

Leicester
City Council

**WARDS AFFECTED:
BEAUMONT LEYS WARD**

**CHILDREN & YOUNG PEOPLE SCRUTINY COMMITTEE
CABINET**

**6 JULY 2010
12 JULY 2010**

**BABINGTON COMMUNITY TECHNOLOGY COLLEGE STRUCTURAL SOLUTIONS
FOR NATIONAL CHALLENGE SCHOOLS
- LAND TRANSFER**

Report of the Strategic Director, Children

1. Purpose of Report

- 1.1. Following the report to this Committee on 13th April 2010 and Cabinet on 19th April 2010 to update Members on the Land Transfer process and seek approval for the disposal of the site to the Trustees at nil consideration.

2. Recommendations

- 2.1. That the Children and Young People Scrutiny Committee notes the report and makes any observations to Cabinet.
- 2.2. That Cabinet Members consider the terms proposed for the transfer of the school site and confirm approval for a disposal at nil consideration.

3. Summary

- 3.1. This report outlines progress to date and proposals for the asset transfer to Trust Status requiring Cabinet approval for a disposal at nil consideration.

4. Report

- 4.1. The report to this Committee on 13th April 2010 and Cabinet on 19th April 2010 recommended a further report on the process involved in Land Transfer if the colleges proposed in that report gained National Challenge Co-operative Trust Status.
- 4.2. When a school's proposal to change category has been approved, all land held and used by the transferor immediately before the implementation date for the purposes of the school will transfer to and vest in the transferee to be held for the purposes of the school. Normally this will include the school's buildings, hard and soft play areas, all weather sports areas, games courts, playing fields,

habitat areas, roads, paths and car parks. Where a shared school community facility (e.g., leisure centre or sports hall) is transferred to the school, it will have to honour any existing contracts or agreements. If they make any reference to maintenance or other requirements, then the school is bound to honour them.

4.3 The Governing Body met to consider the consultation responses on 13th April 2010 and considered the issues raised.

The consultation was promoted widely and approximately 1,600 consultation documents were distributed when consultation officially opened. Additionally following requests from a number of parents, the documents were also translated into a number of community languages.

All but one objection came from staff and the comments supporting their views show concern about pay and conditions as being a major factor in their views.

There were 24 response forms returned and 8 of these were supporting the proposed change, 3 were unsure, and 12 were against and one person did not answer this question.

Only one written reply was received from the teacher associations.

Following careful consideration of the responses to the consultation, the Governing Body decided that the only adjustment required was to change the date of implementation to the 1st June 2010.

The members of the Trust are:

Leicester College	3 Trustees
Leicester Children & Young People's Services	1 Trustee
The Co-operative College	1 Trustee
Stakeholder Forum (to be established during 1 st Yr)	1 Trustee

Made up of:

- learners attending the college;
- parents and carers of those attending the college;
- staff working at the college;
- members of the local community; and
- local community organisations)

Governance Structure

Governor type	Proposed
Local Authority	1
Parent	1
Staff	3
Community	1
Sponsor	0

Trust/Foundation	7 (3)*
Total	13

*Under the Trust/Foundation category, the number in brackets is the number of Trust appointed governors who, at the time of their appointment, are eligible for election or appointment as parent governors to ensure that at least one third of governors are parents.

4.4 Statutory Notices

Statutory notices for Babington were issued and published at noon April 19th starting the 4 week Statutory Representation period which ended at noon on May 17th.

No representations were received at Babington during the four week period allowed for representations and the Proposals have not been referred to the Schools Adjudicator.

The Governing Body at Babington voted to progress to Trust status to take effect on June 1st at their meeting on Tuesday May 18th.

The Trust will be known as
Babington Community Technology College: A Co-operative Trust

Final stages: The documents below to be completed and sent to Companies House to register the Trusts May 28th

Articles of Association agreed
Memorandum of Association signed
Trust registration document ION1 signed

June 1st

- The Trust is established
- The category of the schools changes from Community to Foundation.
- Staff become employees of the Governing Body

4.5 Once the Trust is established, Cobbetts Solicitors, acting for the school, will agree the conveyance terms with the local authority Legal Department to determine the Land and Buildings to be transferred. This can take up to six months and has taken up to two years in some instances.

If agreement cannot be reached the decision will then be referred to the School's Adjudicator to make the final decision.

- The school's land and buildings will transfer to that Trust to be held on trust for the duration of its relationship with the school. The Trust schools will be in the same situation as existing foundation schools whose foundations (or Trusts) already hold the land, and also similar to existing voluntary schools.

4.6 Children and Young Peoples Services officers have now liaised with Property and Legal officers to explore the issues of asset transfer and the following proposals have been proposed and provisionally agreed by the Trustees of the Co-operative Trust.

I. Freehold Transfer of the site as shown hatched on the attached plan to the Trust who will grant Leicester City Council all appropriate rights of access and provision of services in relation to its ongoing interests.

II. Leicestershire Badminton Association. The Transfer is subject to the licence to the LBA and the 28 year extension from the 11th October 2009.

4.7 As the transfer is a disposal to the college at “less than best consideration” under the disposals framework, Cabinet will need to consider whether it considers the disposal justified under the following “wellbeing” provisions:-

Promotion or Improvement of economic wellbeing

Promotion or Improvement of social wellbeing

Promotion of environmental wellbeing

4.8 If Cabinet confirms that the disposal can proceed at “less than best consideration”, the requirement to seek Secretary of State Consent Authority does not apply where the transfer is:-

a) the governing body of a foundation, voluntary or foundation special school or

b) persons proposing to establish such a school.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

The transfer of the school to trust status would result in a nominal sum of £1. If the school for any reason was discontinued, the Secretary of State would have the power to direct where the land or proceeds are used. In theory, the site could be worth approximately £2.5 million excluding playing fields, but in practice there has been no expectation of any such sale.

The school is in the Council's forward Building Schools for the Future (BSF) Programme. Subject to the continuation of the current BSF framework and the necessary local and national approvals, the Council would act as agent for the Trust in respect of a future BSF scheme and the resulting on-going contracts. These contracts will include Facilities Management, Lifecycle and ICT. The funding and costs of BSF contracts are currently pooled between BSF schools and in certain circumstances shared with the City Council. This means that the costs incurred on the transferring contracts for a particular school will not match the contribution to be paid by that school under these current arrangements. This has previously been flagged as a risk and an area for further discussion with schools collectively and individually as the BSF programme is rolled out and

alternative models of school governance emerge. It should also be noted in connection with BSF that individual schools have accepted on-going liability for on-going costs occasioned by school-led additions or changes to the original BSF design and facilities and the Council would expect these to continue to be honoured.

5.2. Legal Implications

The re-prohibition from making disposals of land below market value without the consent of the Secretary of State has been dis-applied, by virtue of Part 3 of Schedule 3 to the Schools Standards and Framework Act 1998 in the case of a disposal to the governing body of a foundation school.

No BSF contracts have been entered into or committed in respect of this school, although this school has been profiled within the "affordability gap" calculations to be pooled under the arrangements for contributions from schools. However, the proposed documentation available for BSF contracts will enable this school to be a BSF project, the Council entering into procurement, development and governing body agreements with the school in due course to enable this.

In this case, the Governing Body is the decision maker for the purposes of proposals for changes to local school provisions. In making a decision following the consultation, the Governing Body must follow the Statutory guidance.

If the Governing Body has failed to meet the requirements for consultation, it is possible that their decision could be open to challenge. The other route for complaints against the decision would be to the Secretary of State.

In respect of admissions, the Governing Body would be required to honour any decisions taken by the local authority for the existing admissions round.

The change in school category will result in a change of employer and staff contracts will transfer. Legal advice is being provided on staff transfers and pension arrangements in particular.

In respect of land, land held by the Council for the school transfers to the new trustees. It is not believed that the school uses land held by another body. It is not proposed to exclude any land of the school from the transfer.

5.3. Climate Change Implications None specific as service delivered from site unchanged

6. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within Supporting information
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	

Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

7. Background Papers – Local Government Act 1972

The Transfer and disposal of school land in England - DCSF

8. Consultations

As set out in the report.

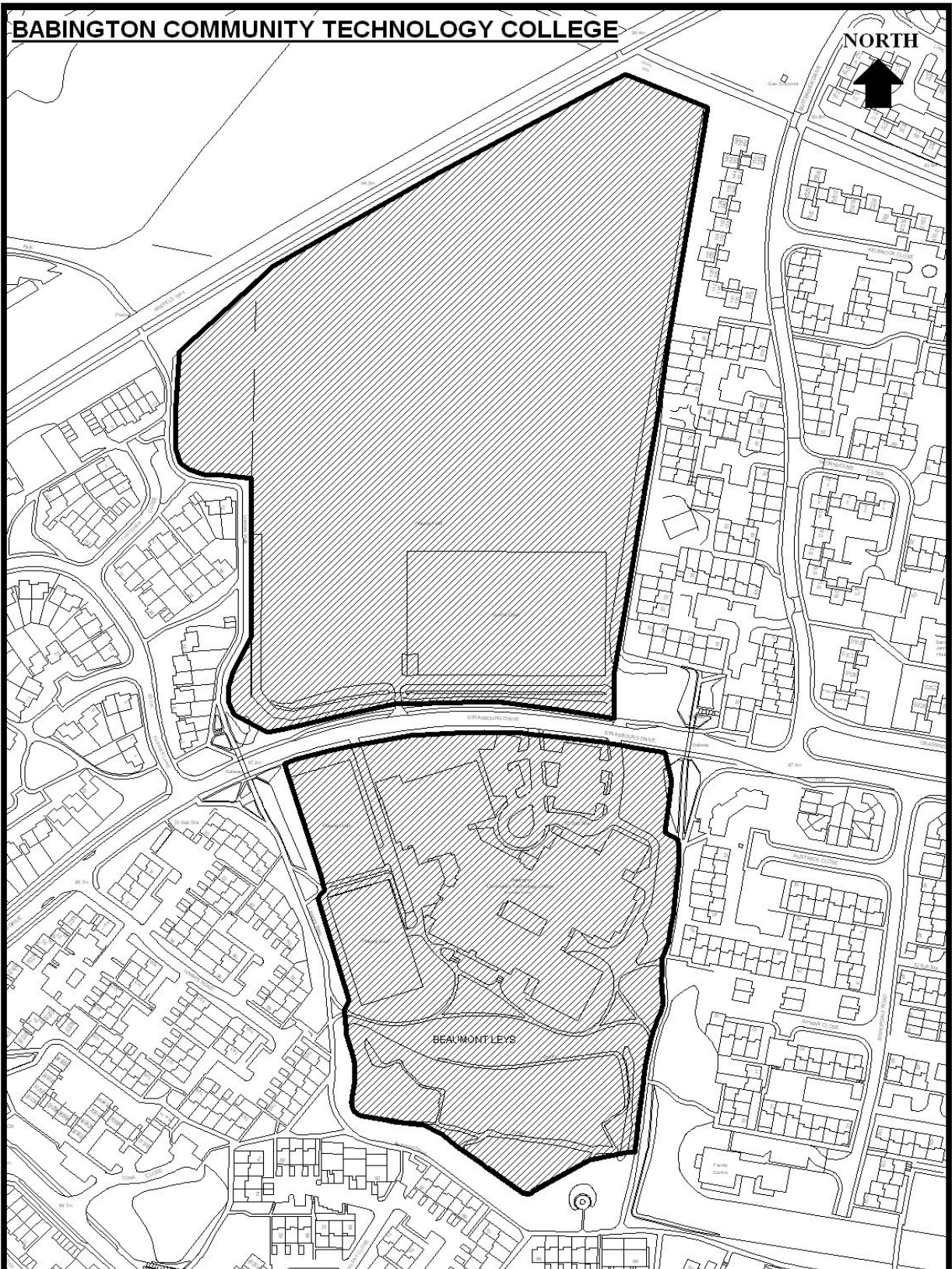
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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)



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DRAWN BYJW..... PLAN No C11EE 171..... NOT TO
CHECKED BYEJPB..... DATE 20/05/2010..... SCALE

LYNN CAVE, DIRECTOR OF
STRATEGIC ASSET MANAGEMENT
LEICESTER CITY COUNCIL