



## Report of: Executive Member for Children, Young People and Families

Meeting of	Date	Ward
Executive	18 May 2017	Hillrise
Delete as appropriate	Exempt	Non-Exempt

### APPENDIX 1 TO THIS REPORT IS NOT FOR PUBLICATION

## **SUBJECT: Mount Carmel Catholic College for Girls (Holland Walk, Duncombe Road) – Grant of Lease to City of London Academies Trust**

### **1 Synopsis**

- 1.1 Mount Carmel Catholic College for Girls is a voluntary aided secondary school. The school has a capacity of 700 pupils but places were under-occupied by 45% as at October 15, increasing to 50% in the latest schools census count; October 2016. The school was expected to be in deficit by the end of 2016/17, however through good financial planning and the use of previous years' surplus balances, the school is projecting a balanced budget for 2016/17. The underlying financial position of the school remains unsustainable due in a large part to its low roll.
- 1.2 On 14 September 2016, the Governing Body of Mount Carmel Catholic College for Girls considered the position of the school going forward in the light of no foreseeable increase in pupil numbers and a forecast budget deficit position for 2016/17 (as at that time) and future financial years and resolved to publish a statutory notice proposing the closure of the school.
- 1.3 On 23 December 2016, the Corporate Director of Children's Services considered the closure proposal and decided to approve the school's closure with effect from 31 August 2017.
- 1.4 Whilst the closure process was underway, the council and the Roman Catholic Diocese of Westminster worked together on a range of options for a replacement school. The preferred option is to establish a co-educational, non-denominational secondary academy on the Mount Carmel school site.

- 1.5 The City of London Corporation, an experienced Academy sponsor with a track record of working in partnership with local education authorities (including Islington) and establishing excellent local schools in London which are over-subscribed, has agreed to sponsor a new a co-educational, non-denominational secondary academy on the Mount Carmel site. The purpose of this report is to seek the Executive's approval to the establishment of such academy and to agree to grant a 125 year lease of the site to the City of London Academies Trust.

## **2 Recommendations**

- 2.1 To approve the establishment of new a co-educational, non-denominational secondary academy (Highgate Hill Academy on the Mount Carmel site sponsored by the City of London Corporation with effect from 1 September 2017
- 2.2 To agree to the grant of a 125 year lease at a peppercorn rent of the former Mount Carmel School Site as shown edged red on the attached plan to the City of London Academies Trust.
- 2.3 To delegate to the Corporate Director of Finance and Resources, in consultation with the Executive Member for Children and Families and Finance and Resources and the Corporate Director of Children's Services and the Director of Law and Governance, authority to conclude the negotiation and final terms of the lease in accordance with the Heads of Terms set out in Appendix 1 (Exempt).
- 2.4 To note that the facilities management agreement in respect of Mount Carmel School between the Council and Transform Islington Limited will terminate no later than 31 August 2017.
- 2.4 To delegate to the Corporate Director Resources, in consultation with the Executive Members for Children and Families and Finance and Resources and the Corporate Director of Children's Services authority to agree the final costs of terminating the facilities management agreement in respect of Mount Carmel School between the Council and Transform Islington Limited.
- 2.5 To authorise the Director of Law and Governance to apply to the Secretary of State for consent to grant the lease of the Mount Carmel School Site to the City of London Academies Trust under Para.4 of Schedule 1 of the Academies Act 2010.

## **3 Background**

- 3.1 On 23 December 2016, the Corporate Director of Children's Services considered a proposal from the Governing Body of Mount Carmel Catholic College for Girls to close the school and after considering the closure proposal and the comments and objections received through the statutory public consultation decided to approve the school's closure with effect from 31 August 2017. No appeal has been received by the Council in respect of the closure decision.
- 3.2 The main reasons for deciding to close Mount Carmel Catholic College for Girls were that the current and projected roll indicated that a girls' only catholic school was no longer viable in Islington and the financial position of the school put at risk the ability of the school to deliver an appropriate curriculum to the pupils.
- 3.3 Although there is falling demand for Catholic girls' education in Mount Carmel's catchment area (currently only 38% of girls attending are Catholic) it is anticipated that the Council will

require additional secondary school places in future years with full capacity reached in Islington schools by 2020/21. The Council has consulted with its schools concerning future expansions and 4 schools are proposed to expand. The Council has a large number of girls' places already and the data suggests that the greatest need will be for boys' places.

- 3.4 The City of London Corporation, has agreed to sponsor a new a co-educational, non-denominational secondary academy (City of London Academy Highgate Hill) on the Mount Carmel site and this has been approved by the education Funding Agency.
- 3.5 The City of London (as the sponsor of the proposed new academy) has agreed to work with the RC Diocese of Westminster to ensure that catholic life and religious education of the current Mount Carmel pupils is supported, nurtured and protected.
- 3.6 Existing pupils at Mount Carmel Catholic College for Girls have been offered places at City of London Academy Highgate Hill which is planned to open on the existing Mount Carmel school site at the beginning of September 2017.
- 3.7 The Diocese of Westminster has agreed to support those parents who want their daughters to continue to be taught in a catholic school, to find places at alternative catholic schools in neighbouring boroughs. To date requests received by the Diocese of Westminster to transfer to other schools stands at 24 out of a current roll of 349.
- 3.8 Highgate Hill Academy will be committed to meeting the needs of all transferring Mount Carmel pupils including those with special educational needs and disabilities (SEND). The expectation is that pupils with SEND will receive an education that enables them to make progress so that they can achieve their best, become confident individuals living fulfilling lives, and make a successful transition into adulthood, whether into employment, further or higher education or training.
- 3.9 The freehold of the current Mount Carmel school site was transferred to the Council in 1991 from the Inner London Education Authority. Mount Carmel's lease of their original school site expired and the school was unable to secure a new lease of the site or an alternative site. Therefore, the Council made available the current Mount Carmel school site to the school in the mid 1990's and the freehold of the site was subsequently transferred to the Westminster Roman Catholic Diocese Trustee.
- 3.10 The Westminster RC Diocese Trustee has agreed to transfer the freehold of the school site back to the Council on the closure of the school. It is proposed that the Council then grants a lease of the school site to the City of London Academies Trust to accommodate the new Highgate Hill Academy from 1 September 2017. The lease will be for a term of 125 years at a peppercorn which reflects the Department for Education's standard requirement for academies and free schools. Heads of Terms for the lease have been negotiated and agreed with the City of London Academies Trust and Education Funding Agency and are set out in exempt Appendix 1.
- 3.11 The existing Mount Carmel School site includes the premises manager's house. The house is not being used by the school to accommodate the premises manager or other school staff or for other educational purposes and in fact has been used by the council to provide temporary accommodation for homeless persons for several years. When the freehold of the school site is transferred back to the council it is proposed to appropriate the site of the premises manager's house for housing purposes. Proposals are being developed to redevelop this site and adjacent land in the Elthorne Estate. These will be the subject of a separate Executive Report
- 3.12 Mount Carmel Catholic College for Girls was extensively refurbished as part of phase 3 of the Council's Building Schools for the Future project. Facilities management (hard and soft)

at the school is carried out by Transform for Islington's (the LEP's) facilities management subcontractor pursuant to an FM contract between the Council and the LEP.

- 3.13 The City of London Academies Trust has decided to make its own arrangements for the facilities management of the school site and buildings from the 1 September 2017 rather than have the FM agreement transferred to it. Accordingly, the Council will be giving notice to the LEP terminating the FM agreement by no later than 31 August 2017.
- 3.14 On termination, the council is liable to pay the following amounts to the LEP:
- 3.14.1 Total value of FM services provided as at the date of termination less amounts already paid;
- 3.14.2 Reasonable cost of the LEP removing its property from the school site:
- 3.14.3 Cost of materials / goods ordered for the FM services and which the LEP is legally liable to pay for;
- 3.14.4 Redundancy payments for LEP employees reasonably incurred by the LEP as a direct result of the termination; and
- 3.14.5 Sub contractor's breakage costs which are defined as losses incurred by the LEP in connection with the provision of the FM services including materials and goods ordered and subcontracts that cannot be cancelled, expenditure incurred in anticipation of the provision of FM services, cost demobilisation, redundant payments and losses incurred under arrangements and agreements but only a maximum of one year's loss of profit.
- 3.15 On termination of the FM Agreement, the LEP has to pay any amounts standing to the credit of the sinking fund for lifecycle to the council less any undisputed amounts which the LEP is entitled to withdraw in respect of lifecycle works carried out.

## **4 Implications**

### **4.1 Financial Implications**

The Council is working with the LEP in determining the cost of terminating the FM agreement for Mount Carmel as at 31 August 2017. These costs will be contained within the overall BSF programme.

The annual costs in relation to BSF for Mount Carmel total £695k in relation to FM charges and utilities (subject to on-going reconciliation with the LEP). Contributions from The Council is liaising with the DfE to determine the school total £569k including impact on Mount Carmel's share (£252k) of the overall annual £2.6m DSG contribution to BSF – a difference of £126k. The Council is liaising with the DfE to determine what happens to Mount Carmel's share of the overall annual DSG contribution from September 2017 to safeguard its contractual obligations to the LEP for BSF overall that continue regardless of whether the new academy remains in the BSF contract with the LEP or not. This is an ongoing funding risk for the Council until it can be resolved.

The school was expected to be in deficit by the end of 2016/17, however through good financial planning and the use of previous years' surplus balances, the school is projecting a balanced budget for 2016/17 and will carry forward the remaining surplus; circa £200k into 2017/18 to mitigate the immediate issues relating to pupil reductions. Any surplus or deficit on closure transfer will remain with be a cost to the Council. Current projections indicate that the budget will be in balance on closure (i.e. no

significant deficit or surplus).

## 4.2 Legal Implications

The freehold of the Mount Carmel Catholic College for Girls site is currently owned by the Westminster Roman Catholic Diocese Trustee. It has been agreed with the diocesan trustee that the freehold of the site will be transferred back to the council when the school closes on 31 August 2017.

The grant of a 125 year lease to the City of London Academies Trust will require the consent of the Secretary of State for Education under paragraph 4 of Schedule 1 to the Academies Act 2010. The Secretary of State has issued a general consent (The Academies General Disposal Consent and Appropriation Consent (No 2) 2012) which applies where local authority land is leased for no or only nominal consideration to a person for the purposes of an academy. However, that general consent only applies where an Academy Order has been made in respect of a maintained school which is not the position in respect of Mount Carmel Catholic College for Girls.

The Council must generally dispose of its land for the best consideration that can reasonably be obtained (s123 Local Government Act 1972). It may only dispose of land at less than best consideration with the consent of the Secretary of State. However, the requirement to obtain best consideration is disapplied in the case of a disposal to a person for the purposes of an academy (paragraph 20(2) of Schedule 1 to the Academies act 2010).

Although the Council may have the necessary power to grant a lease of the Mount Carmel School Site to the City of London Academies Trust at less than best consideration, any decision to do so must be taken

- (i) reasonably
- (ii) in the light of the market value of the land\building and the amount of the proposed undervalue
- (iii) With due regard to the Council's fiduciary duty.

Accordingly in deciding whether or not to grant a 125 year lease to City of London Academy Trust at a peppercorn rent, the Council must consider properly the benefits of doing so as set out in this report and weigh up and balance those benefits against the foregoing of a capital receipt. The Executive should also have regard to the following:

- (1) the transfer of the freehold of the school site back to the Council is subject to the Council's agreement to grant the lease to the City of London Academies Trust;
- (2) the Secretary of State could use her powers under the Academies Act 2010 to direct the council to grant the lease to the City of London Academies Trust at a peppercorn rent; and
- (3) The site has minimal value given its education use and the fact that the Secretary of State is able to acquire sites of closed schools for nil consideration pursuant to her powers in the Academies Act 2010.

The appropriation of the school premises manager's house for housing use will require the consent of the Secretary of State for Education (paragraph 6 of Schedule 1 to the Academies Act 2010).

### 4.3 **Environmental Implications**

There are no environmental implications arising from the recommendations in this report. Any subsequent capital development would need to be in accordance with the council's relevant environmental policies.

### 4.4 **Resident Impact Assessment**

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

#### 4.16 A Resident Impact Assessment has been carried out in respect of the closure of Mount Carmel Catholic College for Girls and the opening of the City of London Academy Highgate Hill

Contained within the RIA we stated that the closure of Mount Carmel Catholic College for Girls and the immediate opening of the proposed new academy on the same site as co-educational provision will provide greater choice for parents, particularly in terms of available of places for boys. More Islington children and their families can potentially make use of the widened offer of additional places at the new academy as it will be mixed and non- denominational.

All girls currently attending Mount Carmel Catholic College for girls who are on the SEND register will be able to continue with their education at the proposed new academy. The academy has agreed to continue to provide places for these students and maintain the specialist provision required to meet their needs.

The proposed closure of Mount Carmel Catholic College for Girls and immediate re-opening as a co-educational non-denominational academy is contained within the Children's Services overall strategy supporting greater access to educational equality of opportunity which in turn will lead to opportunities in later life for our residents.

To date we have not received any comments back from the RIA.

## 5 **Conclusion and reasons for recommendations**

5.1 The City of London has agreed to sponsor a co-educational non-denominational academy on the Mount Carmel Catholic College for Girls school site which will assist in addressing the current shortage of boy's places at Islington secondary schools. Existing pupils at Mount Carmel Catholic College for Girls will be able to transfer to the new academy.

5.2 Accordingly, it is recommended that the Executive approve the grant of a 125 year lease of the Mount Carmel College for Girls school site to the City of London Academies Trust.

**Appendices:**

**Appendix 1(Exempt)**

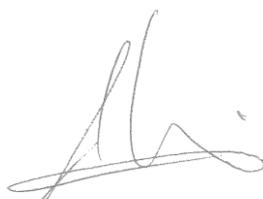
Heads of Terms

**Appendix 2:**

School site plan

Final report clearance:

**Signed by:**

A handwritten signature in black ink, appearing to be 'A. Daniels', written over a horizontal line.

10 May 2017

Executive Member for Children, Young People  
and Families

Date

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