

WIRRAL COUNCIL

CABINET – 25 NOVEMBER 2010

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

MILLFIELDS CE (CONTROLLED) PRIMARY SCHOOL, EASTHAM

1. EXECUTIVE SUMMARY

1.1 This report seeks authority to transfer the freehold of the premises of Millfields CE (Controlled) Primary School to the Trustees of the Anglican Diocese of Chester subject to a leaseback in respect of the Children's Centre within the buildings.

2. Background

2.1 Following several consultations in the Eastham area between 2006 and 2009, and discussions between the Authority and the Anglican Diocese of Chester, on 28th May 2009, Cabinet approved the publication of statutory proposals in relation to the closure of Millfields Primary School, linked to the establishment of a Church of England Controlled School on the same site, subject to the Diocese receiving permission to waive competition from the Secretary of State. This was granted, and consequently statutory notices were published on 14th October 2009.

2.2 At its meeting of 14th January 2010, Cabinet approved these proposals for change. Millfields Primary School opened as Millfields Church of England (Controlled) Primary School on 1st September 2010.

2.3 The Anglican Diocese of Chester has approached the Authority with a request to legally transfer ownership of the school's land and buildings to the Trustees of the Diocese. This does not include the playing fields, which would remain in the ownership of the Authority. This report asks Cabinet's permission to begin transfer of land ownership proceedings.

3 Present Position

3.1 As a voluntary controlled (VC) school, Millfields has many similarities with Community schools – the Local Authority is the admissions authority and employs the staff, the national curriculum must be followed, and the school is funded by the LA in the same way.

3.2 The VC school's buildings and land (but not the playing fields) are usually owned by a charitable organisation, which in this case would be Trustees of the Anglican Diocese of Chester. This organisation also appoints some of the governors.

3.3 The Education and Inspections Act 2006 lays down the procedure for transfers of this sort. The Act specifies that the freehold of the relevant school premises, excluding the playing fields, should transfer. Accordingly, the preference to lease the site contained in the previous report to Cabinet is contrary to the legislation and is therefore not an option available to the Council in this instance.

- 3.4 Schedule 22 to the School Standards and Framework Act 1998 empowers the Secretary of State to determine what happens to publicly funded land of a foundation or voluntary aided or voluntary controlled school when the school is discontinued. In most cases, the land is returned to the local authority (or the proceeds from disposal), but there may be occasions where the Secretary of State might wish to direct its use by a particular school, including an Academy
- 3.5. This case is slightly complicated by the presence of the Sure Start Children's Centre for Eastham in the school buildings, shown hatched on the plan. Accordingly it is proposed that on the transfer of the freehold, the Council will take a lease of the Children's Centre to tie in with the centre's funding arrangements. There is a precedent for such an arrangement at St Werburgh's Catholic Primary School in Birkenhead, with the Children's Centre paying a proportion of running costs proportional to the area occupied.
- 3.6 Having regard to the above it is recommended that the freehold transfer of the school premises, as shown coloured pink on the attached plan be approved, this transaction to be accompanied by a simultaneous lease back of the Children's Centre at a nominal rental, and that authority be granted to conclude negotiations for such a lease and complete the necessary legal documentation. The playing fields will be retained in Council ownership.
- 3.7 In view of the likelihood of similar situations arising in future, it is recommended that authority be granted to enable any similar such transfers to be dealt with under delegated powers.

4.0 Financial implications

- 4.1 The transaction is at nil cost with each party bearing its own legal costs.
- 4.2 The Asset Value of the school is £2,144,496. The playing fields are currently valued at agricultural levels.
- 4.3 The running costs of the Children's Centre will continue to be met from existing budgets.
- 4.4 The school and land is given "in trust" to the Church of England. If the school closes, the presumption is that the building and land revert back to the ownership of the Council, subject to the Secretary of State's overriding directions in the matter.

5.0 Risk Assessment

- 5.1 If a Children's Centre closes before the end of the 25 year agreement with the Government, Sure Start would be entitled to a refund of any capital grant given. In the case of Millfields CE, the Authority would also be liable for payment of the peppercorn lease to the end of the lease term, unless this is explicitly excluded as a clause of the lease.

6.0 Staffing implications

6.1 None arising directly from this report.

7.0 Equal Opportunities implications/Health Impact Assessment

7.1 None arising directly from this report.

8.0 Community Safety implications

8.1 None arising directly from this report.

9.0 Local Agenda 21 implications

9.1 None arising directly from this report.

10.0 Planning implications

10.1 None arising directly from this report

11.0 Anti-poverty implications

11.1 None arising directly from this report.

12.0 Human Rights implications

12.1 None arising directly from this report.

13.0 Social Inclusion implications

13.1 None arising directly from this report.

14.0 Local Member Support implications

14.1 The school is in the Eastham Ward.

15.0 Background Papers

15.1 Cabinet Reports 14th January 2010 and previous referred to therein.

16.0 RECOMMENDATIONS

16.1 That the freehold transfer of the school premises at Millfields CE (Controlled) Primary School to the Trustees of the Anglican Diocese of Chester be approved as shown on the attached plan, subject to the agreement of satisfactory terms in respect the operation of the Children's Centre, and that the Director of Law HR and Asset Management be authorised to complete any necessary documentation.

16.2 That the Director of Law HR and Asset Management be given delegated powers to deal with any similar transfers of school premises under this legislation, in consultation with the Portfolio holders for Corporate Resources and Children's Services.

Bill Norman

Director of Law, HR and Asset Management