

SCRUTINY CO-ORDINATION COMMITTEE

27th April, 2011

Members Present: Councillor Crookes (Substitute for Councillor Ridley)
Councillor Dixon (Substitute for Councillor Foster)
Councillor Lakha
Councillor Lancaster
Councillor Mrs Lucas (Chair)
Councillor McNicholas (Deputy Chair)
Councillor M. Mutton
Councillor Noonan (Co-opted Member)
Councillor Sawdon
Councillor Taylor
Councillor Welsh (Substitute for Councillor Ruane)

Co-opted Member
Present:

Mrs. S. Hanson

Other Members Present: Councillor Clifford (Cabinet Member (Children and Young People))
Councillor Duggins (Cabinet Member (Strategic Finance & Resources))
Councillor Kelly (Cabinet Member (Education))
Councillor Nellist
Councillor O'Boyle

Employees Present: N. Clews (City Services and Development Directorate)
C. Evans (Finance and Legal Services Directorate)
J. McLellan (Customer and Workforce Services Directorate)
J. Parry (Chief Executive's Directorate)
S. Pearson (Finance and Legal Services Directorate)
J. Sprayson (Finance and Legal Services Directorate)
C. Steele (Chief Executive's Directorate)
A. West (Chief Executive's Directorate)

Apologies: Councillor Foster
Councillor Ridley
Councillor Ruane

The Chair thanked Members of the Committee and officers for their support and commitment during the past year and Members of the Committee thanked Councillor Mrs. Lucas for the impartial way in which she had undertaken the role of Chair.

Public Business

103. Declarations of Interest

Councillor Taylor declared a personal interest in the matter in Minute xx below, headed "Consideration of Call-in – Stage 2 – Lease Agreements and Credit Union Loans for the proposed Coventry Blue Coat Academy and future converting schools" in so far as it related to him being Governor on an adjacent school.

Mrs. S. Hanson also declared a personal interest in the same matter as she had previously worked at Blue Coat School.

In accordance with Paragraph 5.1.9 of the City Council's Constitution, Councillor Taylor and Mrs. Hanson disclosed their interests and remained in the meeting for consideration of the matter.

104. **Minutes**

- (a) The minutes of the meeting held on 6th April, 2011, were signed as a true record.
- (b) There were no matters arising.

105. **Consideration of Call-in – Stage 2 – Lease Agreements and Credit Union Loans for the Proposed Coventry Blue Coat Academy and Future Converting Schools**

The Committee received a report of the Director (Children, Learning and Young People) that had been considered by the Joint Meeting of Cabinet Member (Children and Young People) and Cabinet Member (Education) (their Minute 11/10 refers) and was called in by Councillors Nellist, Foster and Noonan.

The report indicated that the Coventry Blue Coat Church of England School and Music College was proposing to convert to an academy with effect from 1st April, 2011. In response to this the City Council was required under Schedule 1 of the Academies Act 2010 to grant a 125-year term lease at a peppercorn rental for the land and/or buildings in its ownership that was wholly or mainly used by the school and also to agree continuation of the school's outstanding Credit Union Loan. If other schools in the City seek to convert to become an academy, similar lease and Credit Union settlements may be necessary.

The Cabinet Members had agreed to:-

- (1) Endorse the approach taken for the 125-year lease agreement at a peppercorn rental for Coventry Blue Coat and any future academy conversion proposals from Coventry Schools and delegate to the Director of Children, Learning and Young People and Assistant Director Property Asset Management the agreement of leases and other documentation for future academy transfers.
- (2) The novation of the existing Credit Union Loan across to the proposed Coventry Blue Coat School Academy and the continuation of repayments on existing terms.
- (3) The approach to lease of land/buildings and treatment of outstanding Credit Union Loans adopted for Blue Coat be taken if any schools in the future convert to academy status.

The reason for the call-in was:-

- "1) To enquire as to what evidence was considered to establish 2.1 re "land wholly or mainly used by the school in the preceding 8 years"; and
- 2) To establish what consideration has been given, and how that would then be consulted on, for possible covenants to guarantee future access and enjoyment by the local community."

The call-in had been deemed valid by the Chair of the Scrutiny Co-ordination Committee on advice from the Assistant Director (Democratic Services) and in conjunction with the Council Solicitor/Assistant Director (Legal Services), the Call-in reason having met the requirements of the Council's Constitution Scrutiny Rules on the Call-in Procedure and the criteria decided by the Scrutiny Co-ordination Committee.

Councillors Nellist and Noonan spoke in support of the call-in.

Councillor Nellist submitted a petition on behalf of the Charterhouse Residents Association bearing 1,349 signatures, which requested the City Council to reverse its decision to grant a 125 year lease to Coventry Blue Coat School over the majority of the Charterhouse Fields which were given to, and bought by, the City Council 70 years ago for the benefit of local people. Councillor Nellist spoke in support of the petition and drew the Committee's attention to legal documentation which included the history of the land, ownership rights and rights of way.

Councillor Kelly made the following comments to the Committee:-

- The land in question was bought by the local authority in 1941
- There are no covenants restricting the use of the land
- This is not the same piece of land that was left in a will at around the same time, and which is subject to restrictions
- The land was reclassified as Education land in 1967 when Bluecoat School was built
- The land is clearly demarcated but not enclosed
- There are no legally established rights of way over the land
- There are no legally established rights of access for the public over this land
- On the other hand, there has been no legal case which establishes that the public are not permitted to access the land
- An application to fence in the land was made several years ago though was never determined
- The public have been able to use the land since 1941, and this use was not affected by the transfer of the land to the education department
- The school has applied to become an academy, and as academies are not responsible to the local authority there is a need for land and property to be held under a different legal basis
- The Academies Act expects the Local Authority to transfer, either on a long lease or by giving the freehold, land that has been used as playing fields etc by the school
- If this is not done the Secretary of State has powers to impose the land transfer
- The expectation is that land which has been wholly or mainly used by the school will be transferred. Whilst I am aware that members of the public have used this land e.g. for dog walking, shortcuts, etc, the legal advice I have been given is that the land we had proposed to transfer clearly falls into the category of mainly used by the school
- The school has indicated that it has no plans to fence in the land or to restrict access
- Despite rumours that have been circulating, the school has no plans to build on this land nor would they be able to if they so desired
- Lawyers for the Department of Education refused to include a clause in the lease guaranteeing access
- The information I was given indicated to me that members of the public would not be affected by the lease on the land, as the lease in itself did not remove access
- It is clear that local residents fear that their ability to enjoy will be affected

- It is clear that many local residents do not trust the schools motive and the relationship between the school and residents has broken down
- In my opinion, the important question is not who has a lease over the land, but who is able to enjoy the land
- I therefore recommend that if the Scrutiny Co-ordination Committee agree, the decision on the land is referred back to me for further consideration
- That in the meantime independent legal advice is sought from counsel to ascertain whether a legal right to access the land can be established
- That the local authority permits local residents to make representations that can be passed to counsel to assist in their investigations
- That I and my officers be asked to attempt to broker a dialogue between the school and residents
- That the Local Authority continues to liaise with Jim Cunningham M.P., who will try to raise this issue with Michael Gove
- That I raise with the appropriate Cabinet Member the issue of the status of the remaining part of Charterhouse fields that was purchased in 1941 and is not part of this lease in order to have it classed as public open space as a matter of urgency

The Committee considered the Call in, the petition and the response by the Cabinet Member (Education), Councillor Kelly.

RESOLVED:-

- (1) **that the following recommendations put forward by the Cabinet Member (Education) be agreed:-**
 - (a) **that the decision on the transfer be referred back to the Cabinet Member for further consideration.**
 - (b) **that in the meantime independent legal advice be sought from counsel to ascertain whether a legal right to access land could be established.**
 - (c) **that the local authority permits local residents to make representations that could be passed to counsel to assist in their investigations.**
 - (d) **that the Cabinet Member and officers be asked to attempt to broker a dialogue between the school and residents.**
 - (e) **that the local authority continues to liaise with Jim Cunningham M.P. who would try to raise this issue with Michael Gove (Secretary of State for Education).**
 - (f) **that the Cabinet raises with the appropriate Cabinet Member, the issue of the status of the remaining part of Charterhouse Fields that was purchased in 1941 and was not part of this lease in order to have it classed as public open space as a matter of urgency.**
- (2) **that the Cabinet Member be requested to establish an Advisory Panel to consider how best to support the Cabinet Member in progressing the issues involved in the Schools request.**

- (3) that the decision relating to recommendation 1.5.3 be amended to require that the necessary leases, loan agreements and other documentation for each academy application be the subject of formal consideration by the relevant Cabinet Member and not delegated to the Director of Children, Learning and Young People and/or Assistant Director.**

106. Scrutiny Activity 2010/2011

The Committee considered and noted a report by Corinne Steele, Scrutiny Co-ordinator, which provided details of work undertaken by the Scrutiny Co-ordination Committee and the Scrutiny Boards during the past year.

107. Any Other Public Business

There were no other items of public business.