

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: The Leader of the Council Jointly with the Corporate Director of Finance and Governance and Corporate Director, Economy

Report of: Acting Corporate Director, Children & Young People

Date of Decision: 4th September 2018

SUBJECT: APPROPRIATION AND DISPOSAL OF LAND IN OLTON BOULEVARD WEST, ACOCKS GREEN TO SUPPORT DELIVERY OF THE OLIVE FREE SCHOOL

Key Decision: No Relevant Forward Plan Ref: N / A

If not in the Forward Plan: Chief Executive approved ☐
(please "X" box) O&S Chair approved ☐

Relevant Cabinet Member(s) or Relevant Executive Member: Councillor Ian Ward - Leader of the Council

Relevant O&S Chair: Councillor Sir Albert Bore - Resources
Councillor Tahir Ali - Economy & Skills

Wards affected: Hall Green North

1. Purpose of report:

- 1.1 To seek approval for the appropriation of land in Olton Boulevard West, Acocks Green as identified in **Appendix A** (Economy Directorate) and **Appendix B** (Place Directorate) to Children & Young People Directorate and the subsequent granting of a long leasehold interest in the combined site (**Appendix C**) to the Education and Skills Funding Agency (ESFA) to support the development of the Olive Free School, part of Star Academies Trust (previously known as Tauheedul Education Trust).
- 1.2 In line with the Schools Capital Programme, approved by Cabinet on 18th April 2017, the transaction is required to enable sufficient primary provision within the City as outlined in Birmingham Mainstream Primary & Secondary Education Sufficiency Requirements 2016. The proposed free school will be a 3 Form Entry (FE) primary school built and funded by the Education and Skills Funding Agency.

2. Decision(s) recommended:

That the Leader of the Council jointly with the Corporate Director of Finance and Governance and the Corporate Director, Economy:

- 2.1 Approve the appropriation of 900 sq m of General Fund land held for the transportation function under the Highways Act 1980 as shown in the site plan in **Appendix A** from the Economy Directorate to the Children & Young People Directorate for the educational function under the Education Act 1996, the Council being satisfied that the land is no longer required for its current transportation function.

- 2.2 Approve the appropriation of 474 sq m of Housing Revenue Account (HRA) land held for housing purposes under the Housing Act 1985 as shown in the site plan in **Appendix B** from the Place Directorate to the Children & Young People Directorate, for the educational function under the Education Act 1996 the Council being satisfied that the land is no longer required for its current housing function.
- 2.3 Note that both appropriations are at nil value.
- 2.4 Approve the granting of a 125 year lease at a peppercorn rent to the Education and Skills Funding Agency for the land identified in **Appendix C**.
- 2.5 Authorise the City Solicitor to negotiate, execute and complete all necessary documentation to give effect to the above recommendations.

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3. Consultation:

3.1 Internal

The Leader, Cabinet Members for Education, Skills & Culture, Homes & Neighbourhoods and Transport & Environment, the Corporate Directors of Place and Children & Young People are aware of the proposals and are supportive of the recommendations in the report being presented for executive decision. The Ward Members for Hall Green North have also been consulted in relation to the proposals and no adverse comments have been received. Officers from City Finance, Legal & Governance and Birmingham Property Services have been involved in the preparation of this report.

3.2 External

The proposed appropriation and disposal of the land does not require external consultation. However, as part of the Planning Application to build 204 dwellings and a 3 FE primary school, nearby properties, local residents groups, Councillors and MPs were consulted with site and press notices.

4. Compliance Issues:

4. Are the recommended decisions consistent with the Council's policies, plans and strategies?

- 4.1.1 The appropriation and disposal of the site is required to enable the Local Authority to meet its statutory duty to not only provide pupil places but also to promote diversity and increase parental choice in planning and securing the provision of school places (Section 14 Education Act 1996 and Education & Inspections Act 2006). The spending priorities proposed are in accordance with the Schools Capital Programme 2017-18 and the Birmingham City Council Plan: 2018 – 2022 particularly 'We want to respond to our unique profile as one of the youngest cities in Europe to give all children from every

background and community the best start in life with a clear pathway to achieve success and realise their full potential.

4.2 Financial Implications

- 4.2.1 The site of 900 sq m transferring from the Economy Directorate (Transportation) has been valued £77,854. This is below the de minimis level for General Fund land for internal appropriation purposes and will therefore be treated as a nil value. The site of 474 sq m transferring from the Place Directorate (Housing Revenue Account) has been valued by the Council's internal professionally qualified valuer at nil consideration given its small size and awkward configuration.
- 4.2.2 Consequential revenue costs arising, including on-going day to day repair and maintenance of the land, will be the responsibility of The Olive Free School, resulting in a small revenue saving to the City Council.
- 4.2.3 The granting of the 125 year leasehold interest to the ESFA will be at a peppercorn rent in accordance with the required DfE template documentation.

4.3 Legal Implications

- 4.3.1 This report facilitates the discharge of the Authority's duty contained within Section 14 of the Education Act 1996, by which the Authority has a responsibility to secure that sufficient schools are available.

The Council also has a duty to efficiently manage its assets and the City has power under Sections 120 – 123 of the Local Government Act 1972 to hold and dispose of land. Paragraph 20 of Schedule 1 to the Academies Act 2010 disappplies the requirement in Section 123(2) of the Local Government Act 1972 not to dispose of land for less than the best consideration that can reasonably be obtained. The leasehold interest will therefore be granted at a peppercorn rent.

4.4 Public Sector Equality Duty

- 4.4.1 A Full Equality Analysis (EA0001202) was carried out in May 2016 for Education Infrastructure's Education Development Plan and Schools Capital Programme 2016–2017, in which provision for additional places to meet our statutory duty formed a key part. The outcomes from consultation demonstrate that proposed capital developments support positive outcomes for children, young people, their families and carers. No negative impact on people with Protected Characteristics was identified. It was concluded that sufficiency of educational places and opportunities for all children and young people contributes to providing positive life chances, and supports a positive approach to Safeguarding in Birmingham: actively reducing the number of children and young people out of school helps to mitigate risk to their safety and wellbeing. The report recommendations do not raise any further equality issues covered by the May 2016 full Equality Analysis so that a further Equality Impact Analysis is not required for this report.

5. **Relevant background / chronology of key events:**

- 5.1 The Local Authority has a statutory duty to not only provide pupil places but also to promote diversity and increase parental choice in planning and securing the provision of school places (Section 14, Education Act 1996 and Education & Inspections Act 2006).
- 5.2 Birmingham has seen a 21% increase in birth rates since 2001. The number of children and young people in the City has increased over that time as a result of birth rates and pupils moving in, out and around the city. This increased demand is particularly

prominent in some areas of the city and has an impact on the availability of school places. Olive Free School will meet our requirements in the Hall Green and the Yardley constituencies in particular the wards of Hall Green and Acocks Green as outlined in the Birmingham Mainstream Primary & Secondary Education Sufficiency Requirements 2016. Detailed reports on the impact of birth rate and net-migration, including cohort growth, are regularly provided to the Overview and Scrutiny Committee for Schools, Children and Families.

- 5.3 The Schools' Capital Programme 2017 - 2018, approved by Cabinet on 18th April 2017 identified funding that would increase the capacity of Birmingham schools to help address the current shortfall of pupil places. This appropriation of land will help fulfil the Council's statutory obligation to provide sufficient primary school places, promote diversity and increase parental choice as well as maximising the impact on pupils' learning outcomes and addressing barriers to learning.
- 5.4 Land at the junction of Reddings Lane and Olton Boulevard West, Tyseley, has been purchased by Persimmon Homes for the purpose of creating 204 new homes and a 3 FE primary school which will be built and funded by the Education and Skills Funding Agency (ESFA) and administered by Star Academies Trust (formerly the Tauheedul Education Trust).
- 5.5 A Planning Application was submitted in February 2016 and approved, subject to conditions, in October 2016. Conditions include the inclusion of additional land from the Local Authority for the purpose of creating an additional access route to and from the school. The proposed additional land is shown on the attached site plan in **Appendix C**.
- 5.6 Once the land is under Education control, a long lease will be granted to the Education and Skills Funding Agency to facilitate the construction of the free school.

6. Evaluation of alternative option(s):

- 6.1 The option of doing nothing would mean the City Council would fail to meet its statutory obligation in providing sufficient primary school places. The local schools have already been expanded so a new school is the only option. The criteria for expanding schools include assessing the impact on other schools and in this case there is sufficient demand for an additional school in the locality.

7. Reasons for Decision(s):

- 7.1 To ensure that the City Council meets its statutory duty to provide sufficient primary school places.

Signatures

Clive Heaphy
Corporate Director of Finance and Governance

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Date:

Waheed Nazir
Corporate Director, Economy

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Date:

Cllr Ian Ward
The Leader of the Council

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Date:

List of Background Documents used to compile this Report:

1. Education & Vulnerable Children Overview and Scrutiny Report on Sufficiency – September 2017
2. Schools Capital Programme 2017-18 - Cabinet 18th April 2017
3. Birmingham Mainstream Primary & Secondary Education Sufficiency Requirements 2016.

List of Appendices accompanying this Report (if any):

Appendix A: Site plan of proposed land transfer from Economy Directorate
Appendix B: Site plan of proposed land transfer from Place Directorate
Appendix C: Site plan of proposed Olive Free School showing BCC land to be disposed

Report Version 14

Dated 03.09.18