

Report of : Land and Property Services
Report to : The Director of City Development
Date: November 2018
Subject: Sacred Heart RC Primary School, Eden Way, LEEDS, LS4 2TF

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): KIRKSTALL		
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 purpose of this report is to seek approval to the freehold disposal of part of the site of Sacred Heart RC Primary School to the Diocese of Leeds in pursuance of the Schools Standards and Framework Act 1998 and the Schools Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 and to a leasehold transfer of part of the playing fields under the Academies Act 2010. The latter transfer to include a shared use agreement permitting mutual use of playing field land by both Sacred Heart RC Primary School and the adjacent Beecroft Primary School.
2. Under the School Standards & Framework Act 1998 ("the Act") the Council is required to transfer land (other than playing fields) which is held or used by a local authority for the purposes of the school to the governing body, the foundation body or the trustees of any school that falls within the remit of the Act ("the Holding Body"). The land is to be transferred for nil consideration, to be held by them for the purposes of the school. For the purposes of this report, land includes the building structures attached to it.
3. The Diocese can, in accordance with the Act, call for sites to be transferred to them and the Council is required to transfer this land for nil consideration. Schools which fall within the remit of the Act are usually, but not limited to, the following: foundation schools, voluntary controlled and voluntary aided schools and foundation special schools (Applicant Schools). The requirements of the Act override the Council's duty under section 123 of the Local Government Act 1972 to secure best consideration.

4. In this regard the transfer is not discretionary or a matter for Leeds City Council to approve, but is required by legislation. The transfer of land that is required by the Act only relates to land that is used or held for the purposes of a school and this excludes playing field land. The applicant can, in accordance with the Act, require a local authority to provide land to form part of their school premises and the Council is
5. required to transfer this land for nil consideration.

Additionally this report seeks approval to the leasehold disposal of part of the playing field land to the St. Gregory the Great Multi-Academy Trust in pursuance of the Academies Act 2010.
6. The Department for Education has approved the conversion of this school to academy status. In advance of the conversion the Diocese has requested that the freehold transfers takes place.
7. The site of Sacred Heart RC Primary School is part-owned by Leeds City Council. The Council is obliged to make a freehold transfer of part of the land and has a statutory duty to do so notwithstanding the academy conversion; also there is a statutory duty to transfer by way of a lease the playing field land.
8. Sacred Heart RC Primary School shares the main playing field area with the adjoining Beecroft Primary School (a Council-maintained school). The proposal for granting a 125 years lease involves the leasehold transfer of half of the playing field (as shown on plan 17356S); the Council will retain the other half. The areas shown cross-hatched within the respective playing field allocations will be the subjects of a shared use agreement permitting either school, in accord with the other, to utilise the whole of the playing field area on occasions should the need arise.

Recommendations

8. It is recommended that approval be given to the freehold disposal of parts of the site of Sacred Heart RC Primary School to the Diocese of Leeds at nil consideration in line with the provisions of the Schools Standards and Framework Act 1998 and the Schools Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 on the terms outlined within this report. These are shown coloured blue on plan 17356T.
9. Also that approval is given to the disposal on a 125 years lease playing field land to the St. Gregory the Great Multi-Academy Trust, at nil consideration in line with the provisions of the Academies Act 2010 on the terms outlined within this report. These are coloured blue on plan 17356S.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to the freehold disposal of part of the site of Sacred Heart RC Primary School to the Diocese of Leeds in pursuance of the Schools Standards and Framework Act 1998 and the Schools Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 and to a leasehold transfer of part of the playing fields under the Academies Act 2010. The latter transfer to include a shared use agreement permitting mutual use of playing field land by both Sacred Heart RC Primary School and the adjacent Beecroft Primary School.

2 Background information

- 2.1 Sacred Heart RC Primary School is to become an academy school. To enable the requisite land agreements to be entered into between the academy and the Diocese the Council is required to now complete the statutory transfer of the land to the Diocese. These are shown in blue on plan 17356S; the areas coloured green will be retained by the Council (this includes a footpath from Argie Avenue to the rear of houses on Birfed Crescent).
- 2.2 Parts of the site of this school are already in the ownership of the Diocese of Leeds, parts are vested in the Council. Areas of the latter which are covered by the SSFA must be transferred to the Diocese. Plan 17356T shows the areas in Council ownership which should be transferred – these are the caretaker's house and two small areas which, for unknown historical reasons, remain owned by the Council.

3 Main issues

- 3.1 The DfE requires confirmation that the Council has agreed to transfer relevant parts the site by way of freehold or leasehold. The Terms to be granted are summarised below:

Terms

Freehold transfer:

1. Transfer: The party to the transfer will be the Diocese of Leeds.
2. Demise: All the land within the areas coloured blue on the attached plan 17356T.
3. Legal Costs: The Council to be responsible for the Diocese's reasonable legal costs.

Leasehold transfer:

1. Lease: The party to the lease will be the St .Gregory the Great Multi-Academy Trust which will operate the primary schools noted as academy schools.
2. Demise: All the land within the areas coloured blue on the attached plan 17356S.
3. Term: 125 year lease to commence on a date to be agreed.
4. Consideration: The consideration payable for the grant of the lease will be nil. The annual rental during the duration of the lease will be a peppercorn (if demanded).
5. Use: (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.

6. Termination: The lease will automatically determine on the termination of the funding agreement or in circumstances where there is no other funding agreement in existence.
7. Repair: The lessee will be responsible for the repair and maintenance of the premises under the lease.
8. Alienation: The lessee can assign the tenancies, sub-let or part with possession of the whole or any part of the demises under the leases.
9. Legal Costs: Each party will be responsible for its own legal costs arising from the transaction.
10. Insurance: The tenant will be responsible for insuring the premises.

4 Corporate considerations

4.1 Consultation and Engagement

- 4.1.1 Children's & Families advises that pupils, their parents/guardians, teachers and staff at the school were made aware of the proposal to convert to an academy.
- 4.1.2 Land & Property Section informed Kirkstall Members of the proposed transfers by e-mail, no comments have been received.
- 4.1.3 Children's & Families advises that the Director of Children's & Families and the Executive Member for Children's & Families are aware of the proposal.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The proposal has 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 2018/19-2020/21 has, as key objectives, to "build a child friendly city" by improving outcomes for children and families, with focuses on increasing the number of children and young people participating and engaging in learning, improving achievement and attainment for all; NEETs and attendance; raising educational standards and narrowing the gap for vulnerable groups; and ensuring enough school places as the City grows.

Climate Emergency

- 4.3.2 The proposals simply relate to the transfers of parts of a school site to the Diocese of Leeds and to a multi-academy trust, therefore there are no specific implications for the climate emergency.

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 requirements of

the Schools Standards and Framework Act 1998 and the Schools Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 to make transfers at nil consideration and the requirements of the Academies Act 2010 to enter into lease arrangements at nil consideration.

- 4.4.2 The transfers of the land to the Diocese and the St .Gregory the Great Multi-Academy Trust would not have less than best implications, they form part of a statutory obligation or a transaction to facilitate an academy conversion which, in turn, fulfils part of the 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 Director of Children's & Families to the Executive Board detailed the requirements and implications for the Council of the transfers of school sites in Leeds under the Schools Standards and Framework Act 1998 and the Schools Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007. The report referred to at 7.2 below, of the Chief Executive of Education Leeds to the Executive Board detailed the financial implications for the Council of the proposed academies in the process of being created in Leeds.

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 proposals constitute a significant operational decision and is not subject to call in.

4.6 Risk Management

- 4.6.1 There is a risk that, should the transfers not proceed, the timescale for the academy conversion will not be met.

5 Conclusions

- 5.1 The proposals should be supported to fulfil the Council's obligations under the Schools Standards and Framework Act 1998, the Schools Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 and the Academies Act 2010.

6 Recommendations

- 6.1 It is recommended that approval be given to the freehold disposal of parts of the site of Sacred Heart RC Primary School to the Diocese of Leeds at nil consideration in line with the provisions of the Schools Standards and Framework Act 1998 and the Schools Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 on the terms outlined within this report. These are shown coloured blue on plan 17356T.
- 6.2 Also that approval is given to the disposal on a 125 years lease playing field land to the St. Gregory the Great Multi-Academy Trust, at nil consideration in line with the provisions of the Academies Act 2010 on the terms outlined within this report. These are coloured blue on plan 17356S.

7 Background documents¹

- 7.1 Report of the Director of Children's Services to the Executive Board on 9 May 2013.
- 7.2 Report of the Chief Executive of Education Leeds to the Executive Board on 14 December 2011.

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.