

Title of Report	St Mary's School, Transfer of three titles to The London Diocesan Board for Schools (LDBS)
Key Decision No	FCR S261
For Consideration By	Cabinet
Meeting Date	25 September 2023
Cabinet Member	Cllr Chapman, Cabinet Member responsible for Property
Classification	Open
Ward(s) Affected	All wards
Key Decision & Reason	Yes It affects more than one ward
Implementation Date if Not Called In	4 October 2023
Group Director	Jackie Moylan, Interim Group Director, Finance

1. Cabinet Member's introduction

- 1.1 This report seeks approval to a transfer of the freehold interest in three land titles forming part of St Mary's Primary School, 139-141 Stoke Newington Church Street, N16 0UH ("School") to LDBS at nil or nominal value.
- 1.2 The rest of the school property has been transferred to The London Diocesan Board for Schools previously and they have a statutory right to require the Council to transfer the title numbers LN169992, LN173983, LN173984, as shown in Appendix 1, to LDBS.

2. Interim Group Director's introduction

- 2.1 The Council is required to transfer the title of land it holds for the purpose of a school which falls within the remit of the School Standards & Framework Act 1998 ("Act").
- 2.2 The land is to be transferred for nil or nominal consideration and to be held by LDBS for the purposes of the school.

2.3 The London Borough of Hackney in accordance with the Act will be responsible for the legal costs of The London Diocesan Board for Schools in respect of the transfer as stated in Schedule 3, paragraph 4(5).

3. Recommendations

3.1 To authorise the transfer of freehold titles LN169992, LN173983, LN173984 at the School as set out in paragraph 4 below.

3.2 To authorise the Group Director of Finance and the Director of Strategic Property Services to determine the most cost effective options in terms of transferring the land in ways that represent best value on the part of the Council.

3.3 To authorise the Director of Legal Services to negotiate, sign, settle and complete the contracts envisaged to complete the transactions set out in this report, and all other relevant and ancillary legal documents arising thereto on behalf of the Council.

4. Reason(s) for decision

4.1 Under the Act the Council is required to transfer land (other than playing fields) which is held or used by the Local Authority for the purposes of the school to LDBS . The land is to be transferred for nil or nominal consideration and to be held by the LDBS for the purposes of the school.

4.2 The Council in accordance with the Act will be responsible for the for the legal costs of The London Diocesan Board for Schools in respect of each transfer

5. Details of alternative options considered and rejected

5.1 LDBS are entitled under the Act to the transfer to them of land forming part of a school site and the Diocesan Board has requested the Council to carry out these transfers.

6. Background

Policy Context

6.1 Schedule 3, Part II, paragraph 4(3) of the Act states that, where land is provided by a Local Authority for a school, the Local Authority shall transfer their interest in the land and any buildings to the foundation body to be held for the purposes of the school.

Equality Impact Assessment

6.2 No direct impacts on equalities have been identified.

Sustainability and climate change

6.3 This proposal has no sustainability or climate change implications.

Consultations

6.4 As there is a statutory right to transfer the property no consultations were required.

Risk assessment

6.5 Failure to transfer the land voluntarily may result in the DfE stepping in and using other powers to transfer the land compulsorily, which will likely cause a breach with the school and reputational damage generally but specifically with the Department

7. Comments of the Group Director of Finance and Corporate Resources.

7.1 This report seeks to authorise the freehold transfer of three land titles to the London Diocesan Board for Schools at nil or nominal value. Whilst the Council currently owns the freehold on the land to be transferred, the school does already occupy the land.

7.2 The Council is transferring its freehold interest for nil or nominal consideration to fulfil its obligations under the Act. The Director is satisfied that the Council's obligation under section 123 of the Local Government Act 1972 has been discharged.

8. VAT implications on land and property transactions

8.1 As the transfer is for nil or nominal consideration there will be no VAT implications.

9. Comments of the Acting Director of Legal, Democratic and Electoral Services

9.1 The Council has a duty under section 123(2) of the Local Government Act 1972 to secure the best consideration that it reasonably can on a disposal of land, that obligation is overridden by the requirements of the Act, see Schedule 3, Part 3, Paragraph 12.

9.2 Local authorities require the consent of the Secretary of State to dispose, Involving the Secretary of State in land transactions, Non-statutory guidance on how and when to involve the Secretary of State in transactions involving land held for the purposes of a school (September 2021). However this transaction is outside of scope, see page 70.

9.3 Schedule 22 of the Act outlines legislation to be followed on the disposals of land in case of certain schools and disposals on discontinuance. The legislation covers Maintained; Foundation; Voluntary and Foundation Special

Schools and requires consent, along with the ability of the Secretary of State to make directions.

10. Comments of the Director of Strategic Property Services

10.1 The Council is transferring its freehold interest for nil or nominal consideration to fulfil its obligations under the Act, which requires the Council to transfer land and buildings under these terms, consequently the Director is satisfied that the Council's obligation under section 123 of the Local Government Act 1972 has been discharged.

Appendices

Appendix 1 - Title Plans

Background documents

None

Report Author	Name Peter Burt Title Senior Asset Management Advisor Email peter.burt@hackney.gov.uk Tel 0208 356 4163
Comments for the Interim Group Director, Finance prepared by	Name Mizanur Rahman Title Chief Accountant Email mizanur.rahman@hackney.gov.uk Tel 020 8356 4347
Comments for the Acting Director of Legal, Democratic and Electoral Services prepared by	Name Andrew Jackson Title Regeneration Lawyer Email andrew.jackson@hackney.gov.uk Tel 07733948355