. Consent will be sought through the DfE online application process aligned to Section 77 of the School Standards and Framework Act 1998 (SSFA 1998) to release land from solely education purposes which will require indication of the Council's proposal for land and sites,
- (g) Once Secretary of State approval has been granted the property will be designated as a Council corporate asset. If there is no alternate Council operational purpose for any of these sites Strategic Property Services will instruct surveyors to put it on the market and to negotiate with potential purchasers. Following this SPS will seek approval for disposal subject to the applicable governance process as set out in the Property Procedure Rules appropriate to the transaction as it comes forward. Each disposal will require a Delegated Authority Report to be considered by the Cabinet Member for Finance & Procurement in consultation with the Cabinet Member for Children's Services and advised by the Director of Education.

## **Relevance to the Council Plan**

### **Good homes in well-connected neighbourhoods**

20. This strategic approach will assist the Council to deliver additional housing and educational facilities which in turn help support the delivery of education services to the benefit of the community

### **Sustain strong and healthy communities**

21. This approach will assist in the procurement of construction related activity within the borough and its associated employment and economic benefits. The Borough needs to ensure appropriate infrastructure is in place to allow for the growth of the population.

22. Disposals will provide additional housing for Enfield residents.

23. Receipts from disposals will be in part utilised for the provision of additional SEND places allowing Enfield's young people to receive their education and remain within their own communities

### **Build our local economy to create a thriving place**

24. The provision of good quality homes and school buildings helps to ensure a stable and strong community.

## **Main Considerations for the Council**

25. The proposal is consistent with the treatment of community development across the Council's portfolio to ensure fairness for all.

26. It is proposed to use the capital receipts income to address condition and other issues within schools. This will increase the sustainability of school buildings and relieve pressure on individual school's budgets and the Council Education Capital Programme. This requires the Executive Director of Resources and Director of Law and Governance to confirm that the process for ringfencing monies is within the Council's standing orders.

27. It is proposed that the capital receipt from any disposal (minus costs and contribution to the individual school condition works) will be ringfenced to support the provision of additional SEND places in the borough

28. Maintained schools serve the local community; therefore, any disposal receipts reinvested back into local schools will improve learning conditions for local children.

29. Establishing a strategic approach to the future disposal of site managers' dwellings will lead to a more formal consideration of options available in the long-term and ensure these properties are not left vacant and unused.

**Safeguarding Implications**

- 30. The location of each house in relation to the school campus will be an important consideration in determining its future use.
- 31. Houses not suitable for sale or external use due to their location will be adapted for educational use.
- 32. When separating the site/accommodation from schools safeguarding will be considered and mitigation introduced where required.

**Public Health Implications**

- 33. The provision of good quality schools and additional homes helps to ensure a stable, strong community.

**Equalities Impact of the Proposal**

- 34. The provision of improved spaces for teaching and learning ensures quality of rights to good education provision.

**Environmental and Climate Change Considerations**

- 35. Any future developments will consider the Council's Climate Action Plan to ensure any proposals are in line with the council's current policies.

**Risks that may arise if the proposed decision is not taken**

- 36. If no action is taken the Education Capital Programme will continue to bear the cost of maintaining vacant properties. Vacant properties transferred from Education to Strategic Property Services have been allowed to fall into a state of disrepair. The risk of properties being occupied by squatters is significant and has occurred at as least one of the vacant properties.
- 37. If schools choose to change to Academy or Foundation status the opportunity to utilise the houses for any future use will be lost as has been the case previously.
- 38. Without implementing this proposal, the risk of site managers remaining in the property beyond the term of their employment and obtaining tenancy rights.
- 39. The Council has a Corporate Landlord Responsibility to maintain its portfolio to an acceptable standard; if the proposed approach is not adopted there will continue to be pressure on funding for priority condition works and funding projects to increase provision of SEND places.

**Risks that may arise if the proposed decision is taken**

- 40. Council will be required to identify the source of revenue funding for any costs associated with the inspection process should a disposal not be viable these will be abortive. It should be noted that some sites may not be suitable for any alternative use.

41. It is essential that full details of each school manager's occupation circumstances are known by the Council to ensure good estate management and avoid occupiers obtaining additional property rights.
42. Once sold it would be very difficult to bring a dwelling back under Council control. Carefully consideration needs be given in making this decision.

### **Financial Implications**

#### Budget Impact – Capital and Revenue

43. Disposal of properties will reduce improvement and maintenance expenditure on capital and revenue budgets respectively. Magnitude of impact cannot be quantified at this stage as the decision is to approve a policy of disposal.
44. Once identified for disposal addresses of units to be communicated to Corporate Finance so the assets can be reclassified from operational to non-operational assets to ensure no further depreciation charges are made and valuations for final accounts are conducted in accordance with regulations.

#### Debt

45. Capital receipts arising from disposal can be held in the Council's capital reserves until such time they are required to support capital expenditure in schools. These would be net of disposal costs up to a maximum of 4% of the gross capital receipt.
46. This will reduce the requirement to borrow and therefore the interest cost to Council.

#### Taxation

47. Stamp Duty Land Tax (SDLT) will be payable by the purchaser in accordance with published HMR&C guidance and any applicable reliefs will have to applied for by the purchaser within published time scales.
48. VAT - depending on the nature of the building and associated land the Council may find it advantageous to exercise the option to tax. This has the effect on the Council being able to recover expenditure leading to the disposal of the land and buildings but the disposal would also carry standard rated VAT. The purchaser would be able to recover the VAT providing they are VAT registered.
49. No other tax implications

#### Applicable Regulations

50. Councils are normally required to obtain best consideration for assets disposed of to third parties.
51. Section 123 of Local Government Act 1972 General Disposal Consents 2003 does however permit disposal at lower than best consideration if it can be demonstrated the transaction will be of benefit to the area.

52. It is therefore a requirement best consideration is demonstrated although there is an implicit obligation to demonstrate the provisions of section 123 are not applicable. An example would be an options appraisal where the Council could dispose of land and buildings at less than market value in return for an increased supply of residential accommodation which would be conducive to stated Council objectives.

Viability

53. Decision is that of policy, not for a specific disposal therefore not applicable.
54. This section would become applicable when considering alternative options and in the application of section 123 (above) to ensure best advantage for Council.

**Legal Implications**

57. The Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles. The Council therefore has sufficient powers to enter into the transactions envisaged by this report.
58. S123 of the Local Government Act 1972 requires the Council to dispose of the property for the best consideration reasonably obtainable.
59. The disposal of school land held by a local authority requires the Secretary of State's prior consent under paragraph 4 of Part 1 of Schedule 1 to the Academies Act 2010. This applies to all land which has been used wholly or mainly by a school in the last eight years, whether still open or now closed.
60. If the caretaker's house forms part of the Council's title to the school land and has been used "wholly or mainly" for the purposes of a school at some time in the past eight years consent from the Secretary of State for Education (SoS) will have to be obtained before the Council can dispose of the house.
61. There is a benefit to the Council in that having such consent as it will allay the fear of a purchaser that the Secretary of State might exercise a power to compulsorily purchase the site for the purposes of any academy that might be established in the future. It is therefore important that each individual property is investigated individually to determine whether there is a need for any specific consent to disposal.
62. The disposal of a property will also need to be in accordance with the Property Procedure Rules.
63. All legal documents to be entered into in connection with the subject matter of this report must be approved in advance by Legal Services on behalf of the Director of Law and Governance

**Workforce Implications**



64. The Local Authority no longer employs residential site managers. This report does not impact on current employees and will only be actioned as and when residential site managers retire or leave their employment.
65. Newly appointed site managers are subject to non-residential contracts from start of their employment.

### **Property Implications**

66. The property implications on the proposals in this report relate to the approach to be taken on whether or not any of the identified properties should be either retained or disposed, and if to be disposed, the governance of how that should be carried out. These implications are dealt with in the main body of this report. There are no other immediate property implications, however, further implications may arise on a case-by-case basis as each property progresses through the identified approach. These will be dealt with at the time, and where relating to disposal matters, they will be identified in the relevant delegated authority report.

### **Other Considerations**

67. The principle of optimising the use of school sites is good asset management planning. Setting a programme and policy for caretakers' dwellings as they become vacant or where suitable for re-provision/remodelling is good practice. schools.
68. 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 facilities where these are needed by the school. A significant factor in exercising this discretion to dispose of land will be ring-fencing the disposal proceeds in capital facilities for sport (which will take priority), recreation or education facilities.

### **Options Considered**

69. To adopt a policy where all occupied school site managers' dwellings deemed to be suitable for disposal are sold with immediate effect. This is not a preferred option given the terms and conditions of employment of residential site managers.
70. To allow the school to retain 100% of the disposal receipt. The properties are part of the Council's Education estate portfolio and given demands on existing capital grant funding to undertake works to maintain and expand provision it is proposed that a significant proportion of the capital receipt contributes to the Council's priority objectives and statutory duty to provide school places.
71. For the Council to retain 100% of the disposal receipt. It is recognised that capital funding for schools has been reduced in recent years and that schools are facing significant challenges when prioritising essential condition / health and safety works. It is therefore proposed that a proportion of the receipt be used to fund

clearly identified condition works to improve the teaching and learning environment particularly where this provides opportunities for increased community use and income generation. This will provide a longer-term benefit to schools and incentivise them to declare the houses surplus to their education requirements which we be required to change the lease. This will be required prior to seeking DfE consent for disposal.

72. Do nothing. The lack of clear guidance relating to these dwellings has caused some confusion and uncertainty in recent years and left properties unused. It is therefore important to have a clear and transparent policy in place in order that schools and the Council are fully aware of all implications. The absence of a clear approach to managing these dwellings has resulted in the council having to fund the costs associated with vacant properties.

### **Recommendations**

73. It is recommended that Cabinet approve this approach to manage vacant site managers residential dwellings as described below;
74. To agree that all proceeds from the sale of a site manager's house, less any reasonable and pre-agreed costs incurred in achieving the disposal, will be ringfenced for the Education Capital Maintenance programme and in particular provision of additional Special Education Needs places.
75. That the Cabinet Member for Children's Service approves in principle any recommended disposals or repurposing of the vacant properties, thereafter the Cabinet Member for Finance & Procurement approves for disposal any property that is recommended for disposal.
76. To allow the Director of Education on behalf of Enfield Council to approach the DfE and obtain the necessary consent for disposal of Education land.
77. This report sets out a process for the future of all vacated site managers' houses to be considered to ensure the best use of the assets.
78. To agree that Cabinet will review progress on implementation of this strategy in six month following approval.

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### **Appendices**

**Appendix A: List of community Schools with Residences for Site Managers**

**Background Papers N/A**

## Appendix A

Maintained Schools with Residences for Site Managers owned by the Council	Comments
Aylward*	Occupied - <i>A formal lease has been entered into with the Academy to retain the house until the end of the current site manager's contract.</i>
Broomfield**	VACANT, However, this is a foundation school and they are developing plans to include the House
<b>Bell Lane</b>	<b>VACANT</b> – <i>Council asset formerly linked to Albany SM House</i>
Capel Manor Primary	Occupied
Carterhatch Infants	Occupied
Chase Side Primary	Occupied
<b>De Bohun Primary</b>	<b>VACANT</b>
Durants	Occupied – <i>Flat, not separate from school building</i>
Eldon Infants & Juniors	Occupied
Enfield County Lower	Occupied
Enfield County Upper	Occupied
<b>Eversley Primary</b>	<b>VACANT</b>
<b>Firs Farm</b>	<b>VACANT</b>
Hadley Wood Primary	Occupied
Honilands Primary	Occupied
Merryhills Primary	Occupied
Oaktree	Occupied
<b>Prince of Wales Primary</b>	<b>VACANT</b>
<b>Raglan Infants &amp; Juniors</b>	<b>VACANT</b>
Russet House	Occupied
<b>Waverley</b>	<b>VACANT</b>

\*Academy

\*\* Foundation School