

CHESHIRE EAST COUNCIL

REPORT TO PORTFOLIO HOLDER – FINANCE

Report of: Property Services Manager

Subject/Title: Transfer of the Community Centre located at St Johns Wood Community School, Knutsford to the Adelaide Academy Trust

Date of Meeting: 16th March 2015

Portfolio Holder: Councillor Peter Raynes

1.0 Report Summary

The purpose of this report is to seek approval to transfer the Community Centre, shown edged red on the attached plan, as part of the Academy lease of the school site to the Adelaide Academy Trust, who will be the proprietor of the new academy to be created when the St Johns Wood Community School converts to academy status.

2.0 Decision Requested

2.1 It is recommended:

2.2 THAT the St John's Wood Millennium Community Centre, shown edged red on the attached plan, is disposed of on a 125 year lease to the Adelaide Academy Trust for a consideration of £1 which is less than best consideration. This lease will be aligned to the statutory 125 year lease of St John's Wood Special School to the Adelaide Academy Trust.

3.0 Reasons for Recommendations

3.1 St Johns Wood Community School is to be transferred to the Adelaide Academy Trust in accordance with the provisions of the Schools Standards and Frameworks Act 1998, the Education and Inspection Act 2006 & The Academies Act 2010

3.2 Where an Academy Order is issued by the Secretary of State under the provisions of the 2010 Academy Act, the Council has a statutory duty to grant a 125 year lease of the school premises to the Academy Trust. Alternatively, the Secretary of State may enter into an agreement with the Academy Trust and its sponsors under the provisions of s482(1) of the Education Act 1996, in which case the same statutory duty on the part of the Council will apply in relation to the grant of a 125 year lease.

3.3 The proposal will generate significant savings in the cost of securing additional Special Educational Needs places and will facilitate the local provision of those additional places. The proposal will also relieve the Council of the ongoing maintenance and management liability of the Community Centre Premises which have hitherto been under used by Community Users. If so transferred it has been agreed in principle that the Sports Barn facilities

at the school site will be made available by the academy proprietor out of school hours for community use.

4.0 Wards Affected

4.1 Knutsford Ward

5.0 Local Ward Members

5.1 Councillor Stewart Gardiner
Councillor Olivia Hunter
Councillor Peter Raynes

Ward Members have been consulted.

6.0 Policy Implications including - Carbon reduction - Health

6.1 None

7.0 Financial Implications

7.1 The inclusion of the community centre building within the long academy lease at a peppercorn rental represents an undervalue of £30,000 which is the recommended market value (based on community use) of the site in a report completed by Paul Carter dated 23/02/2015

7.2 The Council proposes to forego the capital receipt in this instance to support the promotion of well being as outlined herein and to create savings.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Local authorities are able to dispose of land and buildings at less than the best consideration reasonably obtainable under the General Disposal Consent (England) 2003, where the 'undervalue' is less than £2million. A lease for a term of more than 7 years is a disposal. The Consent requires the local authority to be of the view that the disposal is likely to help to secure the promotion or improvement of the economic, social or environmental well-being of its area or residents resident in its area.

8.2 There is no requirement that local authorities undertake a tendering process within the General Disposal Consent. However, there is the general requirement for authorities to follow "normal and prudent commercial practices". Where a local authority has undertaken a valuation of the asset to understand the level of the 'undervalue' and has established a robust

business case for transfer, there would be no further requirement to 'market test' a transfer proposal to meet the General Consent criteria

- 8.3 In transferring assets the Council must behave prudently to fulfil its fiduciary duty.
- 8.4 If the Council is minded to transfer the asset to the academy proprietor it needs to have rationalised why the disposal brings benefits that outweigh undertaking a market process.
- 8.5 State Aid
There is also a requirement for a local authority to satisfy itself that it will not give unlawful State Aid as by accepting an 'undervalue' the Local Authority is providing a subsidy.
- 8.6 Liabilities under Lottery Grant Funding Agreement(s)
Please refer to 9.2 below

9.0 Risk Management

- 9.1 The site has not been offered for sale or transfer on the open market and, thus, the Council cannot evidence whether there is demand from other parties whether those parties be charitable, community organisations, social enterprises or private individuals. In consequence, the Council may be at risk of legal challenge from aggrieved parties in the event of it seeking to progress an off market transaction with the academy as opposed to marketing the opportunity to the wider community. Knutsford Town Council were consulted and offered the site but declined the offer.
- 9.2 The former Macclesfield Borough Council obtained lottery grant funding in or around 2000 for the purposes of construction of the community centre building. Community Centre use gradually diminished and has now ceased. As part of the lottery grant requirements, the former Cheshire County Council entered into a deed of dedication with the Millennium Commission on 14th April 2000. No copy of the completed deed can presently be located. An uncompleted draft of the deed of dedication contained on an archived Cheshire County Council file contains a provision whereby the County Council may, after 99 years, dispose of the community centre free of the terms of that deed upon provision of new community centre upon land owned by it. The lottery commission have agreed to formally release the Local Authority from the potential burden of any obligations that remain outstanding and enforceable in relation to the grant.

10.0 Background

- 10.1 Blanket approval was granted on 1st August 2011 by the then Cabinet Member for Prosperity, Jamie Macrae, to transfer School Sites to the relevant Academy Trusts once an Academy Order had been issued by the Secretary of State however the St Johns Wood Millennium Community Centre located

on the school site falls outside this blanket approval as the community centre has not previously been held by the Council for use by the school.

- 10.2 The building (which adjoins the school) has now ceased to be used as a Community Centre and is therefore proposed to be leased to the Adelaide Academy Trust as part of the academy lease.
- 10.3 A scheme of works, funded by the Council (Children's & Families) is to be completed within the former community centre. This will facilitate the provision of additional Special Educational Needs places at the school. The Local Authority is currently obliged to fund the provision of a certain number of Special Educational Needs places and these are presently provided out of the Borough. Such provision is desirable in terms of locality and is also cost effective. Further works are to also be undertaken within the Sports Barn facility at the School Site to enable the Sports Barn be made available for out of school hours community use after completion of the academy lease.
- 10.4 Therefore, in making this asset transfer decision, local authorities should:
 - 10.4.1 Have regard to their community strategy.
 - 10.4.2 Assess the likely amount of the undervalue
 - 10.4.3 Understand what community benefits will be realised by transfer and how the interests of local people will be better served.
 - 10.4.4 Have regard to business plan and financial viability of the community based organisation's plans.
 - 10.4.5 Understand the State Aid implications.
 - 10.4.6 Assess market interest.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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St Johns Community Centre



January 21, 2015



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