

# HERMITAGE PRIMARY SCHOOL - GRANT OF LEASE FOR ACADEMY CONVERSION

<b>Cabinet Member(s)</b>	Councillor Jonathan Bianco
<b>Cabinet Portfolio(s)</b>	Cabinet Member for Property and Infrastructure
<b>Officer Contact(s)</b>	Michele Wilcox; Infrastructure, Transport & Building Services
<b>Papers with report</b>	Site Plan

## HEADLINES

<b>Summary</b>	This report seeks Cabinet approval to the granting of a 125-year lease of Hermitage Primary School as part of the process required for the school to convert to an academy. The lease will be based on the current Department for Education (DfE) template academy lease, save for amendments relevant to the individual circumstances affecting the school.
<b>Putting our Residents First</b>	This report supports the following Council objectives of: <i>Our People; Our Built Environment; Financial Management.</i>
<b>Financial Cost</b>	None
<b>Relevant Policy Overview Committee</b>	Corporate Services, Commerce & Communities Residents', Education & Environmental Services
<b>Ward(s) affected</b>	Uxbridge North

## RECOMMENDATION

**That Cabinet approves the grant of a 125-year lease of Hermitage Primary School on the main terms outlined in this report as part of the process of conversion of the school to an academy.**

### Reasons for recommendation

1. The grant of a 125-year lease to the school is required as part of the process for the conversion of the school to an academy.
2. Under the Council's Constitution, the grant of a 125-year lease must be approved by Cabinet.

### **Alternative options considered.**

Decisions regarding academies are made by the Secretary of State for Education and by implication, the Council has no choice other than to progress with the transfer of the premises to the Academy Trust under a long lease. For example, The Academies Act 2010 includes provisions which:

- allow maintained schools to apply to become academies and permit the Secretary of State to issue an Academy Order requiring the local authority to cease to maintain the school.
- allow the Secretary of State to require schools that are eligible for intervention to convert into academies.
- provide for secondary, primary, and special schools to become academies.
- allow schools that apply to become academies to keep any surplus financial balance.
- deem academies to be charities.
- ensure that a converting school will continue, as an academy, to be able to occupy the land/buildings it had as a maintained school, and that the school's other assets may also transfer to the new academy for the benefit and use of the pupils of that school; and
- on request, allow the Secretary of State to make a scheme in relation to land that necessitates the transfer of such land to the proprietor of the academy.

### **Policy Overview Committee comments**

None at this stage.

## **SUPPORTING INFORMATION**

1. Hermitage Primary School applied to convert to an academy and part of the process requires a 125-year lease to be granted of the school's premises. The lease will be based on the current DfE template academy lease, save for amendments relevant to the individual circumstances affecting the school. The extent of the premises to be demised is shown edged red on the attached plan.
2. The template academy lease includes the following main terms:
  - The annual rent is to be a peppercorn for the duration of the term.
  - The academy will take on full repairing and insuring responsibilities.
  - There is no ability for the academy to assign or transfer the premises demised without consent from the Secretary of State for Education in all instances.
  - There is the ability to underlet the premises but only with the Council's consent for any term which is more than 25 years. Any such underletting is to be outside the Landlord and Tenant Act 1954, which avoids the tenant obtaining a secure business tenancy.
  - The permitted use under the lease is "for the purposes of the provision of educational services by the tenant and for community fundraising and recreational purposes which are ancillary to that use;" and

3. There are no temporary classrooms or caretaker's house on the school site which are to be excluded from the transfer.

## **Financial Implications**

There are no financial implications relating to the grant of this lease, all costs relating to officer time in preparing the lease will be met by the schools concerned. The implications of the asset transfer are described below in the Corporate Finance comments, but it does not impact upon actual costs.

## **RESIDENT BENEFIT & CONSULTATION**

### **The benefit or impact upon residents, service users and communities**

The recommendations will allow the school to convert to academy status.

### **Consultation Carried Out or Required**

The Council has been involved with the consultation processes carried out in relation to these proposals by the Department for Education (DfE).

## **CORPORATE CONSIDERATIONS**

### **Corporate Finance**

Corporate Finance has reviewed this report and concurs with the financial implications set out above, noting that all costs associated with grant of this lease will be borne by the school. The grant of this lease will result in the removal of this asset from the Council's balance sheet, however, this does not affect the General Fund or Council Taxpayer.

### **Legal**

Cabinet has before it a recommendation seeking authority to approve the grant of a 125-year lease of Hermitage Primary School on the terms outlined in this report to facilitate the conversion of the school to an academy.

The Academies Act 2010 and Education Act 2011 gives the Secretary of State various powers including the discretion to make a transfer scheme in relation to land. So, where the local authority holds a freehold or leasehold interest in land that an academy occupies, the Secretary of State may make a scheme in relation to land that essentially necessitates the transfer of such land to the proprietor of the academy.

Legal relationships granting rights for the benefit of the school, imposing conditions on and reserving obligations to both parties would be created by virtue of the leases when completed. Accordingly, any future dealings with the school in respect of the land will be regulated by such leases. The necessary legal documentation would need to be considered, negotiated and prepared by officers in Legal Services.

There are no legal impediments in proceeding with the proposed lease.

### **Education Services**

Education Services supports this report and the recommendations made.

### **Infrastructure / Asset Management**

Property and Estates has authored this report.

## **BACKGROUND PAPERS**

NIL