

Agenda Item No:

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Report of : Head of Property Services

Report to : Chief Asset Management and Regeneration Officer

Date: 20 October 2014

Subject: BARDSEY PRIMARY SCHOOL, WOODACRE LANE, LEEDS, LS17
DEIGHTON GATES PRIMARY SCHOOL, DEIGHTON ROAD,
WETHERBY, LS22
PRIMROSE LANE PRIMARY SCHOOL, WESTWOOD WAY, BOSTON
SPA, LS23

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	HAREWOOD, WETHERBY	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	10.4(3)	
Appendix number:	1	

Summary of main issues

1. The purpose of this report is to note the transfer and vesting of three school sites to the Wharfe Valley Learning Partnership in pursuance of the Schools Standards and Framework Act 1998 the School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 and the Education and Inspections Act 2006 (“the Acts and Regulations”).
2. The subject sites are noted within this report and comprise operational school sites.
3. The Acts and Regulations set out the basis upon which assets are to be transferred from a local authority to a school which changes category or acquires a foundation. The Acts and Regulations provide flexibility for schools to work together under a shared Trust in partnership with external organisations (such as Universities, Business Foundations and Community Groups).
4. Under the Acts and the Regulations all assets (being land and buildings held or used for the purposes of the school by a local authority) will automatically transfer for nil consideration to the trustees of schools converting to trust status (“trust schools”) on the date the trust is implemented (“the Implementation Date”). The requirements of the

Acts and Regulations override a local authority's duty under section 123 of the Local Government Act 1972 to secure best consideration for the disposal of an interest in the land. A school decides to become a trust school and applies to the Department of Education. Once the conversion is authorised by the Department for Education a local authority must comply with the request to convert.

5. The Acts and Regulations state that the trustees do not have to pay for the land and buildings and the Local Authority cannot demand any consideration for the land and buildings.

Recommendations

6. It is recommended that the Director of City Development notes the proposed statutory transfers and vesting of land and buildings at the sites identified on the attached schedule (Appendix 1) to the Wharfe Valley Learning Partnership. These to be at nil consideration in line with the Acts and Regulations.

1 Purpose of this report

- 1.1 The purpose of this report is to note the statutory transfer and vesting of the sites identified on the attached schedule to the Wharfe Valley Learning Partnership under the Acts and Regulations.

2 Background information

- 2.1 Provisions contained within the Acts and Regulations have added to the opportunities for diversity in school structures and governance, particularly in relation to the establishment of foundation schools with a charitable foundation, commonly referred to as trust schools. In respect of trust schools there is a statutory transfer and vesting of the land in a trust on the date that the trust is implemented. The Council is responsible for transferring the title of the land after the date of implementation. The extent to be transferred can be agreed between the parties.
- 2.2 The governing bodies of schools can decide to convert to trust status. This results in land and buildings used for school purposes automatically transferring and vesting for nil consideration in a trust once it is established. The three schools identified in the schedule elected to convert to trust status with sponsorship from the Wharfe Valley Learning Partnership, becoming schools within the Wharfe Valley Learning Partnership on 1 January 2014. The Council and the Trust have agreed the extent of the land that should be transferred and are ready to formalise the transfers by completing the transfer documents. City Development, Children's Services and Legal Services have ensured that the land to be transferred is appropriate and does not fall outside the extent of land that is legally permitted to be transferred under the Acts and Regulations.
- 2.3 A trust school remains a local authority maintained school that is funded on the same basis as other local authority maintained schools, and funding will be delegated to the governing body, not the Trust. There will be no additional funding from the local authority for a trust school, and there is no expectation that the Trust will provide the school with additional funding. Trusts are not required or expected to make any financial contribution to the schools they support. They could, however, bring in additional resources in terms of professional expertise, knowledge and vocational opportunities.

- 2.4 Any deficit that occurs is the responsibility of the governing body but, as with any maintained school in deficit, a local authority licenses the deficit and agrees a recovery plan.
- 2.5 The governing bodies will set the schools' own admission arrangements, but will have to act in accordance with the School Admissions Code and will not be allowed to introduce selection by ability. Trust schools are expected to play a full part in taking "hard to place" pupils, have fair admissions policies and work with other schools. School staff of a trust school, including teachers and caretakers, are employed directly by governing bodies.
- 2.6 The governing body of any trust school will manage its own land and buildings. A trust will hold the land and buildings of the school on trust for the duration of that trust. The implications of this are covered in more detail below.
- 2.7 A school is supported by a trust through the appointment of governors to the its governing body. The governing body of a trust school, and not the trust itself, will remain responsible for all aspects of the conduct of the school. The trust and the governing body remain separate entities.
- 2.8 The Acts and Regulations state that where land and buildings entirely within the curtilage of a school site are held for educational purposes all the land and buildings will transfer. This applies notwithstanding that part of a school site is being shared (for example with a nursery or early years provider operated by a commercial provider under a lease). The obligations on the part of the Council as landlord would pass to the school.
- 2.9 A private nursery provider ('Little Learners Nursery') occupies part of the site on a seventy two year lease from 20 September 2013. This interest will transfer to the school.

3 Main issues

- 3.1 The transfers are negotiated between the parties and the main provisions are as follows:
1. Transferee: The party to the transfers will be the Wharfe Valley Learning Partnership.
 2. Freehold transfers: All the land within the areas edged black on the attached plans.
 3. Consideration: The consideration payable for each transfer will be nil.
 4. Use: The Transferee will covenant not to use the Properties otherwise than:
 - (a) for the purposes of the provision of educational services; and
 - (b) for community, fundraising and recreational purposes which are ancillary to the use permitted under Clause (a) above.
 5. Restriction on titles A restriction will be placed on the titles under the provisions of the School Standards and Framework Act 1998 requiring the Transferee to notify the Council of

any proposed disposals. The Council has an opportunity to make comment on the proposed disposals (including requesting a share of any proceeds).

6. Legal Costs: Under the Acts and Regulations each party is responsible for its own legal costs.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Children's Services advises that pupils, their parents/guardians, teachers and staff were all made aware of the schools' proposals to convert to trust status. In addition, public meetings have been held where details of the proposed conversions were made available.
- 4.1.2 All Ward Members have been contacted by City Development by e-mailed letter, see the attached schedule for details.
- 4.1.3 It is understood from Children's Services that the Director of Children's Services and the Executive Member for Children's Services are aware of the proposals.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The proposals have no specific implications for equality, diversity, cohesion and integration.

4.3 Council Policies and City Priorities

- 4.3.1 The proposals outlined in this report will impact on the Leeds City Council aim that Councillors are committed to improving outcomes for children and young people. *The Best Council Plan 2013-17* has, as one of its key objectives, to "build a child friendly city" by improving outcomes for children and families, with a focus on: its "obsessions" of looked after children, NEETs and attendance; raising educational standards and narrowing the gap for vulnerable groups; and ensuring enough school places as the City grows.

4.4 Resources and Value for Money

- 4.4.1 Although the Council has a duty under s.123 of the Local Government Act 1972 (or the Housing Act 1995) to secure the best consideration that it reasonably can from the disposal of its property assets, this obligation is overridden by the requirements of the Acts and Regulations which dictate that the transfer is for nil consideration.
- 4.4.2 The sites are entered in the asset register as shown :
- | | |
|-------------------------------|-------------------------------------|
| Bardsey Primary School | - £4,408,000 (valued in April 2013) |
| Deighton Gates Primary School | - £4,258,000 (valued in April 2012) |
| Primrose Lane Primary School | - £3,388,000 (valued in April 2013) |

The disposal of the land and premises to the Wharfe Valley Learning Partnership would represent value for money for the Council and as such would not have less than best implications, as it is a statutory function of the Council to provide education for children in Leeds.

- 4.4.3 The report referred to at 7.1 below, of the Chief Executive of Education Leeds to the Executive Board, detailed the financial implications for the Council of the proposed school trusts in the process of being created in Leeds.
- 4.4.4 As a result of the transfer the Council will lose an annual rental income from the lease of a nursery school at Deighton Gates Primary School. For the year 2014/15 this equates to £4,500. The annual rents for subsequent years are £6,000 per annum, £7,500 per annum, £9,000 per annum until a review in 2020.
- 4.4.5 In accordance with the Acts and Regulations, any land that is either held for the purposes of a school or used by the school should transfer to an applicant trust. Whilst part of the Deighton Gates Primary School site is in use exclusively by a private nursery on a leasehold basis, this area of land is held within the whole title for the purposes of a school. Therefore it must be included within the freehold transfer of the site. Any transfer has to be subject to existing uses, such as leases, therefore this lease will continue (but the landlord will change).

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Under Part 3 Section 3E Paragraph 2(a) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of Executive Board in relation to the management of land (including disposals of land).
- 4.5.2 The Director of City Development has authority to take the decisions requested in this report under functions 1 and 10 (d) of the Director of City Development's sub delegation scheme.
- 4.5.3 The proposals constitute administrative decisions and are therefore not subject to call in.
- 4.5.4 Under the Acts and Regulations the Council is required to transfer land which is held or used by a local authority for the purposes of a school to the governing body, the foundation body or the trustees of any applicant school which falls within the remit of the legislation. The land is to be transferred for nil consideration, to be held by the transferee for the purposes of a school. In this regard, land includes the building structures attached to it.
- 4.5.5 Under the Education and Inspections Act 2006 the freehold of a school site vests in a trust when that trust is implemented. The presumption is that all land held or used by the local authority for the purposes of that school transfers to the trust for nil consideration.
- 4.5.6 The requirements of the Acts and Regulations override the Council's duty under section 123 of the Local Government Act 1972 to secure best consideration.
- 4.5.7 Transfers at nil consideration under this legislation are not discretionary or a matter for Leeds City Council to approve, but are required by legislation.

4.6 Risk Management

- 4.6.1 The Wharfe Valley Learning Partnership has occupied the sites since conversion in January 2014. There is deemed to be no risk in the transfers of the sites as requested.

5 Conclusions

- 5.1 The proposals should be supported in line with the DfE's making of orders enabling the schools to convert to trust status under the Schools Standards and Framework Act 1998 and the School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007.

6 Recommendations

- 6.1 It is recommended that the Director of City Development notes the proposed statutory transfers and vesting of land and buildings at the sites identified on the attached schedule (Appendix 1) to the Wharfe Valley Learning Partnership. These to be at nil consideration in line with the Acts and Regulations.

7 Background documents¹

- 7.1 Report of the Director of Children's Services to the Executive Board on 5 September 2012.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.