



LEAD MEMBER FOR RESOURCES

DECISIONS to be made by the Lead Member for Resources,
Councillor Nick Bennett

**FRIDAY, 20 SEPTEMBER 2019 AT 11.00 AM OR AT THE CONCLUSION OF THE
GOVERNANCE COMMITTEE, WHICHEVER IS THE LATER**

COMMITTEE ROOM - COUNTY HALL, LEWES

AGENDA

- 1 Decisions made by the Lead Cabinet Member on 25 July 2019 (*Pages 3 - 4*)
- 2 Disclosure of Interests
Disclosure by all Members present of personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct
- 3 Urgent items
Notification of any items which the Lead Member considers urgent and proposes to take at the appropriate part of the agenda.
- 4 Helenswood Upper School site, Hastings (*Pages 5 - 10*)
Report by the Chief Operating Officer
- 5 Procurement of supply of gas and electricity (*Pages 11 - 14*)
- 6 Any urgent items previously notified under agenda item 3

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12 September 2019

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LEAD MEMBER FOR RESOURCES

DECISIONS made by the Lead Member for Resources, Councillor Nick Bennett, on 25 July 2019 at County Hall, Lewes

10 DECISIONS MADE BY THE LEAD CABINET MEMBER ON 16 JULY 2019

10.1 The Lead Member approved as a correct record the minutes of the meeting held on 16 July 2019.

11 REPORTS

11.1 Reports referred to in the minutes below are contained in the minute book.

12 EXCLUSION OF PUBLIC AND PRESS

12.1 It was RESOLVED to exclude the public and press for the remaining agenda items on the grounds that if the public and press were present there would be disclosure to them of exempt information as specified in paragraph 3 of Part 1 of the Local Government Act 1972 (as amended), namely information relating to the financial or business affairs of any particular person (including the authority holding that information).

13 PAYMENT OF SOLAR PANEL LEASE SURRENDER PREMIUMS

13.1 The Lead Member considered a report by the Chief Operating Officer.

DECISIONS

13.2 The Lead Member RESOLVED to: (1) agree the payment of compensation required in order to surrender the solar panel leases detailed within the report; and

(2) delegate authority to the Chief Operating Officer to conclude the settlement terms.

Reasons

13.3 The solar panels cannot remain in situ during the construction works as the buildings on which they are situated will be demolished and replaced with new buildings.

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Committee: **Lead Member for Resources**

Date: **20 September 2019**

Title of Report: **Ark Schools – Helenswood Upper and Lower School campuses, Hastings**

By: **Chief Operating Officer**

Purpose of Report: **To seek Lead Member approval to enter into a number of interrelated lease and land agreements, including a surplus declaration, that support the consolidation of Ark Schools, as well as support the delivery of a new free special school on an existing campus, and facilitate the release of land for housing or wider community benefit.**

RECOMMENDATION: The Lead Member is recommended to:

- (1) enter into a legal agreement for ESCC to accept a surrender of the current 125 year leasehold interest held over two Ark Helenswood Academy school sites – known as Upper and Lower sites;**
- (2) authorise the simultaneous re-grant of a new 125 year interest on the Lower school site to Ark Alexandra;**
- (3) declare the Helenswood Upper site surplus to requirements to County Council functions and enter into the simultaneous transfer of the County Council's freehold of the Upper site to the Secretary of State, to facilitate the provision of a new Free special school - with ESCC retaining clawback and overage benefits on future land sales or development for non-education uses; and**
- (4) Delegate authority to the Chief Operating Officer to conclude terms in accordance with s. 123 of the Local Government Act 1972.**

1. Background information

1.1 The Ark Schools group operate Helenswood Academy at Hastings which is situated on two separate campuses known as the Upper and Lower Sites. The campuses are owned freehold by the County Council but were leased under a single 125 year lease - from 2013 at a peppercorn rent – on an otherwise standard academy transfer arrangement under the Academies Act 2010.

1.2 After a public consultation exercise, held in 2018, by the Department for Education, the Secretary of State approved the merger and consolidation of William Parker and Helenswood Academies in early 2019. This decision led to an approach from the Department of Education and Ark Schools seeking to surrender their lease, and thus hand the Upper school site (only), back to the County Council.

1.3 The County Council own a separate site at Darwell Close, Hastings which secured outline planning consent in Spring 2018 from Hastings BC for 210 housing units. This is the former Grove secondary school site, demolished in 2015, which was relocated and rebuilt as the St Leonards Academy.

1.4 As a former school site, the County Council require Secretary of State's consent to dispose of elements, previously listed as playing fields, (known as a S77 consent under the School and Standards Framework Act 1998) and an application for that consent was originally submitted to the Department in 2016.

1.5 In 2018, the County Council were approached by the Department of Education who were minded to approve the release of the S77 consent, subject to approx. 20% of the site being reserved back for them for their Flagship special school requirement.

1.6 Since the Ministerial decision, noted in 1.2 above, their land interest has since moved across to the potential at Helensdown Upper campus, and which forms the core of this report.

1.7 The S77 consent / release is still being sought by the County Council to enable the Darwell Road housing development to come forward.

1.8 The proposition going forward is to

i) secure Lead Member approval to support the variant interlinked projects and to formally declare the Helenswood Upper site surplus to County Council operational requirements.

ii) enter into a legal agreement to surrender the single 125 year lease held over the two Ark Helenswood Academy school sites at a peppercorn rent– known as Upper and Lower sites and

iii) enter into the simultaneous re-grant of a new 125 year interest at a peppercorn on the Lower school site (only) to Ark Alexandra Academy.

1.9 This enables Ark to step away from the Upper site, and progress their delivery programmes from the both the Lower and William Parker campuses only. Those delivery programmes are separately funded by the Department of Education, not the County Council.

1.10 With regard the Upper site, and in order to avoid all costs, and the identified risks to the County Council (with vacant building, site security, insurance, empty rates, S77 restrictions, planning etc) the further proposition aligned to the above is:

iv) for the County Council to enter into the simultaneous transfer of the freehold of the Upper site to the Secretary of State for £1, subject to overage and clawback of value provisions in the event of the whole, or part, of the site either being sold, or not developed for educational uses.

1.11 In effect the site is transferred immediately on to the Secretary of State who will manage the vacant site, and be able pursue their own planning application for the development of a Free school on parts of the site as required, and be responsible for any demolition of extant school buildings required, plus be fully responsible for the management of the retained lands.

1.12 In the event that any of the retained land is sold or used for non education uses in the future, the County Council will benefit from a clawback of value and overage provision.

2. Supporting information

2.1 A plan of the Helenswood Upper site (hatched) is attached in Appendix 1.

2.2 The Local Members have been consulted on this matter and raised no objection to the proposal.

2.3 Heads of Terms have been progressed to a tight timeline driven by the nature of the changes, all subject to Lead Member for Resource approval.

2.4 The Lead Member decision, arising from this Report, will be aligned to securing the full release of the S77 consent over the Darwell Road site within a timetable acceptable to County Council.

3 Conclusion and Reason for Recommendations

3.1 The County Council has been very supportive of, and has sought to facilitate, the evolving changes arising from the Ministerial decision to merge the Helenswood and William Parker colleges. In addition it has supported the Department in their delivery issues for their Free school requirements where possible.

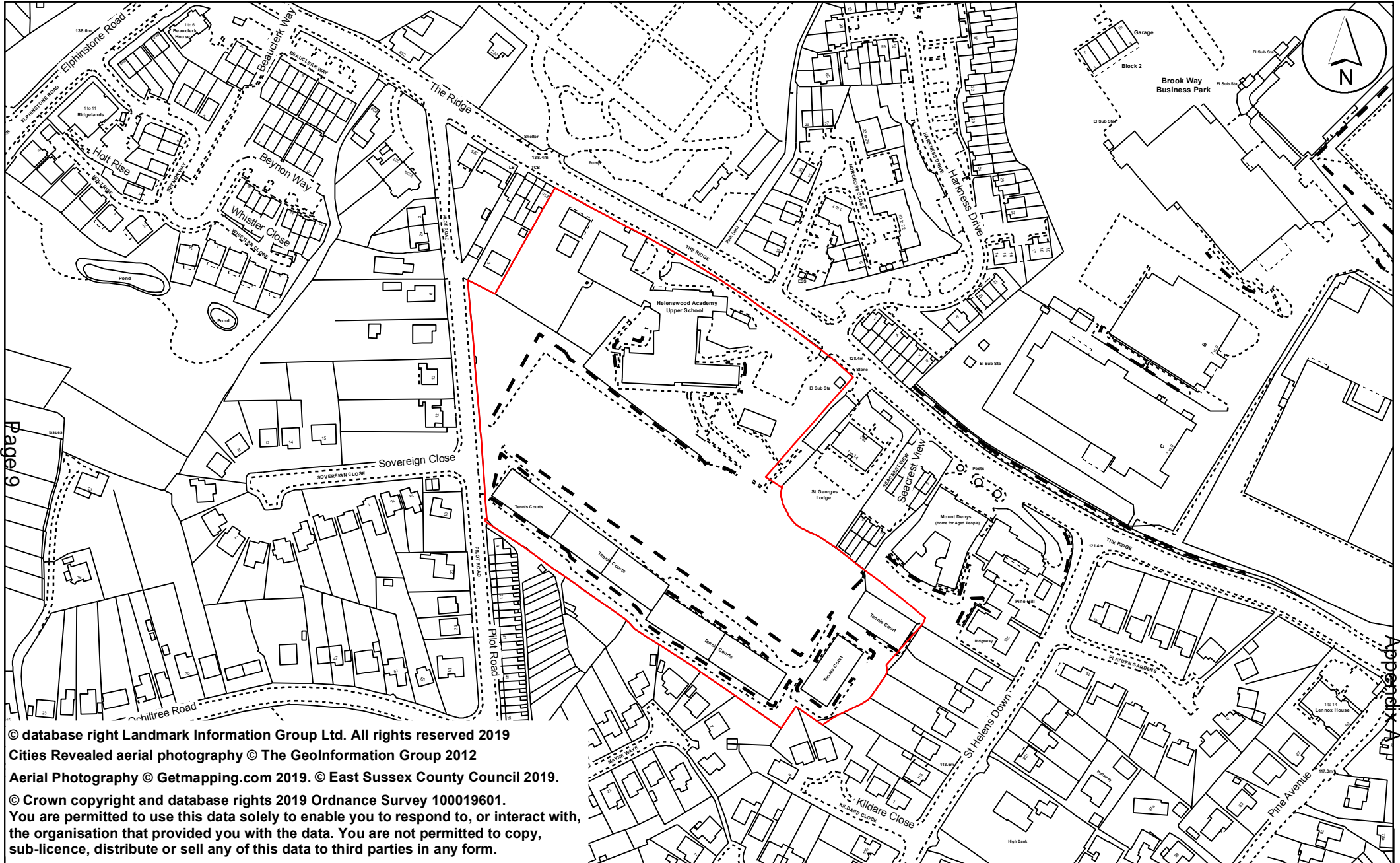
3.2 Against this background, there has been no desire by the County Council to accept, nor impose, risk or any financial burden on its own taxpayers by taking back the full risks of an empty school, its buildings and/or wider site. The proposal to transfer the freehold for a nominal figure, but with future clawback, is assessed against the current value of the County Councils interest (freehold but subject to a 125 year lease at the rent of a peppercorn). Whilst it is normal practice to consider the value released by reconfiguring /releasing legal interests (often known as marriage value) this is offset against the high cost, and risks, if the site were returned fully to County Council control.

3.3 It is recommended that the Upper site be declared surplus to the County Councils' requirements and the terms, otherwise noted in this Report, be delegated to the Chief Operating Officer to conclude in accordance with the requirements of Section 123 of the Local Government Act 1972.

KEVIN FOSTER
Chief Operating Officer

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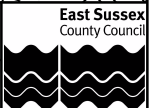
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Helenswood Upper, TN34 2AF

Author: GG/RP

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Date: 07/08/2019



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Report to: Lead Member for Resources

Date of meeting: 20 September 2019

By: Chief Operating Officer

Title: Procurement of Supply of Gas and Electricity to Council Assets

Purpose: To seek Lead Member approval to the procurement of gas and electricity supply to Council Properties and Assets.

RECOMMENDATIONS

The Lead Member for Resources is recommended to:

1. agree to procure the supply of gas and electricity for Council assets from the Crown Commercial Services Supply of Electricity and Gas Ancillary Services Framework RM6011;
 2. agree to the recommendation for the supply of renewable electricity as part of these agreements; and
 3. delegate authority to the Chief Operating Officer to take any actions necessary to give effect to or in consequence of recommendations 1 and 2.
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1 Background

- 1.1 East Sussex County Council's current arrangements for the supply of gas and electricity come to an end on 31 March 2020. These arrangements are procured through the Crown Commercial Services Energy Supply Frameworks.
- 1.2 The Council currently procures gas and electricity for the following assets and customers:
 - Corporate Buildings (including Social Care Buildings and Libraries);
 - Schools; and
 - Street Lighting.
- 1.3 Due to the nature of the markets, the Council must enter into agreements in advance of this date (31 March 2020) to allow advanced trading on the wholesale market.
- 1.4 The annual cost for the supply of gas and electricity across all the assets above will change according to demand but is approximately £5.3m for electricity and £1.4m for gas.

2 Supporting information

- 2.1 Officers from Property and Procurement across the three Orbis partners (East Sussex County Council, Surrey County Council, Brighton & Hove County Council) have been working together to develop a strategy for the purchase of gas and electricity supply. This work has included extensive research and analysis into the various options available as well as comparison of various buying strategies, as gas and electricity is traded as a commodity on the market.
- 2.2 Within Local Government, as well as the wider public sector, the general consensus and central government advice is that the best way to secure optimum value for money in respect of any procurement for the supply of utilities is to purchase through a Central Purchasing Body (CPB)..

- 2.3 However there are other ways of securing the supply of gas and electricity, and these have been investigated as part of the Orbis wide approach to determining the right strategy. These include direct procurement of a supplier, trading through a third party intermediary and investing in the generation of our own energy. None of these options were considered appropriate in the medium term for the Council’s needs and do not provide the best value for money approach at this time.
- 2.4 Under the Crown Commercial Services (CCS) framework RM6011, there are further options to secure a long term agreement for the supply of gas and electricity. These are known as “baskets” and vary in terms of the length of time over which the energy is traded to ensure purchase is made in a way similar to investment strategies, taking advantage of downward fluctuations in the wholesale market at any given time but also securing enough advance supply to mitigate against spikes in cost. These baskets are normally secured on a six (6), twelve (12) or thirty (30) month advance purchase strategy.
- 2.5 Information provided by CCS, and analysis of current purchasing strategies employed by the Councils currently against the assets described in paragraph 1.2 above shows that the variable thirty (30) month (V30) basket will provide the best overall value and based on a previous six (6) year window is less prone to variations in price due to market vagaries. This isn’t an absolute guarantee; however, it is likely that any market fluctuations would affect any energy supply agreement and the V30 appears to be the most effective way of mitigating these.
- 2.6 The V30 basket performs on average approximately 2% better in terms of price per megawatt hour than other baskets for electricity and gas. Moving to this basket is expected to lead to an avoided cost of just under £100,000 per annum against current costs for East Sussex County Council and Schools that will help mitigate the impact of expected future price rises.
- 2.7 The council is developing a policy around the climate emergency and officers have been mindful throughout this project that the procurement of energy can play a role in helping to move towards net zero emissions in a national context. However, the Council continues to be required to report annually on its own emissions and guidance from central government suggests that all electricity supplied via the national grid should be accounted for using UK wide average conversion factors.
- 2.8 It is currently difficult to quantify the carbon reduction that might be achieved through the purchase of green electricity and the scope and timescale of any targets to be adopted by the Council are yet to be defined. However, it is clear that effort will still be required in other areas, such as energy conservation in council buildings, in order to meet its current target to reduce carbon emissions by 3% per year, make financial savings, and contribute to the objectives of the East Sussex Environment Strategy.
- 2.9 The government and energy industry have made progress in developing a greater mix energy derived from renewable sources, i.e. wind, solar, hydro, wave, FarmGas etc. Currently the Council receives about 17% of its gas and electricity supply from renewable sources, but this is not the result of an active decision by the Council, more a general reflection of national supply mix.
- 2.10 The Council has an opportunity under the new arrangements with CCS to request that 100% of supply is from renewable sources. There is an additional cost to this, that is different for electricity and gas. If the Council and Schools opted for renewable supply this additional cost would be:

Electricity (Corporate and Street Lighting)	£53,260
Electricity (Schools)	£60,442
Gas (Corporate only)	£65,682

Gas (Schools)	£221,803
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2.11 The above is based on the underlying current cost of green gas. There has been aggressive purchasing of supplies of green gas within the wholesale market and the cost has risen substantially recently. Currently there is a lack of availability and therefore the premium applied is at a particularly high point.

Financial Appraisal

- 2.12 The cost of utilities are included with the Council's operating budget for services and adjusted on an annual basis to take into account fluctuations in price. The Council also receives a rebate where the performance of the trading/purchasing strategy is better than the annual price set.
- 2.13 The proposed approach to purchasing gas and electricity will meet the Council's statutory duty to ensure best value and is in line with HM Treasury best practice guidance.

3. Conclusion and reasons for recommendations

- 3.1 The Council needs to provide a secure and value for money supply of gas and electricity for its assets and properties, including schools. On its own, the Council does not have the appropriate demand and leverage to gain an optimum price and value for this supply and will benefit from partnering with the two other Orbis partners and the Crown Commercial Services, who purchase for a majority of the public sector to achieve this.
- 3.2 It is therefore recommended, with regard to renewable options, that all Corporate Sites and Street Lighting electricity supply is purchased as 100% renewable and that schools are encouraged to follow suit from the start of the new supply arrangements (01 April 2020). The cost of this is largely offset by the cost avoidance achieved from the new basket strategy being adopted.
- 3.3 It is also recommended to wait and reassess the cost and benefit of purchasing renewable gas, by reviewing the cost from CCS on a six (6) monthly basis. It is therefore recommended that authority is delegated to the Chief Operating Officer to take any actions required as a result of any change to the current position in respect of purchasing the supply of renewable gas.

KEVIN FOSTER
Chief Operating Officer

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