



Leicester
City Council

**WARDS AFFECTED:
BRAUNSTONE PARK
& ROWLEY FIELDS WARDS**

**CYPS SCRUTINY COMMITTEE
CABINET**

**6 JULY 2010
12 JULY 2010**

FULLHURST COMMUNITY COLLEGE STRUCTURAL SOLUTIONS FOR NATIONAL CHALLENGE SCHOOLS - LAND TRANSFER

Report of the Strategic Director, Children

1. Purpose of Report

- 1.1. Following the report of 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 in order to progress National Challenge Co-operative Trust Status.

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 Cabinet report of 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 1800 consultation documents were distributed.

There were 15 response forms returned and 11 of these were supporting the proposed change, one was supporting a change of category but not the adoption of the Trust, two were unsure and one was against.

Three written replies were received in response to the consultation. One from Association of School and College Leaders (ASCL) who stated there was no objection to the proposals. The other two replies were from the Teaching Associations who opposed the introduction of a National Challenge Trust and particularly the inclusion of The Becket School on the basis of its Roman Catholic ethos being inappropriate for a non faith school. Both Teaching Association letters were supportive of Rushey Mead School but proposed a soft federation arrangement.

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 Children & Young People’s Services	1 Trustee
Rushey Mead School	1 Trustee
The Becket School	1 Trustee
Co-operative College	1 Trustee
Stakeholder Forum (to be established during 1 st Yr) Made up of	1 Trustee

- 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 Fullhurst 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 Fullhurst during the four week period allowed for representations and the Proposals have not been referred to the Schools Adjudicator.

The Interim Executive Board (IEB) at Fullhurst voted to progress to Trust status to take effect on June 1st at their meetings on Tuesday May 18th.

The Trust will be known as:

Fullhurst Co-operative Learning Partnership

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 LA 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 CYPS 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 LCC all appropriate rights of access and provision of services in relation to its ongoing interests.
- II. Vocational Centre: The Vocational Centre will be excluded from the Transfer.
- III. Sports Hall (cross hatched black) will be transferred as part of the whole site. This will be subject to New Opportunities Funding terms and conditions, to the extent that these remain in place, performance of the terms and conditions will be a requirement placed upon the college.
- IV. Building Schools for the Future (BSF). BSF contracts will be transferred to the college with LCC acting as agents for the college.

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 confirm 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 to:-

- a) to the governing body of a foundation, voluntary or foundation special school or
- b) to 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 transfer of BSF 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 prohibition from making disposals of land below market value without the consent of the Secretary of State has been disapplied, 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.

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 (i.e. the trustees of the Foundation): This report describes the heads of agreement as to the exclusion of the "Braunstone Skills Centre" which, because of its complex usage, is not considered to be part of the school site and which will remain in the ownership of the Council (who will be responsible for its maintenance).

BSF contracts have been entered into in respect of this school. In this case a non PFI Facilities Management Contract and an ICT Managed Service Contract. The report describes the heads of agreement as to the continuation of the BSF contracts. This will require an agreement with the Governing Body and the Trustees to grant the necessary rights to the Council and the Contractor and other consequential provisions. This school has been profiled within the "affordability gap" calculations to be pooled under the arrangements for contributions from schools but there is an existing Governing Body agreement under which the schools contribution back to the Council for FM and ICT is provided for. There will also need to be a novation of the benefit of the BSF construction contract to the school. There may be a need for consequential changes to the BSF contracts with Leicester Miller Education Company to reflect the new position on the ownership of land and buildings.

Joanna Bunting
 Head of Commercial and Property Law - Tel. 29 6450

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

Legal/Strategic Asset Management.

9. Report Author

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

FULLHURST COMMUNITY COLLEGE, LEICESTER

NORTH



BASED UPON THE ORDNANCE SURVEY MAP WITH THE SANCTION OF THE CONTROLLER OF H.M. STATIONERY OFFICE. CROWN COPYRIGHT RESERVED. LICENCE No. 100019264

DRAWN BYJW..... PLAN No ~~11111~~ 170..... NOT TO
CHECKED BY ..EJPB... DATE 20/05/2010..... SCALE

LYNN CAVE, DIRECTOR OF STRATEGIC ASSET MANAGEMENT
LEICESTER CITY COUNCIL