

Committee: **Lead Member for Resources**

Date: **20 September 2019**

Title of Report: **Ark Schools – Helenswood Upper and Lower School campuses, Hastings**

By: **Chief Operating Officer**

Purpose of Report: **To seek Lead Member approval to enter into a number of interrelated lease and land agreements, including a surplus declaration, that support the consolidation of Ark Schools, as well as support the delivery of a new free special school on an existing campus, and facilitate the release of land for housing or wider community benefit.**

RECOMMENDATION: The Lead Member is recommended to:

- (1) enter into a legal agreement for ESCC to accept a surrender of the current 125 year leasehold interest held over two Ark Helenswood Academy school sites – known as Upper and Lower sites;**
- (2) authorise the simultaneous re-grant of a new 125 year interest on the Lower school site to Ark Alexandra;**
- (3) declare the Helenswood Upper site surplus to requirements to County Council functions and enter into the simultaneous transfer of the County Council's freehold of the Upper site to the Secretary of State, to facilitate the provision of a new Free special school - with ESCC retaining clawback and overage benefits on future land sales or development for non-education uses; and**
- (4) Delegate authority to the Chief Operating Officer to conclude terms in accordance with s. 123 of the Local Government Act 1972.**

1. Background information

1.1 The Ark Schools group operate Helenswood Academy at Hastings which is situated on two separate campuses known as the Upper and Lower Sites. The campuses are owned freehold by the County Council but were leased under a single 125 year lease - from 2013 at a peppercorn rent – on an otherwise standard academy transfer arrangement under the Academies Act 2010.

1.2 After a public consultation exercise, held in 2018, by the Department for Education, the Secretary of State approved the merger and consolidation of William Parker and Helenswood Academies in early 2019. This decision led to an approach from the Department of Education and Ark Schools seeking to surrender their lease, and thus hand the Upper school site (only), back to the County Council.

1.3 The County Council own a separate site at Darwell Close, Hastings which secured outline planning consent in Spring 2018 from Hastings BC for 210 housing units. This is the former Grove secondary school site, demolished in 2015, which was relocated and rebuilt as the St Leonards Academy.

1.4 As a former school site, the County Council require Secretary of State's consent to dispose of elements, previously listed as playing fields, (known as a S77 consent under the School and Standards Framework Act 1998) and an application for that consent was originally submitted to the Department in 2016.

1.5 In 2018, the County Council were approached by the Department of Education who were minded to approve the release of the S77 consent, subject to approx. 20% of the site being reserved back for them for their Flagship special school requirement.

1.6 Since the Ministerial decision, noted in 1.2 above, their land interest has since moved across to the potential at Helensdown Upper campus, and which forms the core of this report.

1.7 The S77 consent / release is still being sought by the County Council to enable the Darwell Road housing development to come forward.

1.8 The proposition going forward is to

- i) secure Lead Member approval to support the variant interlinked projects and to formally declare the Helenswood Upper site surplus to County Council operational requirements.
- ii) enter into a legal agreement to surrender the single 125 year lease held over the two Ark Helenswood Academy school sites at a peppercorn rent– known as Upper and Lower sites and
- iii) enter into the simultaneous re-grant of a new 125 year interest at a peppercorn on the Lower school site (only) to Ark Alexandra Academy.

1.9 This enables Ark to step away from the Upper site, and progress their delivery programmes from the both the Lower and William Parker campuses only. Those delivery programmes are separately funded by the Department of Education, not the County Council.

1.10 With regard the Upper site, and in order to avoid all costs, and the identified risks to the County Council (with vacant building, site security, insurance, empty rates, S77 restrictions, planning etc) the further proposition aligned to the above is:

- iv) for the County Council to enter into the simultaneous transfer of the freehold of the Upper site to the Secretary of State for £1, subject to overage and clawback of value provisions in the event of the whole, or part, of the site either being sold, or not developed for educational uses.

1.11 In effect the site is transferred immediately on to the Secretary of State who will manage the vacant site, and be able pursue their own planning application for the development of a Free school on parts of the site as required, and be responsible for any demolition of extant school buildings required, plus be fully responsible for the management of the retained lands.

1.12 In the event that any of the retained land is sold or used for non education uses in the future, the County Council will benefit from a clawback of value and overage provision.

2. Supporting information

2.1 A plan of the Helenswood Upper site (hatched) is attached in Appendix 1.

2.2 The Local Members have been consulted on this matter and raised no objection to the proposal.

2.3 Heads of Terms have been progressed to a tight timeline driven by the nature of the changes, all subject to Lead Member for Resource approval.

2.4 The Lead Member decision, arising from this Report, will be aligned to securing the full release of the S77 consent over the Darwell Road site within a timetable acceptable to County Council.

3 Conclusion and Reason for Recommendations

3.1 The County Council has been very supportive of, and has sought to facilitate, the evolving changes arising from the Ministerial decision to merge the Helenswood and William Parker colleges. In addition it has supported the Department in their delivery issues for their Free school requirements where possible.

3.2 Against this background, there has been no desire by the County Council to accept, nor impose, risk or any financial burden on its own taxpayers by taking back the full risks of an empty school, its buildings and/or wider site. The proposal to transfer the freehold for a nominal figure, but with future clawback, is assessed against the current value of the County Councils interest (freehold but subject to a 125 year lease at the rent of a peppercorn). Whilst it is normal practice to consider the value released by reconfiguring /releasing legal interests (often known as marriage value) this is offset against the high cost, and risks, if the site were returned fully to County Council control.

3.3 It is recommended that the Upper site be declared surplus to the County Councils' requirements and the terms, otherwise noted in this Report, be delegated to the Chief Operating Officer to conclude in accordance with the requirements of Section 123 of the Local Government Act 1972.

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