

<b>Key Decision Required:</b>	<b>No</b>	<b>In the Forward Plan:</b>	<b>No</b>
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**PORTFOLIO HOLDER FOR  
CORPORATE FINANCE AND GOVERNANCE**

**05 JULY 2019**

**A.1 TO INITIATE THE PROPERTY DEALING PROCEDURE IN RESPECT OF THE  
DISPOSAL OF LAND AT VISTA ROAD AND ACQUISITION OF LAND AT JAYWICK LANE**  
(Report prepared by Andy White)

**PART 1 – KEY INFORMATION**

**PURPOSE OF THE REPORT**

- A. To consider whether to initiate the disposal process for the land adjacent to Clacton County High School forming part of the Vista Road Recreation Ground as edged red on the plan in Appendix A together with ancillary rights for construction access, parking and shared use of facilities.**
- B. To consider whether to initiate the acquisition process for the land adjacent to Rush Green Recreation Area forming part of the Bishops Park site as edged red on the plan in Appendix B together with access off Jaywick Lane.**

**EXECUTIVE SUMMARY**

The Council owns the freehold of land including Clacton Leisure centre and Vista Road Recreation Area. The land lies adjacent to Clacton County High School (“CCHS”).

The Council owns the freehold of land including Rush Green Bowl and Rush Green Recreation Area. The land lies adjacent to the Bishops Park site.

Essex County Council (“ECC”) has approached the District Council with a proposal to expand and improve secondary education in Clacton and in the District by expanding Clacton County High School to accommodate additional 11-16 year olds and by creating a new sixth form facility at the Bishops Park site.

In order to meet space requirements ECC needs to expand the CCH site. ECC has requested that the area of land shown edged red at Appendix A is transferred from Tendring District Council to Sigma Trust which runs the CCH academy.

The land in question is held by the Council as public open space and recreation capacity and initial discussion between ECC and TDC officers around the feasibility of the disposal has led to a proposal that includes ECC transferring some mitigating open space to TDC, as shown edged red on the plan attached at Appendix B together with access land off Jaywick Lane as shown purple on the plan or as may be agreed.

Additionally ECC would fund various improvement works at both of the locations.

These discussions have led to the point at which the proposal might be considered feasible. In order to reach a point at which Cabinet could make a decision on the potential transaction, the Portfolio Holder is requested to initiate the disposal and acquisition processes so that officers can carry out the various further steps within the Property Dealing Policy and those as set out in the report.

It is intended that negotiations will lead to an agreement or agreements that will include the meeting of the Council’s legal, valuation and other professional costs, which TDC has an undertaking from ECC to cover.

**RECOMMENDATION(S)**

- A. That the Portfolio Holder agrees to initiate the disposal process in order for Officers to consider and negotiate terms for the potential disposal of land forming part of the Vista Road recreation Area, in accordance with the Council's Property Dealing Procedure.
- B. That the Portfolio Holder agrees to initiate the acquisition process in order for Officers to consider and negotiate terms for the potential acquisition of land between the Rush Green Recreation Area and Jaywick Lane, in accordance with the Council's Property Dealing Procedure.

**PART 2 – IMPLICATIONS OF THE DECISION****DELIVERING PRIORITIES**

The potential transactions are pertinent to the following Council priorities:

Engagement with the Community	Effective partnership working
Make the most of our assets.	Promote healthier lifestyles and wellbeing.
Enable better job prospects	Facilitate improved qualification and skills attainment.
First rate leisure facilities.	

**FINANCE, OTHER RESOURCES AND RISK****Finance and other resources**

It is unlikely that either the disposal or the acquisition will have a capital effect.

Running costs in relation to the areas of land identified are likely to be similar to each other.

Improvement works at the sites are likely to generate community benefits and are likely to be funded by ECC, although how these works are undertaken needs to be negotiated to ensure the responsible or procuring authority is identified.

**Risk**

<b>Risk</b>	<b>Control/Mitigation</b>
That funding for ancillary work is inadequate to complete the proposed work.	Engage quantity surveyor to review cost estimates prior to Cabinet decision.
Planning permission for change of use is not granted	ECC to determine measures to maximise likelihood of approval.
Public objection to disposal of open space.	Formal consultation undertaken through the statutory process, with the outcomes being reported to Cabinet as part of their consideration on whether to proceed with the disposal. .
Professional fees and other costs fall to TDC.	Seek ECC undertaking on initial costs and ensure further costs are secured through any legal agreement.
ECC/ Ministerial decision making	ECC to determine measures to maximise likelihood of approval.
Land initially identified for access at Jaywick Lane is unregistered.	ECC to resolve or select alternative access land

## LEGAL

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.

Section 120(1) of Local Government Act 1972 provides for the Council to acquire land either within or outside the District for any purpose within that or any other Act or for the benefit, improvement or development of the area.

Section 123(1) Local Government Act 1972 indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained.

The General Disposal Consent Order (England) 2003 gives consent for disposal at below best consideration reasonably obtainable provided that the undervalue is less than £2m and the proposal enhances the environmental economic and social wellbeing of the area.

Section 123(2A) Local Government Act 1972 indicates that, a local authority may not dispose of open space land held by it without advertising its intention to do so in the local press.

Given the circumstances of the case it is likely that the Cabinet will be called upon to consider acquisition and disposal terms, apply the general disposal consent and to consider any public objections.

If the Portfolio Holder decides to initiate the property dealing procedures officers will take forward the advertising of the disposal of open space and negotiation on terms with ECC and report in full to Cabinet for decision on whether to proceed and upon what terms. Meanwhile it is important that the Councils do not progress too far and risk giving the impression of predetermination.

Initial discussions, subject to the Portfolio Holder's decision in response to this report, further negotiation, consultation, planning permission and Cabinet consideration, suggest that an umbrella legal agreement, joint use agreement(s), Secretary of State approval and land transfers will be necessary to facilitate the proposals, if approved.

## OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder/Equality and Diversity/Health Inequalities/Consultation/Public Engagement

- **Crime and Disorder/Equality**

ECC proposals are aimed at improving educational outcomes which is likely to have a long term positive effect in relation to crime and disorder and equality

- **Health Inequalities**

Central and West Clacton are identified as having potential to improve health outcomes. Loss of open space is likely to be a negative factor while improved remaining facilities are likely to be positive factors

- **Consultation/Public Engagement**

Officers will formally advertise the potential disposal of public open space. Planning applications will provide further opportunities for public comment.

- **Ward**

St Pauls

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

The Council owns the freehold of land including Clacton Leisure centre and Vista Road Recreation Area. It has been used as public open space since acquisition in 1935.

The land lies adjacent to Clacton County High School.

The Council owns the freehold of land including Rush Green Bowl and Rush Green Recreation Area. The land is currently open space and recreational but has been used as landfill in the past. The land lies adjacent to the Bishops Park site.

Essex County Council has approached the District Council with a proposal to expand and improve secondary education in Clacton and in the District by expanding Clacton County High School to accommodate additional 11-16 year olds. The proposal includes the construction of additional buildings on the existing school site and additional recreational space beyond.

Additionally it is proposed to create a new sixth form facility at the Bishops Park site using existing buildings.

In order to meet space requirements at the school ECC needs to expand the CCH site. In order to facilitate this ECC has requested that the area of land shown edged red at Appendix A is transferred to Sigma Trust which runs the CCH academy.

Access at the CCH site is restricted and for many years the Leisure Centre car park has been used for pick up and drop off and for visitor parking. No agreement for such use has been in place.

It is likely that ECC will require access for construction purposes and additional easements for services to the potential new construction

The disposal; area includes some features which will need to be relocated.

The existing changing pavilion to the North West of the current school site is subject to a joint user agreement.

The changing facilities at Rush Green have been recently upgraded but the paths and slopes around the site could benefit from upgrading and the nature of the soil challenges the maintenance of good quality playing surfaces.

Housing growth to the West of Clacton may factor in future local plan epochs and lead to additional recreation demand in that area.

### **CURRENT POSITION**

The land at Vista Road is part of the Town's public open space and recreation capacity and initial discussion between officers of TDC and ECC around the feasibility of the disposal has led to a proposal that includes ECC transferring some mitigating open space to TDC as shown edged red on the plan attached at Appendix B together with access land off Jaywick Lane as shown purple on the plan or as may be agreed.

Additionally ECC would fund various improvement works at both of the locations. The locations of those works are indicated on the plan and include:

- new and upgraded paths;
- relocated grounds maintenance compound;
- upgraded play area (TDC funded)
- new all weather pitch (part grant funded)
- relocated petanque court;

- relocated cricket nets;
- refurbished car park;
- additional parking;
- crossing and pick-up/put-down points for school use;
- new steps, and;
- various landscaping.

It should be emphasised that no decision on any of these matters has yet been made. These are simply proposals put forward during the assessments of feasibility.

The project also looks forward to a potential TDC scheme to add a new flexible leisure building behind the current buildings, subject to separate feasibility and business case.

These discussions have led to the point at which the proposal is considered feasible. In order to reach a point at which Cabinet may decision on the potential transaction the Portfolio Holder is requested to initiate the disposal and acquisition processes so that officers can carry out the various further steps within the Property Dealing Policy and as set out in the report.

These measures will include engaging quantity surveyors to review initial costings, valuers to review and advise on terms and external legal advice to resolve the package of agreements that will be necessary in order to conclude proposals for the full consideration of Cabinet.

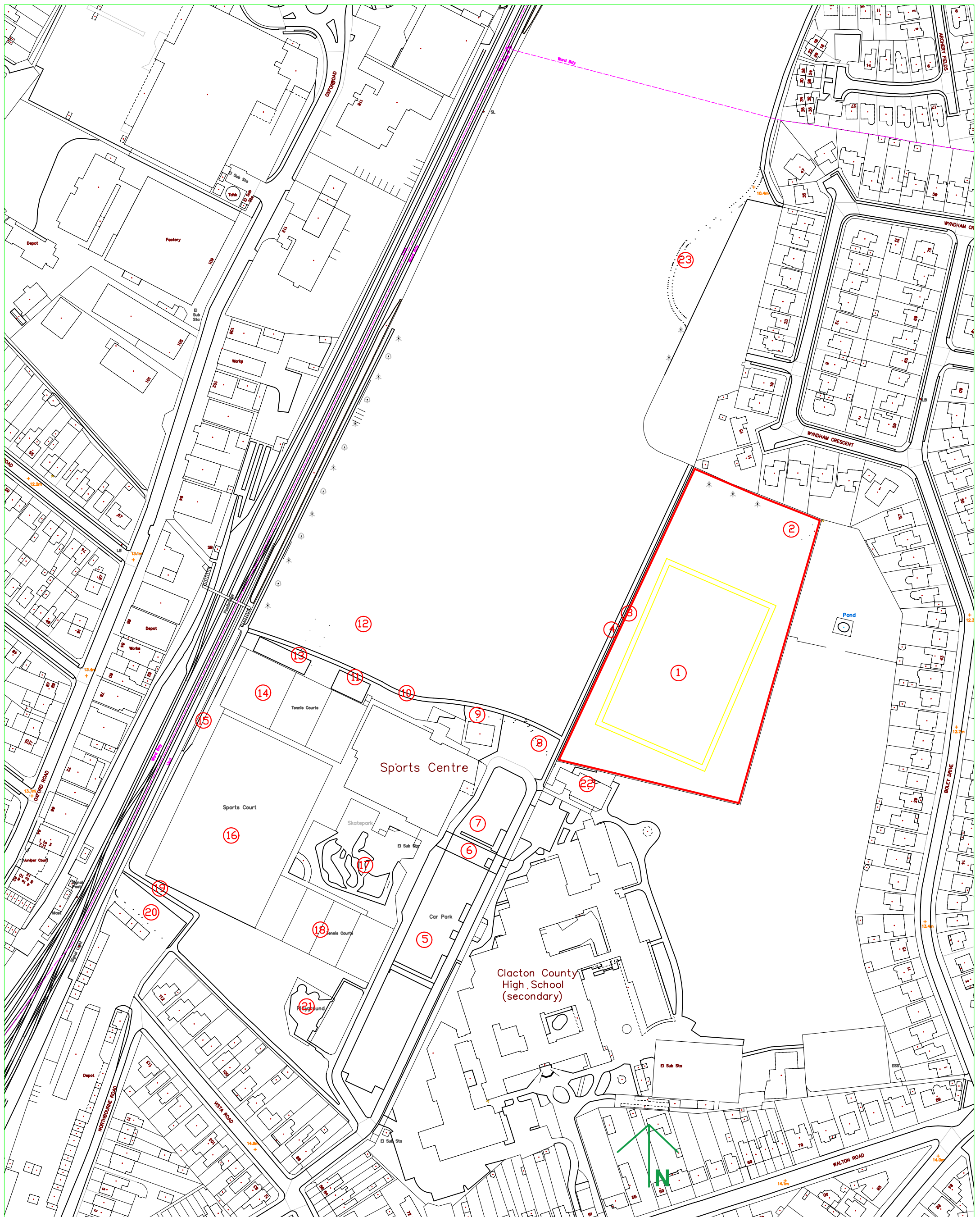
It is intended that negotiations will lead to an agreement or agreements that will include the meeting of the Council's legal, valuation and other professional costs. However in the short term officers have received an undertaking from ECC in respect of initial costs.

#### **FURTHER HEADINGS RELEVANT TO THE REPORT**

None

#### **APPENDICES**

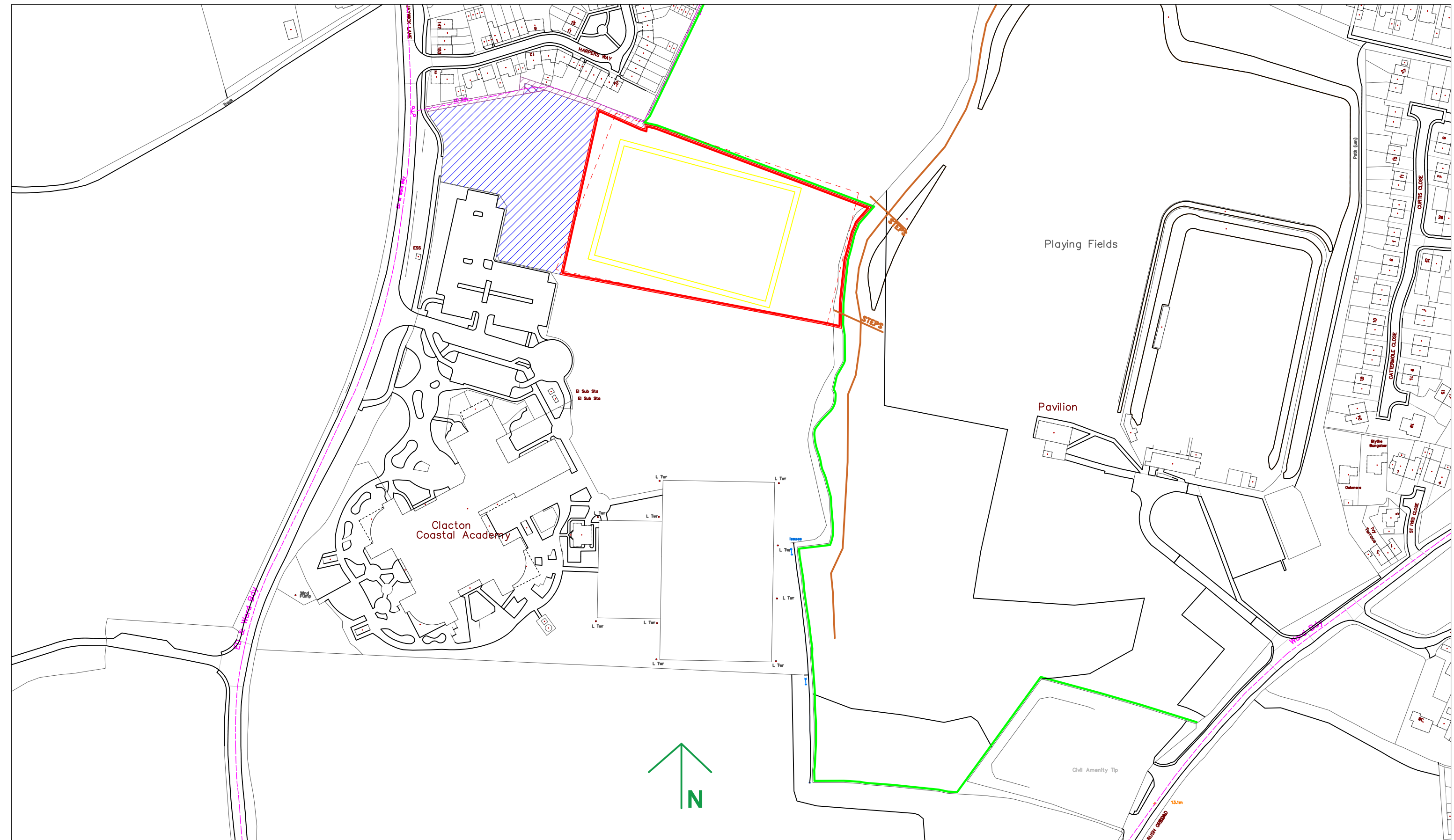
- Appendix A – Location Plan: Land at Vista Road
- Appendix B – Location Plan: Land at Rush green
- Appendix C – Assessment of disposal feasibility: Land at Vista Road
- Appendix D – Assessment of acquisition feasibility: Land at Rush green



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<p><b>TENDRING DISTRICT COUNCIL</b>  <b>ANDREW R WHITE</b>  <b>BSc MRICS</b>  <b>HEAD OF PROPERTY SERVICES</b></p>	<p>Rev A. ARW. 11 April 19. Size of football pitch added</p>	<p><b>Title</b>          Clacton Leisure Centre          Orientation Plan  <b>Date:</b> 29 March 2019</p>	<p><b>Scale:</b> 1:2000  <b>Drawn By:</b> A. White  <b>Drawing No. &amp; Revision</b>          1 A</p>
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**TENDRING DISTRICT COUNCIL**  
**ANDREW R WHITE**  
 BSc MRICS  
 HEAD OF PROPERTY SERVICES

**Title**  
 Exchange Land at Rush Green  
 Orientation Plan  
**Date:** 10 April 2019

**Scale:** 1:2000  
**Drawn By:** A. White  
**Drawing No. & Revision**  
 1

**Appendix C**

**Assessment of Disposal Feasibility**

<b>Assessed by:</b>	Andy White
<b>Date:</b>	17 June 2019
<b>Site:</b>	Land at Clacton Leisure Centre, off Vista Road Clacton-on-Sea together with ancillary rights over adjoining Leisure Centre Land.
<b>Reason for consideration:</b> Approach by Essex County Council pursuant to proposals for school expansion and creation of sixth form facilities within Tendring	
<b>Location:</b> Land forming part of the recreation ground and adjoining the site of Clacton County High School.	
<b>Adjoining uses:</b> Residential property, school site and recreation ground.	
<b>Planning designation (Current Adopted Plan):</b> Within the development boundary of the current adopted plan. Identified as safeguarded open space.	
<b>Current use:</b> Grassed open space.	
<b>Legal constraints:</b> Initial purchaser's covenants on the land may need to be investigated.	
<b>Service usage/issues:</b> The area is currently in public and service use, including a football pitch (winter), Running track (Summer), grounds maintenance compound, petanque court and general recreation.	
<b>Request:</b> ECC are leading a project that is proposed to increase capacity at the Clacton County High site and create a linked sixth form facility at the Bishops Park site.	
<b>Corporate Priorities:</b>	
Engagement with the Community	Effective partnership working
Make the most of our assets.	Promote healthier lifestyles and wellbeing.
Enable better job prospects	Facilitate improved qualification and skills attainment.
First rate leisure facilities.	
<b>Property Strategy Issues:</b> The project is not identified in the property strategy.	
<b>Valuation:</b> £200,000 to £400,000.	
<b>Other Issues:</b> Ordinarily the disposal of such land would be unfeasible. In this case the County Council has requested the land as part of proposals aimed at expanding and improving local education facilities. In order to address issues related to disposal of the land the County Council has offered some replacement open space land to the West of Clacton and funding for a range of improvement and joint use measures at the Leisure Centre and adjoining land.	
<b>Conclusion:</b> Disposal is feasible.	



**Appendix D**

**Assessment of Acquisition Feasibility**

<b>Assessed by:</b>	Andy White
<b>Date:</b>	17 June 2019
<b>Site:</b>	Land between Rush Green recreational area and Jaywick Lane to the West of Clacton-on-Sea.
<b>Reason for consideration:</b> Approach by Essex County Council pursuant to proposals for school expansion and creation of sixth form facilities within Tendring	
<b>Location:</b> Land forming part of the current Bishops Park site and adjoining the Council's existing recreational areas off Rush Green.	
<b>Adjoining uses:</b> Residential property, school site, unused land and recreation ground.	
<b>Planning designation (Current Adopted Plan):</b> Outside the development boundary of the current adopted plan. Identified as a Local Green Gap.	
<b>Current use:</b> Grassed playing field.	
<b>Legal constraints:</b> To be investigated.	
<b>Service usage/issues:</b> The area is currently part of the school grounds. The Council's adjoining facilities are built on a former landfill site and may benefit from some improvement.	
<b>Request:</b> ECC are leading a project that is proposed to increase capacity at the Clacton County High site and create a linked sixth form facility at the Bishops Park site. This land is offered as an offsetting measure in relation to land requested off Vista Road.	
<b>Corporate Priorities:</b>	
Engagement with the Community	Effective partnership working
Make the most of our assets.	Promote healthier lifestyles and wellbeing.
Enable better job prospects	Facilitate improved qualification and skills attainment.
First rate leisure facilities.	
<b>Property Strategy Issues:</b> The project is not identified in the property strategy.	
<b>Valuation:</b> Not yet valued.	
<b>Other Issues:</b> The County Council has offered the land as part of proposals aimed at expanding and improving local education facilities including expansion at Clacton County High School. In order to address issues related to disposal of the land at Vista Road the County Council has offered this replacement open space land and funding for a range of improvement and joint use measures at the Leisure Centre and adjoining land.	
<b>Conclusion:</b> Acquisition is feasible.	