

Agenda Item No:

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Report of : Land and Property Services

Report to : Director of City Development

Date: 6 October 2014

Subject: Harewood C of E Primary School, Harrogate Road, Harewood, LS17 9LH

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Harewood	
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:		
Appendix number:		

Summary of main issues

1. The Diocese of West Yorkshire and the Dales has requested the Council to transfer ownership of the Harewood C of E Primary School to the Diocesan Board of Finance pursuant to the School Standards and Framework Act 1998. The Council is obliged to complete the transfer.
2. The Director of Children's Services has approved that the school be transferred, with final terms being reported to the Director of City Development for approval. The transfer by the Council is not discretionary; the legislation obliges the Council to complete the transfer upon request by the Diocese.

Recommendations

3. It is recommended that the content of this report be noted and approval be given to the land and property at Harewood C of E Primary School being transferred to the Diocesan Board of Finance of the Diocese of West Yorkshire and the Dales under the School Standards & Framework Act 1998.

1 Purpose of this report

- 1.1 The purpose of this report is to recommend the terms upon which the property comprising Harewood C of E Primary School should be transferred to the Diocesan Board of Finance of the Diocese of West Yorkshire and the Dales.

2 Background information

- 2.1 The Diocese of West Yorkshire and the Dales (“The Diocese”) has requested the transfer of the Council’s ownership in Harewood C of E Primary School. This request is made pursuant to the School Standards and Framework Act 1998 (“the Act”). The requirements of the Act override the Council’s duty under s.123 of the Local Government Act 1972 to secure best consideration.
- 2.2 The school comprises two adjoining properties as shown on the attached plan ref 15067. A school has operated for many years from that part of the property shown as “Harewood School Building” and was recently extended into the adjoining former caretaker’s house “34 Harrogate Road.” Additionally, the school playing field immediately to the east is in private ownership and leased for use by the school on a short term arrangement with the landowner.
- 2.3 The school building and the house were acquired by the Council on 21 April 2011 from the Harewood Estate. The Council acquired the freehold interest in 34 Harrogate Road and a 999 year lease in the main school building. The Act obliges the Council to transfer whatever ownership interest it has in the property. The playing field land will not be included in any transfer to the Diocese as the Council does not have sufficient legal interest in this land.

3 Main issues

- 3.1 The Diocese in accordance with the Act has called for Harewood Primary School to be transferred. The Council is required to transfer the land and property at nil consideration.
- 3.2 Executive Board on 20 June 2012 approved a report from the Director of Children’s Services relating to a Diocesan request that the Great Preston C of E Primary School be transferred. Executive Board resolved:
- i) That the transfer of Council owned land at the Great Preston Primary School site be approved, and
 - ii) That the principal of transferring land to the Diocese be approved on the basis set out within the submitted report, in respect of any further schools in the ownership of the Council and which the Diocese call for, and that the final approval of the terms of such disposals be delegated to the Director of City Development.
- 3.3 Following the Council’s acquisition of the properties from the Harewood Estate the school was extended into the former caretaker’s house and the school is now accommodated in a single property. The Council will, however, transfer its freehold ownership of the former caretaker’s house (34 Harrogate Road) and assign its leasehold interest in the original school building. A transfer to the Diocese was anticipated whilst the Council was acquiring the properties from the Harewood Estate and the lease makes provision for assignment to the Diocese.

- 3.4 The transfer is not discretionary or a matter for Leeds City Council to approve, but is required by legislation. The requirements of the Act override the Council's duty under s.123 of the Local Government Act 1972 to secure best consideration.
- 3.5 The legislation allows, and the Council will impose a restrictive covenant that the properties can only be used for educational purposes.
- 3.6 In the future the Diocese cannot dispose of any of the property without the written consent of the Secretary of State under Schedule 22 of the Act. The Secretary of State may do one or more of the following:
- i) Require the property or any part of it to be transferred to such local authority as he may specify subject to the payment by the authority of such sum by way of consideration (if any) as he determines to be appropriate; and
 - ii) Give the Diocese when the property or any part of the property is disposed of:
 - a) a direction to pay, either to him or to such local authority as he may specify, the whole or any part of the proceeds of disposal, and
 - b) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Cllr Blake has been briefed by Children's Services and had no immediate comments but asked that ward members be briefed. Children's Services is in the course of briefing the Ward Members.
- 4.1.2 Land and Property wrote to the Harewood Ward Members on 4 September 2014 advising that the Council had been requested by the Diocese to transfer the property pursuant to legislation. Cllr Ann Castle advised she is disappointed that following all the hard work that went into acquiring the properties from the Harewood Estate it is now necessary for the transfers to take place, but she acknowledged the Council has no option. Cllr Castle further advised she will not be opposing the transfers. No responses were received from other Ward Members. Land and Property contacted them again on 29 September asking again for comments with no responses received.

4.1 Equality and Diversity / Cohesion and Integration

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

4.2 Council Policies and City Priorities

- 4.2.1 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.

- 4.2.2 The use of the land and buildings by the Diocese represents a statutory obligation 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.
- 4.2.3 Transfers at nil consideration under this legislation are not discretionary or a matter for Leeds City Council to approve, but are required by legislation.

4.3 Resources and Value for Money

- 4.3.1 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 requirements of the School Standards and Framework Act 1998.
- 4.3.2 The original school building was last valued by the Council for Asset Register purposes at £1,070,000 on 31 May 2012. The caretaker's house was entered on the Asset Register at £146,000 when it was acquired from the Harewood Estate in 2011.

4.4 Legal Implications, Access to Information and Call In

- 4.4.1 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 valuation, acquisition, appropriation, disposal and any other dealings with land or any interest in land) and Asset Management.
- 4.4.2 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.
- 4.4.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.

4.4.4 Best Consideration Paragraph

- 4.4.5 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 requirements of the Act.

4.5 Risk Management

- 4.5.1 There is a risk that the transfer to the Diocese may not proceed. This is, however, considered unlikely.

5 Conclusions

- 5.1 The proposal set out in this report should be supported to enable the Council to meet its obligation under the School Standards and Framework Act 1998.

6 Recommendations

- 6.1 It is recommended that the content of this report be noted and approval be given to the land and property at Harewood C of E Primary School being transferred to the

Diocesan Board of Finance of the Diocese of West Yorkshire and the Dales under the School Standards & Framework Act 1998.

7 Background documents¹

7.1 There are none.

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.