

Special Meeting of the Select Committee on Children's Services – 9 September 2008

Call-in of delegated decision DCS/28/2008

Responses to questions raised

Questions for Andrew Sparke, John Freeman, Duncan Lowndes / Andy Webb, Cllr Walker

1. *Do you agree that during the Cradley High School consultation the future of the Leisure Centre was distinctly shown as being outside the consultation for closure of the School?*

Officer Response

No. The consultation related to the whole school and leisure facilities at the school were included in the consultation document which states at paragraph 5.1 (page 16):

“There is significant community use of the facilities at Cradley High. The school is utilised by nine badminton groups, three football clubs, two martial arts groups, a dancing group, a fitness group and a social club. Discussions will take place over the next year with these and other community groups, other Council services including sports and leisure, adult learning, and FE Colleges. These discussions will include the possible retention of part of the existing school buildings for community use. Agreement will need to be reached on the management of the facilities and how they will be paid for.”

It was later agreed that further consultation specifically on the leisure facilities would take place after the school closure consultation period had finished.

2. *At what stage was the decision to include the Leisure Centre in any sale made?*

Officer Response

The leisure facility is an integral part of the school and has always been seen as such (see above). Since no viable plans for maintaining the leisure facilities have emerged from any of the consultations or discussions, the decision to declare the whole site surplus to requirements was made on 21 July 2008.

3. *Who made the decision?*

Officer Response

Cllr Liz Walker in consultation with John Freeman.

4. *No decision sheet is available for the decision. Why was this not deemed necessary?*

Officer Response

The whole school site is being declared surplus to requirements and the Decision Sheet DCS/28/2008 reflects this.

5. *Which Directorates were involved in the decision making process.*

Officer Response

Primarily Children's Services. All Directorates were formally consulted about potential uses for the site, and no proposals were made. The proposed disposal was notified to all Directorates in accordance with Council policy and no comments were received.

Leisure Services were consulted from the outset by Children's Services, to enquire whether they wished to take over the sports and leisure facilities after school closure – see answer on page 3; Question 2.

6. *What legal advice is there behind this decision?*

Officer Response

Apart from the obligation to have discussions about the future of the leisure facilities, no specific legal advice has been taken as Council policy has been followed throughout and the Directorate of Law and Property consulted alongside other Directorates.

Questions for Mike Williams, Andrew Sparke, Duncan Lowndes and whoever is representing Legal and Property

1. *Tim Crumpton was contacted by Duncan Lowndes or Andy Webb within a couple of days of the initial announcement of the consultation to close Cradley High School. The gist of the conversation was that the Council would now be able to use the Leisure Centre as control would revert from the School. Tim advised it was inappropriate for him to be involved in any such discussions as he would be supporting and taking a lead in attempting to keep the School open. Can Duncan or Andy please comment on this matter?*

Officer Response

Neither Duncan Lowndes nor Andy Webb have any recollection of such telephone calls. Both officers do recall being contacted by Cllr Crumpton in the lead up to the Halesowen Area Committee meeting on 14 November 2007 asking about Leisure Services involvement in consultation relating to closure of Cradley High School.

2. *What work, if any then took place to secure a future for the Leisure Centre?*

Officer Response

Leisure Services' response to discussions with Children's Services regarding the future of sports facilities on the Cradley High School site was:

- (i) to identify the need for significant capital and revenue funding for the site if the sports hall facility were to be retained;
- (ii) to identify the need for the provision of changing rooms for the football pitches in the event of closure of the school sports facilities;

and that neither capital nor revenue funding were available for such activity.

3. *Bearing in mind the extracts from the UDP and LR6, can Andrew Sparke, Duncan Lowndes and Mike Williams advise what steps were taken to abide by the terms of these policies?*

Officer Response

These policies are not relevant in the context of site disposal / decision stage but only come into effect at planning permission stage in relation to development proposals for future use.

The closure of Cradley High School was raised several times at the Halesowen Area Committee, including at a Special Meeting, prior to the decision by the Schools Organisation

Committee. Officers were, therefore, well aware of the issues, and particularly the intense local interest and political implications.

The first report to the Area Committee (14 November 2007), which was part of the Director of Law and Property's Land and Property Report, was concerned with declaring the site of Cradley High School surplus to requirements. At both the officers' pre-agenda meeting and the Chairman's Agenda meeting, Mike Williams gave consideration to a wide range of issues, and particularly what impact a decision to declare the school site surplus to requirements would have on existing Council policy and priorities. Mike Williams was satisfied that such a decision could reasonably be made.

4. *Andrew Sparke, Mike Williams and Mr Mohammed (Legal / Property) know this policy exists. Why was no mention made of this policy when the reports were presented to Halesowen Area Committee to declare the site surplus to requirements, which was considered on 14.11.07 and again on 24.01.08?*

Officer Response

This policy is not relevant to the decision to advise the Cabinet Member to declare the site of Cradley High School surplus to requirements.

5. *Mr Williams (Finance - Report 24.01.08) mentions the cost of temporary facilities (£45,000) which would not apply because Policy LR6 requires the replacement facilities to be operational before development commences. Where did this figure come from? What facilities would this include? How would this fall within the UDP and LR6?*

Officer Response

Duncan Lowndes provided Mike Williams with the estimated cost for the provision of changing rooms at Homer Hill Park. These are not replacement facilities in the context of the UDP/LR6 policy considerations, because previously changing facilities were provided for the parks playing fields. For practical reasons those buildings were converted for use by the Council's Grounds Maintenance staff to utilise with the schools changing rooms used by football teams for convenience. Therefore the provision of new changing rooms on the park does not fall within the UDP / LR6 policy. This was a specific reference to the provision of temporary changing facilities for users of the football pitches in the Recreation Ground. Prior to the closure of the school, these facilities had been provided from the school.

6. *Mr Williams (Finance - Report 24.01.08) has not released his calculations of what 106 Agreement money would be raised from the developers and how it would be spent. What work has been done to calculate this and what work has been done to see whether this would be sufficient to provide comparable facilities as outlined in LR6?*

Officer Response

Section 106 Agreements, which are part of the planning permission process, depend on the nature and scope of development proposals and subsequent planning applications and approvals. Since no planning applications had been submitted, it was impossible to know what the level of Section 106 contributions might be when the report was presented.

7. *As Lead Officer for the HAC what steps did Mike Williams take to ensure the terms of the resolution of the HAC were undertaken? Does he believe that the terms of the resolution were met?*

Officer Response

Mike Williams' report to the Area Committee on 24 January 2008 was made in his capacity as Area Liaison Officer and was effectively on behalf of all officers involved. He consulted with other officers in detail before it was finalised.

As paragraph 1 of that report says, its purpose was to provide further information requested at the last meeting (on 14 November 2007) and in that regard, it included:

- (a) specific reference to the retention of the Recreation Ground and the provision of temporary changing facilities;
- (b) the estimated capital cost of retaining the leisure facilities for public use, including structural work, new mechanical and electrical plant, refurbishing changing rooms and associated works, and bringing the building up to latest operational standards;
- (c) an estimate of the likely revenue subsidy required;
- (d) details of current usage and the nearest public leisure facilities.

the absence of which from the report to the 14 November meeting had been criticised by Members.

Mike Williams discussed the contents of the report in some detail with the (then) Chairman, who agreed that it would be appropriate for the Area Committee to have the further details before arrangements were made for any public consultation. The recommendation merely repeated the recommendation from the 14 November report.

After the report was despatched to Members, Mike Williams had further discussions with the (then) Chairman (and Vice Chairman) and then developed a revised set of draft recommendations, as follows:

- (a) notes the representations made by local Ward Members, stakeholders and Members of the Public in relation to the provision of leisure facilities in Cradley;
- (b) recognising the practical and financial implications in retaining the leisure centre facilities, advises the Cabinet Member for Children's Services to declare the site of Cradley High School surplus to requirements to be sold on terms and conditions to be negotiated and agreed by the Director of Law and Property, subject to:
 - (i) the provision of temporary changing facilities for the recreation ground until the school site is developed;
 - (ii) further consultation with local ward members, local residents and other stakeholders concerning future development of the site, including options for community leisure facilities, such as a multi use games area;
 - (iii) the provision of changing facilities and adequate car parking for the adjacent sports pitches, to satisfy the requirements of the Council's Playing Pitch Strategy in any future development of the site;
- (c) asks the Cabinet Member for Leisure and Culture to have regard for the provision of leisure facilities in the Cradley area in future plans.

Mike Williams had informal discussions with both Councillors Crumpton and Body about the draft revised recommendations to see if they would go some way towards satisfying their and local residents' concerns, but at the same time make some progress. They said they could not support the revised recommendations.

In the event, following "a lengthy and spirited debate", it was agreed that the resolution of 14 November 2007 be implemented.

In Mike Williams' opinion, the terms of the resolution have been met.

8. *Duncan Lowndes has stated that he has been in touch with Sport England about Cradley Leisure Centre. What documentation is there supporting this? What was the outcome of any such discussions?*

Officer Response

E-mail correspondence was entered into with Sport England by Andy Webb, Head of Sport and Physical Activity. Copies of these e-mails are available.

The correspondence sought Sport England's views on certain issues relating to the disposal of Cradley High School in the context of the dominant use of the site, their view on levels of sports hall provision in the Borough and what their stance would be if the site were to be declared surplus and a planning application for development submitted.

In terms of the dominant use of the site, that is, whether it was educational or sporting, Sport England's view was that this was dependent on levels of community access and was linked to their approach in the context of any planning application that might be submitted for the site.

Sport England were non-committal on the level of sports hall provision in the Borough.

In terms of any planning application submitted for the school site, excluding the playing field, Sport England outlined that they would be a non-statutory consultee and their position would be determined by the level of community use of the facility. If the facility was 'readily open to the community' Sport England's approach would likely be to make a non-statutory objection to the loss of the facility if no replacement were proposed, unless there had been a recent PPG17 compliant assessment of provision in the Borough that showed the facility to be surplus to requirements.

Conversely if existing community use of the facility was restricted to sports clubs and similar uses, as is evident from the schedule of regular hirers of the sports hall, Sport England would look for these clubs to be satisfactorily relocated and for a proportion of any proceeds from the sale of the school site to be secured and reinvested in sport.

Duncan Lowndes reports that all clubs have been satisfactorily relocated and consideration will be given during the planning process for reinvestment in sport.

Questions for Cllr Walker

1. *Why had no detailed discussion taken place between directorates before the matter was sent to Halesowen Area Committee (HAC)?*

Response

General discussions had taken place. I had taken advice that Children's Services had no use for the site and it should be declared as surplus and disposed of. I understand that discussions had taken place and it was the view that the site should be released.

2. *Why has Cllr Walker continued to insist that there is no need for consultation prior to declaring the whole site surplus to requirements?*

Response

We have consulted very extensively on the closure of the school and the future of the leisure facilities.

3. *What specific meetings between directorates took place following the HAC resolution? What alternatives were discussed? Who attended these meetings?*

Response

I was not present at officer meetings. I was advised by the Assistant Director (Resources) that despite intensive discussions at officer level, there was no funding stream to support the continued use of the buildings on the Cradley site within any Directorate.

Following the HAC meeting on 14 November 2007 and a public meeting on 17 March 2008, ward councillors presented a further four options to be considered for the future use of the Cradley High School site. These options were discussed between representatives from both DUE and Children's Services and responses were presented to HAC on 2 July 2008.

4. *Does Cllr Walker stand by her statements that there was no need for any consultation as the Leisure Centre was included in the original consultation to close the School?*

Response

The sports hall and changing rooms were part of the school, maintained, funded and managed within the schools budget. We consulted extensively on the closure of the school.

5. *Why did Cllr Walker state prior to any recommendation from HAC that she had already made her decision to declare the whole site surplus to requirements?*

Response

I was expressing a preliminary view based on consultation at that stage.

6. *Why did Cllr Walker state that there could be no consultation with the public over the decision to declare the site surplus to requirements?*

Response

We had consulted extensively over the closure of the school. Another directorate is responsible for the disposal.

Corporate Estates Services are responsible for checking if the site is required by other Directorates before declaring it surplus to requirements. This process has been followed.

There is always public consultation at area committees over the sale of significant parcels of land.

7. *Building Schools for the Future requires a considerable sum of money for preparation; Cllr Walker has stated that the money from the sale of this site will be used for this funding. At what stage was this decision made? Why was this information not made available to HAC? Was this the only option on the table for the site?*

Response

This decision was made by the Cabinet on 13 June 2007. The minute relating to this matter is as follows:

“That up to £3m of the sale proceeds from the disposal of property within the control of the Directorate of Children’s Services be earmarked to fund the project management costs associated with the development of the Building Schools for the Future (BSF) scheme for Dudley and that, in the event of this funding not becoming available, alternative funding be identified within the Directorate of Children’s Services.”

8. *What discussion had taken place between Cllr Walker, Cllr Fraser Macnamara and (now) Cllr John Perry about the election leaflet issued by Cllr Perry in the 2007 election campaign stating that there was absolutely no intention to close the Leisure Centre?*

Response

None whatsoever.

Questions for Charles Fraser-Macnamara and Cllr John Perry

During the 2007 election campaign John Perry, in his election literature, stated categorically that the Leisure Centre was to be retained and improved and provided a quote from Charles Fraser Macnamara (then the Cabinet Member with responsibility for Leisure) to back this up.

- 1 *What information is available to show that work had been done to cost out such retention and improvement?*
- 2 *What work had been done by officers in Charles's department to enable retention of the Leisure Centre?*
- 3 *Cllr Walker states that there never was any intention to keep the Leisure Centre why would she say that?*

Questions for Andrew Sparke

1. *The Select Committee on Health recommended that a Health Impact Assessment be done if the Leisure Centre was to be closed? Was this done? If so who undertook the assessment? What are the outcomes?*

Response

I have no knowledge of this. This question should be addressed to the Director of Children's Services.

Response of the Director of Children's Services

There are several reasons why a Health Impact Assessment was not undertaken:

- the Sport England view of the limited nature of the impact;
- the relatively small volume of provision;
- the fact that all users had been satisfactorily relocated;
- the fact that the closure of the school had already been approved through full statutory processes.

2. *If no assessment has been done, who made this decision?*

Response

I have no knowledge of this. This question should be addressed to the Director of Children's Services.

Response of the Director of Children's Services

I made this decision in consultation with the Cabinet Member.

3. *Do you agree that a Health Impact Assessment should have taken place bearing in mind the particular demographic circumstances in the area concerned?*

Response

The Select Committee on Health recommendation should have been given proper consideration dependent on its timing within the consultation and closure process. However it may be that an HIA could be seen as irrelevant to the issue of closure if the Leisure Centre was incapable of

being kept open at an affordable cost once the school closure was inevitable due to declining school rolls.

4. *What grounds did you have and what advice did you take in replying to Mr B. as attached*

Response

I had the views of both John Freeman and John Millar in mind when I drafted my response to Mr B. Specialist Planning Policy advice was sought to confirm the status of the sports facilities as part of the school establishment (June 2008).

Counsels advice is as follows;

The planning policy consideration of the school premises will look at the whole site as the planning unit. Therefore, in policy terms, the primary and dominate use of the site in question is as a school for educational purposes. In planning terms the area used for a sports hall would not be considered a sport or recreation use. The sports hall is part of the planning unit that is the school and therefore the hall is in educational use not in sports use. In the same way that a school office is not a separate B1 use or a stationery store is not a separate B8 use. Case law clearly supports this conclusion.

In any proposal to redevelop the school site, national planning guidance set out in PPG 17 and UDP policies LR6 (Protection of Sport and Recreation Facilities) and DD8 (Provision of Open Space, Sport and Recreation Facilities) will not apply to the sports hall. The sports hall at the time of redevelopment, will not be an “existing facility” and will not be “lost” as a result of redevelopment. It will have been “lost” as a result of the school closure.

The adjoining green space which borders the school remains protected as it falls within a designated local park and contains a natural turf playing field. In planning policy terms this remains a sensitive green space and falls within the protected local park and would be covered by PPG17 and UDP policies LR5 (Playing Fields) and SO6 (Parks).

5. *Was the decision to use the funds from the sale of the whole site for Building Schools for the Future discussed between officers and if so why, in your opinion, was the HAC not made privy to this information when asked to recommend on the sites future?*

Response

I am sure the use of the proceeds of sale would have been discussed between officers but this must have been an entirely secondary issue to the initial decision to be made as to whether the site was surplus to each service’s future requirements.

The decision to earmark funds for the BSF programme from the disposal of Council property was agreed by Cabinet on 13 June 2007.

6. *Was this site subject to discussions at the Corporate Board if so when and what was the outcome of those discussions?*

Response

The issue of school closure was certainly discussed as part of Corporate Board consideration of the issue of educational provision in the Borough given predicted falling rolls, and the Director of Children's Services recommendation to commence consultation and closure process was noted. My recollection is that subsequently the public interest in the leisure centre closure was also raised but not as a decision item. The Director of Children's Services gave verbal updates on numerous occasions. The outcome of this was to ensure that Corporate Board were kept up to date on the ongoing progress and associated issues.

Questions for John Freeman

1. *What extra resources, if any, were made available and deployed to fully consider the site of the School and Leisure Centre?*

Response

Existing staffing resources were deployed.

2. *What actual approaches to third parties took place to see whether they would/could make use of the site?*

Response

Numerous meetings took place with third parties where the closure of Cradley High School was discussed but no practical interest was expressed for the site. The meetings included the Children and Young People's Implementation Group (representatives from the Police and Fire Service in attendance), Clinical Forum (PCT in attendance), and various discussions with GPs and the Health Service. Halesowen College was also approached with regard to utilising the Cradley High site.

3. *Are the proceeds of the sale earmarked for the BSF programme and at what date was this policy made.*

Response

The proceeds of the sale of school sites are earmarked for reinvestment in education service by a decision of the Cabinet on 13 June 2007.

4. *Do you agree that earmarking the site proceeds then make any further consultation on the future use of the site redundant?*

Response

No; capital receipts are earmarked but this does not preclude alternative uses for the site.

5. *Why was the future of the Leisure Centre seen as separate from the decision to close the School when consultative papers were drawn up by your Department?*

Response

As stated previously, the school closure consultation related to the whole school including the sports facilities. It was later agreed that a further consultation would take place specifically on the leisure facilities.

6. *Why did the briefing in the papers to the Schools Organisation committee state that the two were not linked and that the future of the Leisure Centre was not a part of the consultation on the closure of Cradley High?*

Response

There is no such statement in the papers to the School Organisation Committee. Paragraph 3.20 (page 37) of the School Organisation Committee document states;

'It is not in the interests of any community to be served by a school which is financially and educationally unsustainable. If the proposal to discontinue Cradley High School is taken by School Organisation Committee further discussions would take place regarding options for maintaining existing leisure and adult education provision.'

7. *Why didn't your department clearly state from the outset that the Leisure Centre was included in the closure consultation?*

Response

See the response to question 1 on page 1. The leisure facilities were included in the consultation document. Throughout the consultation period, questions were asked and responded to regarding the leisure facilities, including questions in consultation meetings, public meetings and questions from ward councillors. On each occasion it was made explicit that the leisure facilities were part of the school and would close if and when the school closed, unless another practical option was brought forward.