

CABINET

16 April 2013

Title: Proposed Transfer of Land at Robert Clack School (Gosfield Road site) to All Saints School and Technology College	
Report of the Cabinet Member for Children's Services	
Open Report	For Decision
Wards Affected: Heath	Key Decision: Yes
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Accountable Divisional Director: Jane Hargreaves, Divisional Director of Education	
Accountable Director: Helen Jenner, Corporate Director of Children's Services	
Summary: This report is being presented to Cabinet for a decision about a small area of land measuring 1714 m ² which currently forms part of the Robert Clack School site in Gosfield Road and would need to be disposed of to the Diocese of Brentwood for use by All Saints School and Technology College. This proposal is part of the strategy to expand All Saints School and Technology College from its current 180 pupils per year group to 240 pupils which is being supported by the Council through its funds provided by the Government grant for Capital Basic Need.	
Recommendation(s) The Cabinet is recommended to: (i) Approve the disposal of the freehold interest in the land referred to and shown hatched on plan 916 SK14 attached as Appendix 1 to the report in favour of the Diocese of Brentwood for the sum of £20.00 only, subject to the approval of the Secretary of State for Education; and (ii) Authorise the Head of Legal and Democratic Services to enter into all necessary legal documents on behalf of the Council to secure this disposal.	
Reason(s) This decision will assist the Council in fulfilling its statutory obligations to provide a school place for every child and achieving its core values of: 'Achieving Excellence' and 'Treating each other fairly and respectfully' through making school places available in appropriate settings.	

1. Background

- 1.1 At the meeting of Cabinet on 13 November 2012 (Minute 51) a range of projects were approved for the provision of additional school places and the consequential use of grant from the Government to the Council to support the provision of Basic Need places.
- 1.2 Included in those proposals was a sum of £6.1m to support the development of additional pupil places at All Saints School and Technology College to increase the school by 2 forms of entry making it a school which will admit up to 8 forms of entry (240 pupils per year).

2. Proposal

- 2.1 The School in consultation with the Diocese of Brentwood have employed the Diocese architect, Living Architects, to develop a scheme which will allow the school to expand appropriately. However, there are issues about the restricted nature of the site as it is currently configured and an approach has been made by the Diocese to see if it would be possible to slightly expand the site in order to allow for the All Saints School and Technology College expansion.
- 2.2 The architect has worked extremely hard to develop a proposal on the site but a small area to the rear of the school to increase the building and provide additional science teaching areas, changing facilities attached to the existing PE facility and a small outside area to increase external spaces is required. A plan showing the area is attached to this report at Appendix 1.
- 2.3 This area currently forms part of the Robert Clack School Gosfield Road site but was not thought to be used extensively as the school have other and better areas. In order to progress matters discussions took place with the Headteacher of Robert Clack School and the Governing Body were asked to consider the implications of the loss of this land if it were disposed of to All Saints School and Technology College.
- 2.4 The Governing Body's Finance Committee considered the land issue at its meeting on the 14 December and subsequently the Chair of Governors wrote to Children's Services as follows:

"As the land is of no strategic use to the school the governors felt no need to raise any objections to this proposal. The full governing body will be advised at its meeting in March 2013"
- 2.5 The Governing Body met on 4 March 2013 and there was no disagreement to this recommendation. The Governors wanted to ensure that the area between the two school buildings as indicated on the Plan 916 SK14 was protected and this is confirmed by the plan.

3. Options Appraisal

- 3.1 The design context of the proposed development of the school did consider other options including increasing the height of buildings however this was not favoured

as there are neighbours in Temple Avenue who would be overlooked and to the north of the site the school building abuts open land.

- 3.2 In view of these other options the solution to develop low level on the expanded site is felt to be the best solution.

4. Consultation

- 4.1 The proposals have been discussed in detail with representatives of both Robert Clack and All Saints Schools.

5. Financial Implications

Implications verified by: Dawn Calvert, Finance Group Manager

- 5.1 The proposed expansion of All Saints Schools and Technology College is allocated a capital budget of £6.1m which was approved by Cabinet on 13 November 2012.
- 5.2 The legal and democratic costs associated with the disposal will be met within current resources.

6. Legal Issues

Implications verified by: Jason Oforu, Property Lawyer

- 6.1 Under Section 123 of the Local Government Act 1972 ("LGA" 1972), the Council has powers to dispose of land in any manner that they wish which includes the sale of a freehold interest. One constraint under the LGA 1972 is that a disposal must be for the best consideration reasonably obtainable. The "best consideration obtainable" is the market value of the property plus "special value". The issue here is that the Council intends to dispose of land for £20.00 which may not be the market value of the property. Secretary of State's consent is needed for a disposal which is not best consideration unless the transfer is to further local well-being and the value of the land is under £2 million. Subject to a valuation being carried out on the land, it is unlikely that the land is over this threshold and the Council and the transfer is for the benefit of the community. Therefore, the Council will not need the specific consent of the Secretary of State for selling the land for less than market value.
- 6.2 Schedule 14 of the Education Act 2011 repealed Schedule 35A to the Education Act 1996. The Act extends the requirement to obtain consent of the Secretary of State. A local authority can not dispose of land at a community school or land which has been used as community school land (including any academy) in the last 8 years without first obtaining the consent of the Secretary of State. This includes freehold and leasehold land. It also removes the disapplication of the requirement for Secretary of State consent in the case of a transfer to an academy for nil consideration. Therefore, the Council would need to apply for Secretary of State consent before it can dispose of the land. The Council should not commence any works on site or anticipate any future proceeds of sale in anticipation of Secretary of State consent.

7. Other Implications

- 7.1 **Risk Management** - The provision of school places is a matter which is directly identified in the Corporate Risk Register and listed at Corporate Risks 31– Provision of School Places.
- 7.2 **Contractual Issues** - Legal and other professional advice will be sought regarding the correct form and wording for the document and process for disposal of the freehold of the land.
- 7.3 **Staffing Issues** - There are no impacts for current staff, but as the school expands there will be new opportunities for employment as staff are recruited for both teaching and non-teaching staff.
- 7.4 **Customer Impact** - There will be a greater availability of school places thus responding to increased demand as the impact of the growing primary places reaches the secondary school sector.

The short term impact of the recommendations for the coming year 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 in the short term would 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** - In the short term there are no specific implications, but in the longer term the outlook is unlikely to be positive on the proposed funding levels.
- 7.7 **Crime and Disorder Issues** - In the short term there are no specific implications, but in the longer term the outlook is unlikely to be positive on the proposed funding levels.

Appropriate consideration of the development of individual projects will take into account the need to design out potential crime problems and to protect users of the building facilities.

- 7.8 **Property / Asset Issues** - The release of this land by the Council for a nominal sum of £20.00 does reduce the Council's assets but the Council are sponsoring this project as a direct intention to support the provision of additional school places for pupils.

Background Papers Used in the Preparation of the Report: None.

List of appendices:

Appendix 1 – Plan 916 SK14.