

Agenda Item No:

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Report of : Land & Property

Report to : Chief Officer Asset Management & Regeneration

Date: 7 May 2021

Subject: Clapgate Primary School

Cranmore Drive, Middleton, LEEDS, LS10 4AW

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Middleton Park	
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. Clapgate Primary School (“the School”) was part of the Learning Trust (South Leeds) but the freehold transfer of the School to the Trust was never completed.
2. The School has subsequently followed all due processes to remove the Learning Trust (South Leeds) as the foundation or trust for the School and the implementation date for the removal of the foundation is 1 April 2020.
3. The purpose of this report is to note the statutory vesting of the School in the Governing Body of the School from the Learning Trust (South Leeds) and the freehold transfer of the School to the Governing Body of the School 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”).
4. The subject site is identified in this report and comprises an operational school site.
5. 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).

6. 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 and 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.
7. Under the Acts and Regulations, 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

8. It is recommended that the Director of City Development notes the statutory vesting of the School in the Governing Body of the School from the Learning Trust (South Leeds) and the freehold transfer of the School to the Governing Body of the School
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1 Purpose of this report

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2 Background information

- 2.1 Provisions contained within the Acts and the 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 When a school forms or joins a trust this results in land and buildings used for school purposes automatically transferring and vesting for nil consideration in the trust once it is established. Clapgate Primary School joined the Leeds Learning (South Leeds) trust on 1 July 2015. The transfer of the freehold of the School was never completed. The School subsequently followed all due processes to remove the Learning Trust (South Leeds) as the foundation or trust for the School and the implementation date for the removal of the foundation is 1 April 2020. The Council and the School have agreed the extent of the land that transferred and are ready to formalise the land transfer by completing the Transfer document. City Development, Children’s & Families 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 the Regulations.
- 2.3 A foundation 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, There will be no additional funding from the local

authority for a foundation school, and there is no expectation that the foundation will provide the school with additional funding.

- 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 body will set the school's own admission arrangements, but it will have to act in accordance with the School Admissions Code and will not be allowed to introduce selection by ability. Trust schools will be expected to play a full part in taking "hard to place" pupils, have a fair admissions policy and work with other schools. School staff of a trust school including teachers and caretakers will be employed directly by the governing body.
- 2.6 The governing body of any trust school will manage its own land and buildings. The implications of this are covered in more detail below.

3 Main issues

- 3.1 The Transfer is negotiated between the parties and the main provisions are as follows:
 1. Transferee: The party to the transfer will be The Governing Body of Clapgate Primary School.
 2. Freehold transfer: All the land within the area edged black on the attached plan.
 3. Consideration: The consideration payable for the transfer will be nil.
 4. Use: The Transferee will covenant not to use the Property 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 title A restriction will be placed on the title 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) to disposals.
 6. Legal Costs: Under the Acts and the Regulations each party is responsible for its own legal costs.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Children's & Families advises that pupils, their parents/guardians, teachers and staff were all made aware of the School's proposal to convert to trust status.
- 4.1.2 All Ward Members have been contacted by City Development by e-mailed letter on 26th November 2020. No comments were received.
- 4.1.3 It is understood from Children's & Families 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 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 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.

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 the Regulations which dictate that the transfer is for nil consideration.
- 4.4.2 The disposal of the land and premises to the school's Governing Body 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.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Under Part 3, Section 3E(g) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of the Executive in relation to Asset Management.
- 4.5.2 The Chief Officer Asset Management and Regeneration, Head of Asset Management and Deputy Head of Land and Property have authority to take decisions in relation to Asset Management as delegated in the Director of City Development's sub delegation scheme.
- 4.5.3 The proposal constitutes an administrative decision and is therefore not subject to call in.

4.6 Risk Management

4.6.1 There is deemed to be no risk in the transfer of the site as requested.

5 Conclusions

5.1 The proposal should be supported to regularise the school's status as a trust school under the control of its Governing Body having left the Learning Trust (South Leeds).

6 Recommendations

6.1 It is recommended that the Director of City Development notes the proposed freehold disposal of land and buildings, known as Clapgate Primary School to The Governing Body of Clapgate Primary School. This is to be at nil consideration in line with the statutory obligations placed upon the Council.

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.