
Cabinet

12th October 2021

Name of Cabinet Member:

Cabinet Member for Education and Skills – Councillor Dr K Sandhu

Director Approving Submission of the report:

Director of Education and Skills

Ward(s) affected:

All

Title:

Academies Act 2010 – Grant of temporary 5-year excluded act lease following the proposed academy conversion in respect of Woodfield School site and the grant of a 125-year Long Lease in respect of Woodlands School site to the Sidney Stringer Multi-Academy Trust (MAT)

Is this a key decision?

Yes – the academisation of Woodfield School will affect all wards of the city

Executive Summary:

Although delegated authority was granted to the Cabinet Member for Education and Skills in respect of academy conversion sign-off, Council officers consider that a formal Cabinet report is appropriate for the academy conversion of Woodfield Primary and Secondary School (“Woodfield School”). Given the unique nature of this conversion – in respect of the requirement for multiple leases – additional Cabinet approval is sought. There is also a significant cost implication to the Council in relation to the planned works at the existing Woodfield School sites and the Woodlands School site – as outlined in the Woodlands Cabinet report October 2021 – which aim to continue and improve SEND education provision and opportunities within the city. Therefore, a formal Cabinet report is considered necessary in order to provide transparency given the context and complexities behind this conversion.

Following an Ofsted inspection at Woodfield School in March 2020, which resulted in a grading of ‘Inadequate’, Woodfield School is required to academise. The Governing Body of Woodfield School has made a successful application to the Secretary of State for an Academy Order under the Academies Act 2010 (“the 2010 Act”). Following the West Midlands Headteacher Board in October 2020, it was agreed that Woodfield School will join the Sidney Stringer Multi-Academy Trust (“Sidney Stringer MAT”) as a convertor academy and thereafter will cease to be maintained by the Local Authority.

The Local Authority has a statutory duty to provide appropriate education provision for children and young people with Special Educational Needs and Disabilities (SEND). The Council aims to deliver support for children and young people with SEND in the maintained sector where possible, and within their community, to enable them to enjoy the same range of experiences and opportunities as children with no additional needs. Following the conversion to an Academy, Sidney Stringer MAT will provide the appropriate education provision for children and young people with Special Educational Needs and Disabilities from Woodfield School.

It is proposed that Sidney Stringer MAT will use and occupy Woodfield School for the delivery of the aforementioned educational provisions under a 5-year lease and, upon the practical completion of agreed works being carried out by the Council to the adjoining Woodlands School, Sidney Stringer MAT will decant from Woodfield School to Woodlands School. At the point of practical completion of the agreed works at Woodlands School and relocation of Woodfield School to this site – even if this is prior to the expiry of the 5-year term of the Woodfield School temporary leases – it is agreed that Sidney Stringer MAT will surrender the 5-year lease of Woodfield School and complete a 125-year lease of the agreed land and buildings at Woodlands School in accordance with Section 1 of the Academies Act 2010.

This will enable officers to subsequently market and dispose of Woodfield School together with surplus playing field land at Woodlands School for housing development thereby securing a capital receipt for the Council.

Recommendations:

Cabinet is requested to:

- 1) Note Woodfield School's intent to convert to an academy by joining the Sidney Stringer MAT.
- 2) Authorise the Director of Law and Governance to agree and complete the suite of legal documentation to facilitate the short-term 5-year lease in respect of Woodfield School, the grant of the 125-year long lease in respect of Woodlands School, the separate lease or leases in respect of the Site Services Officer (SSO) accommodation and any necessary Commercial Transfer Agreement (CTA).
- 3) Delegate authority to the Director of Education and Skills, following consultation with the Cabinet Member for Education and Skills, to agree where necessary any amendments to the legal agreements arising from further consideration by both the Council and Sidney Stringer MAT.

List of Appendices included:

Appendix 1 – Woodfield School Stoneleigh Road site lease plan
Appendix 2 – Woodfield School Hawthorn Lane site lease plan

Background papers:

None

Other useful documents:

Cabinet Report 30th October 2021 – SEND proposal for the use of the Woodlands site

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report Title: Academies Act 2010 – Grant of temporary 5-year excluded act lease following the proposed academy conversion in respect of Woodfield School site and the grant of a 125-year Long Lease in respect of Woodlands School site to the Sidney Stringer Multi-Academy Trust (MAT)

1. Context (or background)

- 1.1.Sidney Stringer MAT is an academy trust in Coventry, currently formed of two primary schools (Radford Primary Academy and Sidney Stringer Primary), two secondary schools (Ernesford Grange Community Academy and Sidney Stringer Academy) and one special school (Riverbank Academy). The Sidney Stringer MAT formed in 2010.
- 1.2.The Governing Body of Woodfield School has made a successful application to the Secretary of State for an Academy Order under the Academies Act 2010 (“the 2010 Act”). Sidney Stringer MAT was approved as academy sponsor at the West Midlands Headteacher Board in October 2020; when Woodfield School joins Sidney Stringer MAT as a convertor academy, they will not thereafter be maintained by the Local Authority.
- 1.3.On 30th October 2018, Coventry City Council (CCC) Cabinet approved in principle the refurbishment of the existing Woodlands School site to provide a new home for Woodfield School (primary and secondary) and the subsequent relocation of Woodfield School to the Woodlands site. A further report is due to be considered by Cabinet on 12th October 2021 to agree funding in order to enable the Council to progress this project.
- 1.4.It is proposed that Sidney Stringer MAT will use and occupy Woodfield School for the delivery of the aforementioned educational provisions under a 5-year lease pending the practical completion of agreed works being carried out by the council to the adjoining Woodlands School. Once complete, Sidney Stringer MAT will decant from Woodfield School to Woodlands School surrendering the 5-year lease and completing a new 125-year lease in respect of Woodlands School in accordance with Schedule 1 of the Academies Act 2010.
- 1.5.Officers within the Council, the Department for Education, Woodfield School and Sidney Stringer MAT are working towards a target conversion date of 1st April 2022, subject to leases being agreed and all other agreements being in place. The legal and other considerations factored into the leases are detailed in the below sections of this report.

2. Options considered and recommended proposal

- 2.1. Following an Ofsted inspection at Woodfield School in March 2020, which resulted in a grading of ‘Inadequate’, Sidney Stringer MAT expressed an interest in sponsoring Woodfield School, which the Council supports. The academisation was discussed at the West Midlands Headteacher Board on 22nd October 2020, where it was agreed that Sidney Stringer MAT would become the academy sponsor.

3. Results of consultation undertaken

- 3.1. Sidney Stringer MAT will become the employer of the school’s staff. Sidney Stringer MAT has not yet commenced the TUPE consultation but are in the process of discussing with solicitors and agreeing a timeline for the consultation activities.

4. Timetable for implementing this decision

- 4.1.The timescale is set out in the following table:

Activity	Approximate Timing	Action
Approval of academy sponsor (Sidney Stringer MAT) for Woodfield School at the West Midlands Headteacher Board	October 2020	Completed

Kickstart meeting between the Council, Woodfield School, Sidney Stringer MAT and Browne Jacobson (acting on behalf of Sidney Stringer MAT)	February 2021	Completed
Ongoing communication and meetings between the Council, Woodfield School, Sidney Stringer MAT and the DfE		
Report to CCC Cabinet for support of the academisation of Woodfield School	12 th October 2021	Proposed
Target conversion date to academy status	1 st April 2022	Proposed

4.2. Following the agreement of this report, officers will immediately seek to finalise and complete the required lease(s) in liaison with the academy trust's solicitor to enable the school to convert. The target conversion date for the school is 1st April 2022, subject to leases being agreed.

5. Comments from the Director of Finance and the Director of Law and Governance

5.1. Financial implications

- 5.1.1. Academies receive their funding directly from the Education Funding Agency, which includes a share of the central funding currently received by Local Authorities for maintained schools. Before conversion, a commercial transfer agreement should be in place, which is designed to ensure that a number of agreements are in place including details of any assets or contracts that will transfer to the academy trust and of those that will not.
- 5.1.2. As Woodfield School is converted as a sponsored academy, this means that, at the point of conversion, if the school has a deficit financial balance, this will remain with the Council. If a school has a surplus financial balance, then this transfers to the academy trust.
- 5.1.3. The Council is involved in calculating the financial balance and paying to the academy any surplus within 4 months. To mitigate against the risk of a school having a deficit balance at the point of conversion, CCC Finance colleagues work closely with the school to ensure appropriate financial monitoring of budget and expenditure continues, and to forecast as accurately as possible the balance at the point of conversion. During this process, should the Council have concerns about the financial management being operated within the school prior to conversion, then these can be formally raised with the Governing Body in line with sanctions set out in the Fair Funding Scheme of Delegation. Ultimately, the Local Authority can suspend a maintained school's right to a delegated budget but would only want to pursue this in extreme cases. In the event that the Local Authority makes an underpayment or overpayment in relation to any historic liabilities (including, without limitation, any payments relating to the School's accounts), the CTA states that the Local Authority and the Company agree to repay any such sums to the other (as appropriate).
- 5.1.4. For sponsored academy conversions, the Council usually has a responsibility to ensure that any health and safety issues in the predecessor schools are addressed ahead of transfer. Following a condition survey of the Hawthorn Lane (Woodfield Secondary) site, a number of issues were identified and required urgent attention. To address these issues, the Council supported the school by providing capital funds of circa £68,000 to carry out agreed works; this enabled the school to ensure the health and safety of pupils, staff and users of the school site until occupation of the new buildings at Woodlands School.

5.2.Legal implications

- 5.2.1. In consideration that the school sites or part of the sites have been used as school playing fields by a maintained school within the last 10 years, the Council is required to obtain the consent from the Secretary of State prior to any disposal of the land and buildings at either Woodfield School or Woodlands School under Section 22 and Section 77(1) of the School Standards and Framework Act 1998.

To regularise the temporary use and occupation of Woodfield School, the Council will grant to Sidney Stringer MAT a 5-year lease excluded from the security of tenure provisions afforded under the Landlord and Tenant Act 1954 Part II.

In accordance with Schedule 1 of the 2010 Act, the Council shall grant to Sidney Stringer MAT a 125-year lease at a peppercorn rental of the land and buildings at Woodlands School. Guidance on land transfer from the DfE suggests that, if land is held by a Local Authority, a long leasehold interest should be granted rather than a transfer of the freehold.

Sidney Stringer MAT will be under an Agreement to surrender the 5-year lease in respect of Woodfield School upon the practical completion of the Council's works being carried out to Woodlands School, which will then yield up vacant possession of Woodfield School ready for disposal.

Officers within Legal Services will prepare and complete the necessary agreements and leases to deal with the temporary occupation of Woodfield School and the 125-year lease of Woodlands School. The form of leases will be based upon the "model long term lease" produced by the DfE.

Officers within the Legal Services will prepare and complete any necessary CTA.

- 5.2.2. In respect of the 5-year lease of the Stoneleigh Road site (Woodfield Primary School), there is a Site Service Officer (SSO) property on the site and this will form part of the lease.
- 5.2.3. There are two SSO properties on the Woodlands School site; the Council has drafted a separate long lease for these properties following the DfE model lease. The lease includes a provision that, in the event Sidney Stringer MAT no longer require use of the properties, they are able to serve notice on the Council and officers can consider whether to exercise an option which would mean the properties revert back to the Council free from the leasehold interest.

6. Other implications

6.1.How will this contribute to achievement of the Council's Plan?

Following an Ofsted inspection at Woodfield School in March 2020, which resulted in a grading of 'Inadequate', Sidney Stringer MAT expressed an interest in sponsoring Woodfield School, which the Council supports. The academisation was discussed at the West Midlands Headteacher Board on 22nd October 2020, where it was agreed that Sidney Stringer MAT (an Outstanding academy trust) would become the academy sponsor.

To date, good relationships have been maintained with both the school and academy trust. As part of the Coventry Education Partnership, there is a commitment on the academy trust's part to continue to work with the Council and other schools. This will require both existing and future academy schools to use some of their funding to support partnership working.

6.2.How is risk being managed?

An academy school is no longer maintained by the Local Authority and the land and buildings transfer to the academy trust, so health and safety will no longer be the Local Authority's responsibility. It will be the same for business continuity. If there were significant Health and Safety or Business Continuity issues in an academy school, this could result in numbers of children and young people not being in school. This needs to be discussed and agreed with academy trusts and Headteachers as we consider with them the protocols for working with academies. All schools in Coventry are part of a Partnership with the Local Authority (the Coventry Education Partnership). This means the Local Authority and all schools will work together to minimise risks, including those outlined above.

6.3.What is the impact on the organisation?

Academies are independent bodies from the Council. As such, they will have freedom to decide where they obtain services and support from. Where academies decide to procure services elsewhere than the Council then this may impact on the services involved. For many Council services this means no change as under Fair Funding legislation and Budget Delegation requirements, schools have held such budgets and service delivery decision-making powers for several years. However, where services have been provided as part of a corporate statutory service then academies will need to purchase such services from the Council or seek an alternative provider. When bidding for academy business, all Local Authority services will have to base bids on commercial rates that achieve full recovery of Authority costs. Revised formal arrangements in respect of service charging for community and academies were introduced from April 2013.

The Council will look to deal with both the site service officer accommodation and identified sports facilities within the Woodlands School Site to a) preserve a potential capital receipt for the Council in the event that the site service officer accommodation became surplus to Sidney Stringer MAT's requirements and b) ensure that the community use of the sport facilities continues to be facilitated and delivered

6.4.Equalities / EIA

There are no specific EIA issues directly related to the land transfer. The agreement of a lease for the land and buildings to each academy will not in itself have any adverse effect on the community access or enjoyment of each of the sites compared to that currently available from the school. Parts of the current school buildings and certain site locations may have access restrictions or limits for those with a disability (e.g. wheelchair users, blind/partially sighted) or movement restriction (e.g. elderly) due to the age and design of the site; however, these issues will not worsen with the agreement of the lease. Responsibility for monitoring and addressing access issues on the site will transfer from the Council to the academy with the school's conversion to academy status and it will be for the academy to prioritise improvement works in the usual way.

The categorisation of social emotional and mental health difficulties (SEMH), is included as a SEN under part 3 of The Education Act, 2014. Some, but not all pupils experiencing SEMH, will also have an underlying learning disability, for example an autism spectrum condition. Currently the separate phase distribution of Woodfield Special School's primary and secondary sites presents significant access barriers to an appropriate curriculum and learning environment. This is specifically relevant to girls who can access the primary offer but under current arrangements are displaced at secondary transfer, requiring transition into independent school provision outside of the City. Both disability and gender are protected characteristics under The Equality Act 2010. The proposed refurbishment of the Woodlands School site, which will be occupied by Sidney Stringer MAT upon practical completion of agreed works, is designed to address these inequalities by extending opportunities and outcomes.

6.5.Implications for partner organisations?

None that have not already been addressed.

Some areas of the Woodlands School site that will become part of the 125-year academy lease are currently used by community groups. The Council will look to ensure that this provision is maintained and availability to community users is not impacted by the grant of the lease. Sidney Stringer MAT will manage the contracts directly with the sporting organisations.

6.6.Implications for (or impact on) climate change and the environment

None that have not already been addressed.

Coventry's schools currently account for 28% of the City's carbon footprint and the Woodlands relocation project will support the reduction of that level through replacing/refurbishing old school buildings with modern, energy efficient facilities. The Carbon Reduction Commitment (CRC) Energy Efficiency Scheme as amended is a mandatory carbon emissions tax covering non-energy intensive users in both public and private sectors and is a central part of the UK's strategy to deliver the emission reduction targets set in the Climate Change Act 2008. Emissions from schools (including PFI Schools) are to be included in the total reported carbon emissions for their participating Local Authority. The building works would also be designed to mitigate the effects of climate change fluctuations and to help reduce surface water run off as a result of flash or extreme weather events, reducing any negative effects on the local community and environmental infrastructure. All the proposed changes and the environmental impacts of the proposed scheme will be considered as part of the planning process and will comply with all relevant environmental legislation.

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