

## CABINET

19 July 2016

<b>Title:</b> Education Land Transfers	
<b>Report of the Cabinet Member for Educational Attainment and School Improvement</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> Abbey, Gascoigne and Whalebone	<b>Key Decision:</b> Yes
<b>Report Author</b> Richard Hallgate-Hills, Senior Project Sponsor	<b>Contact Details:</b> T: 020 8227 3555 E: <a href="mailto:richard.hallgate-hills@lbbd.gov.uk">richard.hallgate-hills@lbbd.gov.uk</a>
<b>Accountable Divisional Director:</b> Jane Hargreaves, Commissioning Director for Education	
<b>Accountable Director:</b> Helen Jenner, Corporate Director of Children's Services	
<b>Summary</b>  This report seeks Cabinet approval for the Council to take freehold ownership of and/or dispose of land at three school sites in the Borough.	
<b>Recommendation(s)</b>  The Cabinet is recommended to agree:  (i) The transfer of land shown edged red on the plan at Appendix 1 to the report at St Joseph's RC Primary School, Barking, to the Diocese of Brentwood;  (ii) The transfer of land shown edged red on the plan at Appendix 2 to the report at Gascoigne Shaftesburys Primary School, Barking, to the Council's Children's Services for incorporation into the new school site and specifically designated for educational purposes; and  (iii) The transfer of land shown edged red on the plan at Appendix 3 to the report at Lymington Fields from the Greater London Authority to the Council under a Section 106 Agreement, which shall be incorporated into the proposed all-through School site and specifically designated for educational purposes.	
<b>Reason(s)</b>  The decision will assist the Council in fulfilling its statutory obligations to provide a school place for every child and support the intention of the Council's Vision and Priorities, including encouraging civic pride, enabling social responsibility and growing the Borough, and delivering the ambition for excellence in education set out in our Education Strategy.	

## **1. Introduction and Background**

- 1.1 The Council and the Diocese of Brentwood have been in discussion to resolve an historical property matter, [(i)], at St Joseph's RC Primary, Barking.
- 1.2 In the course of recent expansions, [(ii) and (iii)] of the Borough's schools to meet increasing demand for pupil places it has been necessary to obtain and dispose of land. The ownership of several plots of land currently in use as or associated with school sites has not been formalised and, in accordance with Part 4, Chapter 4 Land Acquisition and Disposal Rules, this report seeks Cabinet approval to do so.

## **2. Proposal and Issues**

### **2.1 Land at St Joseph's RC Primary School, Barking**

In 1967, during a period of regeneration around Barking town centre, the Council agreed to provide land for the Diocese of Brentwood to create a new primary school.

- 2.2 In January 1967 the Secretary of State for Education & Science signed an official order for the transfer of St Joseph's Infant & Junior Schools from their former site in Linton Road, Barking to the designated three acre site at St Paul's Road. The new school, to be known as St Joseph's Primary School, was opened in February 1968 and building works were fully completed by February 1969. At that time the Secretary of State for Education gave a directive to the Council to transfer land to the Diocese of Brentwood.
- 2.3 Despite agreement having been reached for the Council to transfer the land, shown outlined in red on the plan attached as Appendix 1, to the Diocese of Brentwood formal execution of that transfer was never realised. There has recently been discussion with the Diocese who are working to ensure this obstruction is auctioned. It is proposed that freehold ownership of the school site is now transferred to the Diocese of Brentwood, under the condition through a covenant on the transfer deed that it is only to be used for the purposes of education.

### **Land at Gascoigne Shaftesburys Primary School, Barking**

- 2.4 Cabinet approval was given to transfer land in The Shaftesburys, formerly Abbey Depot, from the Housing Revenue Account to Children's Services in order to create a new primary school, (Min. No. 74; 18 December 2013 refers). Construction of the new school is now in progress and the need to appropriate a further portion of land into the site has been identified.
- 2.5 The school site is extremely tight and presents some significant difficulties for access to and future maintenance of the new school. A strip of land, approximately 0.02 hectares, at the western end of the site, has been identified as the potential solution to these restrictions. A plan showing the land outlined in red is attached as Appendix 2. The land belongs to the Council and is currently let under lease to a building supplies merchant; it is proposed that the lease is terminated using a break clause and the land is transferred to Children's Services for educational use to support the recently constructed new Gascoigne School building at the Shaftesburys.

- 2.6 The Council holds property for various statutory purposes in order to provide its various functions. Such land is generally used only for the purpose of the function for which it was originally acquired, until such time as the land is disposed of or "appropriated" for another purpose. Appropriation is the statutory procedure, under Section 122 of the Local Government Act, to change the purpose for which land is held from one statutory purpose to another provided that that land is no longer required for the purpose for which it was held immediately before the appropriation. A subsequent Planning application for change of use will be submitted upon gaining approval for this proposal.
- 2.7 Any costs arising from this transfer are to be funded from the Children's Services capital programme budget.

### **Land at Lymington Fields Through School, Dagenham**

- 2.8 Cabinet were advised of the need to create of a new all-through school to be built on land at Lymington Fields, off Whalebone Lane, (Min. No. 6; 19 April 2016 refers) Part of the land for this school site will be appropriated under a Section 106 Agreement from Lovell, the developer of housing sites at Lymington Fields, who hold the land on behalf of the Greater London Assembly, (Planning applications 07/01289/OUT, 12/00170/FUL and 14/00293/FUL refer).
- 2.9 Approval is sought to accept this land, shown outlined in red on the plan attached as Appendix 3, into Council ownership and to designate it for educational use.

### **3. Options Appraisal**

- 3.1 There are no other apparent options to the land transfers described above other than to do nothing which would in all cases present ongoing difficulties to the Council in the operation of schools at these sites.
- 3.2 St. Joseph's Barking – if the Council decline to transfer the land then the Secretary of State would be in a position to issue a directive to the Council. Also the relationship with the Diocese of Brentwood would be impaired.
- 3.3 Land at Gascoigne, The Shaftesburys – without the extra land the site is reduced and the School do not have sufficient playspace.
- 3.4 Lymington Field Site – the demand in the locality for school places continues to rise, without this land the Council is not able to meet the increase in school places for the new community being established. Neither will it be possible to provide additional secondary school places to repond to the growth of primary pupils in the locality.

### **4. Consultation**

- 4.1 This report has been circulated to the Cabinet Member for Education Attainment and School Improvement, and 6 ward councillors in which the land is located. Comments have been included in the report from Finance and Legal and where there have been other comments these have been included to or responded to in the report.

## **5. Financial Implications**

Implications completed by: Daksha Chauhan, Group Accountant Childrens Services Finance

- 5.1 This report seeks Cabinet approval for the Council to undertake various transfers of land as detailed in Section 2. There are currently no direct financial implications arising from these transfers.
- 5.2 The programme of works which are scheduled for these educational purposes will need to be assessed for any major risks and financial impacts through the appraisal process. This will be notified to Members through subsequent Cabinet reports.

## **6. Legal Implications**

Implications completed by: Evonne Obasuyi, Senior Lawyer

- 6.1 The report seeks approval for a) the land at St Joseph's Primary to be transferred to the Diocese of Brentwood, b) the land at Gascoigne Sharftesbury Primary School Barking, to be transferred to Children's Services and c) the land at Lymington Fields to be accepted from the Greater London Authority under a Section 106 Agreement and be specifically designated for educational purposes, thus meeting the demand for school places for every child and fulfilling the Council's statutory obligation.
- 6.2 In a transaction of any disposal of land the Council has powers to effect disposal pursuant to section 123 under the Local Government Act 1972 which enables local authorities to dispose of land held by it in any manner it wishes, providing it is not for a consideration less than the best that can reasonably be obtained, unless the Secretary of State consents to the disposal or the transaction and it helps to secure the promotion of improvement of the local social and economic well-being of its area and provided the undervalue does not exceed £2m
- 6.3 The disposal of land in this report is for education. Previously local authorities wanting to dispose of school land needed consent under Schedule 35A to the Education Act 1996. In February 2012, Schedule 35A was repealed by Schedule 14 to the Education Act 2011, allowing local authorities to dispose of community school land which has been used for any school (including any academy) in the last 8 years.
- 6.4 The report indicates that in January 1967 the Council agreed to provide land for the Diocese of Brentwood to create a new primary school and in January 1967 the Secretary of State for Education & Sciences (SoS) signed an official order for the transfer of St Joseph's Infant and Junior Schools from their former site to the designated site. The building of St Joseph's Primary School completed by February 1969.
- 6.5 The area of the land shown in the plan attached to the order covers a smaller area of land in comparison to the area of land shown in the plan annexed to the report at appendix 1. However there is subsequent correspondence with a revised plan from the SoS in 1964, showing an extended area of land, similar to the area of land shown in the plan at appendix 1 in the report. The SoS in his letter indicates that

this area of land shown in the revised plan would seem to provide a satisfactory site for the school.

- 6.6 Given the above, there is an order from the SoS, Schedule 14 to the Education Act 2011 allows local authorities without the requirement for consent from the SoS to dispose of community school land which has been used for any school (including any academy) in the last 8 years. The transfer document (TP1 or TR1) should indicate a restriction that the land can only be used for education purposes, as required by the report.
- 6.7 The land transactions relating to the land at Gascoigne Shaftesbury Primary School, Barking and the land at Lymington Fields Through School, Dagenham is dealt with pursuant to statute and appropriated under section 106 agreement. Transfer of the land from Lovell to the Council will also be dealt with by a TP1 or TR1.
- 6.8 The conveyancing work will be undertaken internally through LBBD legal team. A recharge should be made for this service.

## 7. Other Implications

- 7.1 **Risk Management** – No significant risks are associated with the transfers of land proposed; advice and guidance of the legal implications is being sought from the Council's Legal Team.
- 7.2 **Contractual Issues** – The transfer of land does not involve entering into contracts.
- 7.3 **Staffing Issues** - There are no specific staffing issues although the growing demand for school places will create additional opportunities in schools for both teaching and non-teaching staff.
- 7.4 **Corporate Policy and Customer Impact** - The decision will assist the Council in fulfilling its statutory obligations to provide a school place for every child and support the intention of the Council's Vision and Priorities, including encouraging civic pride, enabling social responsibility and growing the Borough. It is part of the mitigation of Corporate Risk 31 – Inability to Provide School Places.

The impact of the recommendations would be positive for customers on all counts of: race, equality, gender, disability, sexuality, faith, age and community cohesion.

- 7.5 **Safeguarding Children** - Adoption of the recommendations will contribute to the Council's objectives to improve the wellbeing of children in the Borough, reduce inequalities and ensure children's facilities are provided in an integrated manner, having regard to guidance issued under the Children Act 2006 in relation to the provision of services to children, parents, prospective parents and young people.
- 7.6 **Health Issues** - The health and well being board and JSNA highlight the importance of investing in early intervention and education to support children's and young people's long term well being. The evidence and analysis set out in Fair Society, Healthy Lives (Marmot Review) has been developed and strengthened by the report of the Independent Review on Poverty and Life Chances. The reports draw attention to the impact of family background, parental education, good

parenting and school based education, as what matters most in preventing poor children becoming poor adults. The relationship between health and educational attainment is an integral part of our Health and Wellbeing Strategy. At this point there is no need to change the focus of the Health and Wellbeing Strategy as a result of this report.

**7.7 Crime and Disorder Issues – Not applicable**

**7.8 Property / Asset Issues** - This proposed decision would facilitate the improvement and renewal of Council assets by acquiring adequate and suitable land for the development of school facilities to meet future needs and transferring land to other authorities where appropriate to meet operational needs of individual schools.

**Public Background Papers Used in the Preparation of the Report:** None

**List of appendices:**

**Appendix 1:** Plan showing land at St Joseph's Catholic Primary School, Barking

**Appendix 2:** Plan showing land at The Shaftesburys, Barking

**Appendix 3:** Plan showing land at Lymington Fields, Dagenham