

Committee Cabinet	Date 5 Nov 2008	Classification Unrestricted	REPORT NO CAB 067/089	AGENDA ITEM NO.
Report of Director, Development and Renewal		Title Disposal of Grenfell School Site, now known as the Madani School, Myrdle Street, E1		
Originating Officer(s) Andy Algar		Wards Affected Whitechapel		

1. **SUMMARY**

- 1.1 This report requests Cabinet to consider whether to reaffirm an earlier decision of 5th May 2004 to dispose of the freehold interest in the former Grenfell School site, Myrdle Street E1 to the current leaseholders, The Madani School.

2. **RECOMMENDATIONS**

Cabinet is asked to

- 2.1 Approve the sale of the freehold interest in the former Grenfell School site, Myrdle Street E1, indicated on the map attached at Appendix A, to Madani school for the sum of £1.33 million (representing an undervalue of £320,000) pursuant of the Council's well-being powers as set out in clauses 5 and 6 of the report.
- 2.2 Authorise the Service Head Corporate Property in consultation with the Assistant Chief Executive (Legal) and the Lead Member for Resources to finalise all terms necessary to complete the sale.

3. BACKGROUND

- 3.1 The Madani School has leased the property since 2001 on a seven year lease. On 5th May 2004 Cabinet agreed to sell the freehold of the property to the Madani Girls School for £1.33m, which represented market value at that time. The proposed sale was to be subject to a restriction limiting the building's use to education and would contain provisions about the conditions that would apply if the site were sold for non-educational uses in the future.
- 3.2 The sale was delayed due to the need for the school to raise funds; the School has now advised that it has the necessary funds and wishes to proceed.

4. HISTORIC POSITION

- 4.1 In 2004 agreement was reached for the school to acquire the site for £1.33 million. This figure was confirmed as reasonable by the District Valuer, based on the restriction to education use.
- 4.2 The Council's approach to asset management has developed considerably since 2004. When selling at less than market value in exchange for community benefit, best practice is to grant a long lease rather than freehold to enable the council to control use and ensure benefits are achieved. However, given that the original agreement and Cabinet authority agreed a freehold it is considered reasonable to stand by this agreement. The sale transfer will contain appropriate covenants restricting the use of the property to ensure the council, can demonstrate the benefit of the discount it has agreed on value.

5. CURRENT POSITION

- 5.1 The building is in need of repair. The School is aware of this and it is understood they intend to undertake further works to ensure full compliance with their health and safety requirements and a planned approach to maintenance.
- 5.2 The majority of the maintenance works are likely to be unavoidable and will require significant funding. If the School holds the freehold it may be able to use this as collateral to obtain funding for the works.
- 5.3 The Council has sought the opinion of the District Valuer on the current value of the building and they advise that the market value is currently £1.65m. Due to planning restrictions the site has limited development potential and educational use is equivalent to market value. Valuations are generally valid for between three and six months. The sale should therefore be completed by 31st December 2008 and no later than 31st March 2009. If this date is missed a further valuation will be required and potentially a further Cabinet decision if values have moved upwards.

- 5.4 The council will need to meet its obligations in relation to the disposal of assets under s 123 of the Local Government Act 1972 and the General Disposal Consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained (“the Consent”).
- 5.5 Under the Consent a local authority has at its discretion to sell at an “undervalue” of up to £2,000,000. Undervalue is defined as “the difference between the unrestricted value of the interest to be disposed of and the consideration accepted”.
- 5.6 Where an undervalue of less than £2,000,000 exists an authority can dispose at less than market value in pursuance of its “well-being” powers. The full definition from the Consent is:

“(a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area

i) the promotion or improvement of economic well-being;

ii) the promotion or improvement of social well-being;

iii) the promotion or improvement of environmental well-being; and

(b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds)”.

These are often referred to as the council’s “well-being powers” and this phrase is used as short hand for these legal provisions throughout the report.

- 5.7 When using well-being powers to dispose at less than market value, Members need to consider the deliverable benefits arising from the proposed disposal and weigh this against the amount of money the council is foregoing. This process needs to be objective.
- 5.8 In this case the undervalue is £320,000 (i.e. the difference between market value of £1.65m and the proposed price of £1.33m).

6. COMMENTS OF THE DIRECTOR OF CHILDRENS SERVICES

- 6.1 Madani Girls' School is a successful secondary Independent Girls' School from 11 to 18 years of age. The school operates as a charitable trust, but is moving, with the support of the local authority and the DCSF, towards becoming a mainstream Voluntary Aided School within the borough.
- 6.2 The school attracts its pupils from across East London and approximately 30% are resident in Tower Hamlets.

- 6.3 The school contributes, as do many of the borough's smaller independent schools, towards the choice of diversity offer of places to parents in Tower Hamlets. The school is characterised by its Islamic ethos and meets the needs of girls and their parents who want to be educated in an institution within this tradition. Provision at Madani is consistent with the aims of the community plan in meeting the diverse needs of the Borough, delivering excellent education to improve skills for employment and encouraging more young people to progress to further and higher education.
- 6.4 Recent Ofsted reports have been extremely positive and outcomes for pupils at Key Stage 4 are above the national average.
- 6.5 The school has a policy of charging minimal amounts of fees to parents depending on their income levels.

7. OBSERVATIONS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report details proposals for the disposal of the former Grenfell School site to the current leaseholders Madani School. The Capital Receipt accruing will be 100% useable and will form part of the Council's overall capital resources.

8. CONCURRENT REPORT OF THE CHIEF LEGAL OFFICER

- 8.1 This report seeks authority to dispose of the Grenfell School site to the Madani Girls School subject to a covenant restricting the use to education in the case of freehold disposal. Disposal consent would be required under Section 123(2) of the Local Government Act where there is a sale at undervalue, but the General Consent permits the Council to offset against market value where its in the benefit of the community under the Wellbeing Powers S2 of the Local Government Act 2000. The comments sets out in paragraph 6 state how the school meets the Council's Community objectives to satisfy wellbeing test. The unrestricted value is based on education use as the Planning Authority would resist a change of use from a school under the UDP policy. A Restrictive covenant restricting use will protect against any relaxation in the policy in the future.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 The proposals contained in this report will ensure the continued provision of education to Muslim girls.
- 9.2 The Madani School charges relatively modest fees in order to assist the community to access this type of education.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 Grenfell School was originally built for an education use and these proposals will see it maintained in use for that purpose rather than redeveloped.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 There are limited risks associated with this proposal. The principal risk is enforcing conditions in the transfer to ensure the agreed benefits of the sale can be delivered.

12. EFFICIENCY STATEMENT

- 12.1 The proposed sale will raise a capital receipt that will be available for investment in new capital projects. Alternatively, the receipt could be used to reduce borrowing and produce a potential revenue saving.

13. CONCLUSION

- 13.1 When the Council agreed to lease the Grenfell School site to Madani School it was in the expectation that terms would be agreed for a more permanent transfer of that property to Madani School.
- 13.2 This report will enable the council to agree to a sale to the Madani School provided the use of well-being powers can be reasonably justified and Members' fiduciary duty is met.

LOCAL GOVERNMENT ACT, 1972 SECTION 100D (AS AMENDED) LIST OF BACKGROUND PAPERS USED IN PREPARATION OF THIS REPORT

Background paper	Name and telephone of and address where open to inspection
Cabinet report papers and minutes 5th May 2004	Andy Algar Head of Asset Strategy, Capital Delivery & Property Services 020 7364 4511

14. APPENDIX

Appendix A - Plan of former Grenfell School, Myrdle Street, London E1.