

BARWICK IN ELMET CofE PRIMARY SCHOOL, CHAPEL LANE, BARWICK IN ELMET LS15 4HL

Date: January 2024

Report of: Land and Property Services

Report to: Director of City Development

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

- The purpose of this report is to seek approval to the freehold disposal of part of the site (excluding the playing fields) of Barwick in Elmet Church of England 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 (the “Acts and Regulations”),
- The Department for Education has approved the conversion of the school to academy status and the school will be part of the Leeds Diocesan Learning Trust (LDLT) and so this report also seeks approval to the leasehold disposal of the playing fields at the school site to the LDLT to enable it to run the premises as an academy school in pursuance of the Academies Act 2010.
- The site of Barwick in Elmet CofE Primary School is owned by Leeds City Council.
- As the school is to become an academy under the Academies Act 2010 the Council must grant a 125 year lease in respect of the playing fields at the site

Recommendations

- a) It is recommended that approval be given to the freehold disposal of Barwick in Elmet CofE Primary School (excluding the playing fields) to the Diocese of Leeds at nil consideration in line with the Acts and Regulations on the terms outlined in this report.
- b) Also, that approval is given to the leasehold disposal of the playing fields at the school site to the Leeds Diocesan Learning Trust enabling it to run the school as an academy school on a 125 year lease at nil consideration in line with legislation and on the terms outlined within this report.

What is this report about?

- 1 The purpose of this report is to seek approval to the freehold disposal of the site of Barwick in Elmet Church of England Primary School (excluding the playing fields) to the Diocese of Leeds

in pursuance of the Acts and Regulations, and to the leasehold disposal of the playing fields to the LDLT to enable it to run the school as an academy in pursuance of the Academies Act 2010.

- 2 Under the Schools Standards and 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 (excluding the playing field). 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 required to transfer this land for nil consideration.
- 5 Additionally, this report seeks approval to the leasehold disposal of the playing field land to the LDLT in pursuance of the Academies Act 2010.
- 6 The site of Barwick in Elmet CofE Primary School is owned by Leeds City Council. The Council is obliged to make a freehold transfer of the land (excluding the playing fields) 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.
- 7 The DfE requires confirmation that the Council has agreed to transfer the site which is in Council ownership to the LDLT to enable it to run the academy school. The Heads of Terms to be granted to both the Diocese of Leeds and the LDLT are based on the DfE model lease (which all local authorities are required to use) and are summarised below:

Draft Heads of 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 16834/H. Access rights to the site are granted over the area coloured brown. The road hatched black denotes a right of access reserved for Leeds City Council to reach the playing field land which remains in the Council’s ownership. The Council’s retained land is coloured green.

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 Leeds Diocesan Learning Trust which will operate the former Barwick in Elmet Church of England Primary School as an academy school.
2. Demise: All the land within the area coloured blue on the attached plan number 16834/J. Access rights are granted over the land coloured brown, and the Council's retained land is shown in coloured green.
3. Term: A 125 year lease to commence on a date to be agreed.
5. Use:
 - a) For the purposes of the provision of education services by the tenant (as set out in any charitable objects of the academy trust and in accordance with the memorandum and articles of association of the academy trust from time to time); and
 - b) For community, fundraising and recreation purposes which are ancillary to the use permitted under 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 tenancy, sub-let or part with possession of the whole or any part of the demise under the lease.
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.

What impact will this proposal have?

- 8 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.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 9 In accordance with the Schools Admissions Code.

What consultation and engagement has taken place?

Wards affected: Harewood

Have ward members been consulted? Yes No

10 Children's and Families informed Harewood Ward Members of the leasehold transfer by e-mail on 8 September 2023.

What are the resource implications?

11 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.

12 The transfer of the land to the Diocese would not have less than best implications as they form part of a statutory obligation and to facilitate an academy conversion which, in turn, fulfils part of the statutory function of the Council to provide education for children in Leeds.

13 Whilst the playing fields will be leased to the LDLT, freehold ownership will remain with the Council and the premises will be required to operate as part of a school serving the Barwick in Elmet area and beyond. The academy school will be dependent on funding from the DfE. Should funding be withdrawn, the academy school cease to operate, and the DfE do not intend to assign the lease to another academy the land will revert to the Council.

What are the key risks and how are they being managed?

14 There is a risk that the LDLT may not proceed. This is considered unlikely as the proposed academy conversion has been decreed by the DfE.

What are the legal implications?

15 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.

16 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.

17 The proposal constitutes a Significant Operational Decision and is therefore not subject to call in.

Options, timescales and measuring success

What other options were considered?

18 None – the Council is required to complete the transfer under the Acts and Regulations, and the lease under the Academies Act 2010.

How will success be measured?

19 Upon completion of the transfer.

What is the timetable and who will be responsible for implementation?

20 The deadline for completion will be set by the Department for Education in due course.

Appendices

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Background papers

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