



City of Westminster

Cabinet Member Report

Decision Maker:	Councillor Swaddle OBE, Cabinet Member for Finance and Smart City
Date:	08 September 2021
Classification:	For General Release
Title:	Transfer of School Land
Wards Affected:	Maida Vale, Westbourne, Tachbrook
Key Decision:	Yes
Financial Summary:	There are no financial implications arising from this report
Report of:	Ian Heggs, Director of Education

1. Executive Summary

- 1.1 This report seeks approval to transfer the school sites named in this report from the City Council to the Church of England and Roman Catholic Dioceses and for the City Council and to enter into such documentation necessary to give effect to these transfers.

2. Recommendations

- 2.1 That the Cabinet Member for Cabinet Member for Finance and Smart City approve the transfer of freehold titles at St Augustine's CE Primary School, St Mary of the Angels RC Primary School, and Westminster Cathedral RC Primary School, as set out in paragraph 4.4 below, in accordance with the provisions of the School Standards & Framework Act 1998.

3. Reasons for Decision

- 3.1 Under the School Standards & Framework Act 1998 (the Act) the City Council is required to transfer land (other than playing fields) which is held or used by a local authority for the purposes of the school to the governing body, the foundation body or the trustees of any school that falls within the remit of this legislation. The land is to be transferred for nil consideration, to be held by them for the purposes of the school. The City Council in accordance with the Act will be responsible for the legal costs of the Diocese of the Roman Catholic Church and the London Diocesan Board for Schools (Church of England) in respect of each transfer.
- 3.2 Schools which fall within the remit of the Act are usually, but not limited to, the following: foundation schools, voluntary controlled and voluntary aided schools and foundation special schools.
- 3.3 The Diocese of the Roman Catholic Church and the London Diocesan Board for Schools (Church of England) (Diocesan authorities) are entitled under the Act to the transfer to them of the land forming the various school sites listed in this report and the Diocesan Authorities have requested the City Council to carry out these transfers.

4. Background

- 4.1 The City Council currently owns various school sites which are operated by the Diocesan Authorities; some of the school sites have been acquired by predecessor organisations such as the Inner London Education Authority, and subsequent agreements for building schools which in some cases replaced existing schools on other land. The City Council and the Diocesan Authorities wish to regularise the position.
- 4.2 Schedule 3, Part II, paragraph 4 of the Act. This states that, where land is provided by a local authority for a school, the local authority shall transfer their interest in the site and any buildings to the trustees of the school or if there are no trustees to the foundation body to be held for the purposes of a school
- 4.3 The requirements of the Act override the City Council's duty under section 123 of the Local Government Act 1972 to secure best consideration. In this regard the transfer is not discretionary or a matter for the City Council to approve but is required by legislation.
- 4.4 The following transfers of title are required.

1. St Augustine's CE Primary School, Kilburn Park Road (title no. LN138830 (part)).

The freehold of the school buildings was sold to the London Diocesan Board for Education on 16 March 1990, with the exception of the playground land fronting Kilburn Park Road, which is also where the new Maida Vale Children's Centre is now situated.

The land forming the Children's Centre was originally part of the terrace of private dwellings that were destroyed during the Second World War. The land was originally acquired by the City Council for housing. In 1983 it was decided that a nursery would be built as an annexe to the School in what would have been the garden of the housing land. It was agreed that £90,000 would be the value for appropriating the land from housing to education use. Only the land where the annexe was built was transferred to the trustees. The rest of the land remained with the City Council and should now be transferred.

2. St Mary of the Angels RC Primary School, Shrewsbury Road (title no. NGL398851)

Previously housed in two buildings on either side of St Mary of the Angels parish church, the school moved to its present position adjacent to the Wessex Estate over 20 years ago. This land was transferred to the City Council by the Inner London Education Authority (ILEA) on 1 April 1990 under the Education Reform Act 1988. It is proposed to transfer the school site only as shown on the attached plan.

To the north of the site lies the Bayswater Children's Centre (formerly St Stephen's Play Centre) which was built in 2010, and to the south an open space, both of which will remain within the Council's ownership. It is not proposed to transfer the title of the Children's Centre. The origins of this site are obscure, but appear to be part of a terrace of houses demolished following war damage, on which a small building was erected to house the play service, and was subsequently managed by the City Council or its contractors.

The City Council has built a secondary means of escape to the street for the Children's centre which will remove any necessity for an agreement with the school to cross its land, and thus enable each site to be entirely self-contained.

3. Westminster Cathedral RC Primary School, Bessborough Place, SW1V 3SE (title no. NGL631057)

The freehold was transferred to the City Council from ILEA on 1st April 1990. A small piece of additional land at the corner of Bessborough Street and Bessborough Place was also transferred under section 187 of the Education Act 1988 and should be included in the title regularisation.

5. Financial Implications

- 5.1 There are no financial implications arising from this report. The City Council does not hold an asset valuation of schools operated by the Diocesan authorities which are operated and maintained by them. The Diocesan Authorities are entitled to the freehold transfer at nil cost under the Act. The use would be restricted to education/school use.

6. Legal Implications

- 6.1 Although the City Council has a duty under section 123 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.
- 6.2 The Diocesan Authorities cannot dispose of any of the land without notifying the City Council and obtaining the written consent of the Secretary of State for Education (under Schedule 22 of the Act). The Secretary of State may do one or more of the following: (a) require the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by the authority of such sum by way of consideration (if any) as he determines to be appropriate; and (b) give the Governing Body when the land or any part of the land is disposed of: (i) a direction to pay, either to him or to such local authority as he may specify, the whole or any part of the proceeds of disposal; and (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.

7. Consultation

- 7.1 The title transfers are required by law, and as such no formal consultation is required. The transfers have no impact on the operation of the schools, which remain subject to the jurisdiction of the Department of Education, and which must consent to any change of use or disposal of a school site for non-education purposes. In that case, extensive public consultation would be required.

The Council has been in discussion with the relevant Diocesan authorities for many years to regularise ownership of school land, all of which have been completed except for those in this report. The history and details of the land title at these three schools is complex. The RC Diocese has been requesting the regularisation in particular of Westminster Cathedral RC School in the context of strategic planning with the Council.

Cabinet Members have been consulted and provided with the clarification above, both by Children's Services' Asset Strategy Manager and the Director of Corporate Property, and have raised no objections to the title transfers.

8. Other Implications

- 8.1 None

If you have any queries about this report or wish to inspect one of the background papers please contact Alan Wharton on 020 7641 2911, email awharton@westminster.gov.uk.

BACKGROUND PAPERS

None

APPENDICIES

Appendix 1 – Site Plan of St Augustine’s School

Appendix 2 – Site Plan of St Mary of the Angels School

Appendix 3 – Site Plan of Westminster Cathedral School

For completion by the **Cabinet Member for Finance and Smart City**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: _____

State nature of interest if any

.....
(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled

Transfer of School Land

and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Finance and Smart City

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Head of Legal and Democratic Services, Strategic Director Finance and Performance and, if there are resources implications, the Strategic Director of Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.