

Report No.

London Borough of Bromley

PART 1

Decision Maker: Executive

Date: 15 July 2021

Decision Type: Non-Urgent Executive Key

Title: **DISPOSAL OF LAND AT EDGEBURY – DECISION TO DISPOSE OF OPEN SPACE**

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Chief Officer: Jared Nehra, Director of Education

Ward: Chislehurst

1. Reason for report

- 1.1 The Executive agreed on 1 April 2020 to enter into a land swap with Marjorie McClure School (Foundation) whereby the Council provides the site adjacent to Edgebury Primary School on a freehold basis and in return receives the freehold to the school's existing site.
- 1.2 As the site adjacent to Edgebury Primary School comprises open space land, the Council has a duty under Section 123 (2A) of the Local Government Act 1972 to advertise its intention to dispose of the land.
- 1.3 A suitable public notice was placed in the local newspaper for a period commencing 9 June 2020 inviting objections or written representations to the intended disposal to be received by no later than 23 June 2020.
- 1.4 Two objections were received in respect of the advertisement and this report considers these with appropriate responses.

2. RECOMMENDATION(S)

- 2.1 That the Executive notes that the Council has advertised its intention to dispose to the open space adjacent to Edgebury Primary School in accordance with S123 (2A) of the Local Government Act 1972.**
- 2.2 That the Executive considers the objections made together with responses to these contained within the Report and formally agrees to the Disposal of the Open Space Land.**
- 2.3 That the Executive considers the objections made together with the responses to these contained with the Report and formally agrees to the disposal of the land to Marjorie McClure School. Representing a transfer from one public body to another and with the land remaining in educational ownership.**
- 2.4 Delegate authority to the Director of Education to take all of the necessary steps to contact in writing those objectors to the Open Space Notice and to give the Council's considered responses to the objections received.**

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Children and Young People Excellent Council :
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Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A
 3. Budget head/performance centre: Education Capital Programme
 4. Total current budget for this head: £N/A
 5. Source of funding: N/A
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Staff

1. Number of staff (current and additional): N / A
 2. If from existing staff resources, number of staff hours: N / A
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Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 100 children and their parents, up to 150 school staff.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments:

Ward Members have been kept informed about the relocation of Marjorie McClure school. A session was held with ward members on 7 January 2020 where the DfE presented its proposals for siting and access options in relation to the school. All Ward Councillors attended and positive feedback was received from two Members after the meeting.

3. COMMENTARY

Background

- 3.1 On 18 July 2014 the Council submitted a bid for Marjorie McClure School to be included in the second round of Department for Education's (DfE's) Priority School Building Programme (PSBP2). That programme aimed to make improvements to those schools nationwide in the worst condition.
- 3.2 Within the Local Plan adopted in January 2019 the Land adjacent to Edgebury Primary school has been re-designated from Green Belt to Urban Open Space and the site allocated for education use. Plans Sub Committee 1 approved the demolition of existing buildings and construction of a new SEND school at its meeting on 10 June 2021.
- 3.3 The Executive agreed on 1 April 2020 to enter into a land swap with Marjorie McClure School (Foundation) to allow the school to relocate to the land adjacent to Edgebury Primary School
- 3.4 A decision is required in line with S123 of the Local Government Act 1972 to dispose of the site because Marjorie McClure is a Foundation School and has a legal right to the Freehold of its new site under the School Standards and Framework Act 1998
- 3.5 A notice was published in the News Shopper on June 9th in relation to the disposal of the open space inviting objections or written representations to the intended disposal. The consultation was for the statutory 14 day period and concluded at 5.00pm on 23 June 2021.
- 3.6 Two objections were received during the consultation period and the comments received from objectors can be summarised as:
- The land should remain a public asset
 - The land should remain as a biodiverse-rich meadow
 - Impact of the development on environment health and wellbeing
 - Why this site was chosen for the school
 - The land was previously green belt
 - The disposal, if agreed, would set a precedent that might affect the rest of the land
 - Concerns about the date of publishing the S123 notice
- 3.7 These points are considered below with appropriate responses to the points raised.
- 3.8 **The land should remain a public asset.** The land will remain a public asset with the site transferring to Marjorie McClure School (Foundation). The site following disposal will continue to be protected by education legislation protecting public land, with future changes of use subject to statutory processes. The access road and pathway to the new school will remain within the Council's ownership with rights of access provided to the school.
- 3.9 **The land should remain as a biodiverse-rich meadow.** The Council's Local Plan, approved in 2019 following public consultation and a public inquiry, designated the land as Urban Open Space with allocation for education use. The proposed disposal is consistent with the designation of the land within the Local Plan.

- 3.10 Impact of the development on environment, health and wellbeing.** The Council in designating land within its Local Plan has to ensure it considers future local needs, including providing sufficient land for education. The proposed disposal of the site to Marjorie McClure school will have a significant beneficial effect on health and wellbeing of the 100 pupils at the school and their families, [in addition to those of the pupils at Edgebury Primary School adjoining who will enjoy enhanced facilities as a result of sharing arrangements]. Marjorie McClure is an outstanding Special School for children with a physical disability and its relocation to Edgebury Fields will have wider benefits to the local community, with which it will seek to actively engage. Its current site is in a poor condition and significantly below current Department for Education (DfE) guidelines with regards building and site size. The disposal of the site will allow the school to have a new premises and site that meets the DfE guidelines.
- 3.11 Why this site was chosen for the school.** The site was chosen as it was allocated for education within the Council's Local Plan and due to its close proximity to the school's current site.
- 3.12 The land was previously greenbelt.** The site was redesignated as Urban Open Space within the Council's Local Plan following public consultation and public enquiry.
- 3.13 The disposal, if agreed, would set a precedent that might affect the rest of the land.** The disposal does not change the designation of the rest of the open space that remains green belt within Bromley's Local Plan.
- 3.14 Concerns about the date of publishing the S123 notice.** There are a number of approvals that are required in order for the relocation of Marjorie McClure school to proceed. The determination of the developers' application for planning consent and the agreement for the Council to dispose of the site are different matters.

4 IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 The relocation and new premises will benefit 100 pupils at Marjorie McClure with a physical disability and their families.

5. POLICY IMPLICATIONS

- 5.1 Bromley Council has an established policy for the review and strategic planning of school places and related school organisation. The need to ensure sufficient school places, the quality of those places and their efficient organisation is a priority within the Council's strategy 'Building a Better Bromley' and contributes to the strategy to achieve the status of An Excellent Council. This policy also contributes to key targets within the Education Portfolio Plan.
- 5.2 The Council is an authority that aspires to managing its assets well.

6. FINANCIAL IMPLICATIONS

- 6.1 Commentary on the financial implications of the land swap and associated estimated project costs was provided within the Executive Report considered on 1 April 2020. This report has no implication on the financial position of the project.

6. LEGAL IMPLICATIONS

6.1 As the land subject to the proposed disposal / land swap consist of or forms part of open space, the Council cannot dispose of it unless it has advertised its intention to do so for two consecutive weeks in a local newspaper and specifically considered any objections received pursuant to Section 122 (2A) of the Local Government Act 1972.

Non-Applicable Sections:	Procurement Implications Personnel Considerations
Background Documents: (Access via Contact Officer)	