

Cabinet

16th April 2024

Name of Cabinet Member:

Cabinet Member for Education and Skills – Councillor Dr K Sandhu

Director Approving Submission of the report:

Director of Partnership and Performance

Ward(s) affected:

All

Title:

Academies Act 2010 – Proposed Academy Conversion of Coventry Extended Learning Centre (CELC) – Grant of Long Lease to Solihull Alternative Provision Multi Academy Trust (SAPMAT)

Is this a key decision?

Yes – the Academisation of the Coventry Extended Learning Centre (CELC) is likely to have a significant impact on residents or businesses in all wards of the city

Executive Summary:

Following two Ofsted inspections at the Coventry Extended Learning Centre (CELC), operating on two sites known as Wyken Extended Learning Centre and Herald Extended Learning Centre (“the CELC’s”), in both June 2018 and 2022, which resulted in gradings both times of ‘Requires Improvement’, the CELC is required to academise. The Secretary of State issued the school a Directive Academy Order (DOA) under the Academies Act 2010 (“the 2010 Act”).

Following the DOA being received in March 2023, the Department for Education, City Council, and CELC agreed that the CELC will join the Solihull Alternative Provision Multi Academy Trust (“SAPMAT”) as a sponsored 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 under Section 14 of the Education Act 1996, to ensure sufficient school places and fair, appropriate access to education.

The Cabinet Member for Education and Skills has delegated authority in respect of academy conversion approvals. However, given the unique nature of the conversion in respect of the requirement for multiple leases Cabinet approval is sought in order to provide transparency given the context and complexities behind the conversion of Coventry Extended learning Centre.

In order to facilitate the conversation, approval is sought under Schedule 1 of the 2010 Act (as amended by Schedule 14 of the Education Act 2011 ("the 2011 Act")), to grant a 125-year long lease at a peppercorn rental for the land and/or buildings within its ownership that has been wholly or mainly used for the purposes of the school in the period of 8 years ending on the day on which an order is made. A Commercial Transfer Agreement (CTA) will also need to be completed.

Recommendations:

Cabinet is requested to:

- 1) Endorse Coventry Extended Learning Centre's (CELC) Directive Academy Order to become an academy by joining the Solihull Alternative Provision Multi Academy Trust (MAT).
- 2) Delegate authority to the Director of Law and Governance to agree and complete the suite of legal documentation to facilitate the grant of the 125-year long leases in respect of the Wyken ELC, Wyken ELC Site Services Officer (SSO) accommodation and the Herald Extended Learning Centre (ELC) and any necessary Commercial Transfer Agreement (CTA).
- 3) Delegate authority to the Director of Partnerships and Performance, 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 Solihull Alternative Provision Multi Academy Trust (MAT).

List of Appendices included:

- Appendix 1 – Wyken ELC site lease plan
- Appendix 2 – Wyken ELC SSO House site lease plan
- Appendix 3 – The Herald ELC site lease plan

Background papers:

None

Other useful documents:

None

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

Title:

Academies Act 2010 – Proposed Academy Conversion of Coventry Extended Learning Centre (CELC) – Grant of Long Lease to Solihull Alternative Provision Multi Academy Trust (SAPMAT)

1. Context (or background)

- 1.1. Solihull Alternative Provision MAT is an academy trust in Solihull, currently formed of two alternative provisions Daylesford Academy and Solihull Academy. Solihull Alternative Provision Multi Academy Trust formed in 2022.
- 1.2. Following two Ofsted inspections at the Coventry Extended Learning Centre (CELC) in both June 2018 and 2022, which resulted in gradings both times of ‘Requires Improvement’, the Secretary of State issued the CELC a Directive Academy Order (DOA) under the Academies Act 2010 (“the 2010 Act”).
- 1.3. In order to facilitate the conversion, the Council is required, under Schedule 1 of the 2010 Act (as amended by Schedule 14 of the Education Act 2011 ("the 2011 Act")), to grant a 125-year long lease at a peppercorn rental for the land and/or buildings within its ownership that has been wholly or mainly used for the purposes of the school in the period of 8 years ending on the day on which an order is made. A Commercial Transfer Agreement (CTA) has been completed.
- 1.4. Officers within the Council, the Department for Education, the Coventry Extended Learning Centre and Solihull Alternative Provision MAT are working towards a target conversion date of 1st September 2024, subject to leases being agreed and all other agreements being in place by the 1st of July 2024.
- 1.5. Legal and other considerations being factored into the leases are detailed in the below sections of this report.

2. Options considered and recommended proposal.

- 2.1. Recommended Option - Endorse the recommendations as per the Directive Academy Order and enabling works in relation to lease and CTA.

3. Results of consultation undertaken

- 3.1. Solihull Alternative Provision MAT (SAPMAT) will become the employer of the school’s staff. SAPMAT 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 (Solihull Alternative Provision MAT [SAPMAT]) for Coventry Extended Learning Centre (CELC) by Directive Academy Order	March 2023	Completed

Kickstart meeting between the Council, CELC, Solihull Alternative Provision MAT and StoneKing (acting on behalf of SAPMAT)	November 2023	Completed
Ongoing communication and meetings between the Council, CELC, SAPMAT and the DfE		
Report to CCC Cabinet for authorisation of the academisation of CELC	16 th April 2024	Proposed
Target conversion date to academy status	1 st September 2024	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 September 2024, subject to leases being agreed.

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

5.1. Financial implications

5.1.1. Alternative Provision academies receive funding from both the Education and Skills Funding Agency (place funding) and the Local Authority (top-up funding). 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 CELC is converting 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).

5.2. Legal implications

5.2.1. Officers within Legal Services will prepare and complete the necessary agreements and leases to deal with the 125-year lease of the Wyken ELC, the Wyken ELC Site

Service Officer (SSO) property and the Herald ELC. The form of leases will be based upon the "model long term lease" produced by the DfE.

- 5.2.2. Officers within the Legal Services will prepare and complete any necessary CTAs in respect of both Wyken ELC and the Herald ELC.
- 5.2.3. There is one SSO property relating to the Wyken ELC site; the Council has drafted a separate long lease for the SSO property following the DfE model lease. The lease includes a provision that, in the event Solihull Alternative Provision MAT no longer require use of the SSO property, they are required to serve notice on the Council and officers can consider whether to exercise an option to break which would mean the property would revert back to the Council free from the leasehold interest. The Council would then be able to deal with the SSO property as is considered appropriate at the time. The intention here is to preserve a potential capital receipt for the Council in the event officers chose to exercise the option to break and later dispose of the property.
- 5.2.4. The Wyken CELC sits within the boundary of Caludon Castle Secondary School and was excluded from the long lease granted in respect of that school in 2011 under the Academies Act. The lease plan has been prepared having regarding the existing lease in respect of Cauldon Castle School and the lease will reserve all necessary rights of access to and from the Wyken CELC.
- 5.2.5. The Herald CELC at 20 Watcombe Road is currently located on land which is being held by Street Scene and Green Space. It is the intention to appropriate, under Section 122 of the Local Government Act 1972, the land to Education, as identified within the unshaded area plus the brown shaded area on the indicative plan.
- 5.2.6. It is proposed that the access road leading to the Herald CELC will be included within the demise and that the Academy will take over responsibility for future repair and maintenance of the same and maintain access for the parks teams through the gates linked to the school and the road to Moat House Park including out of hours or non-school days for maintenance purposes. Access will be maintained to a PFI contracted Lamppost which is located in this area.
- 5.2.7. The two land appropriations to Education will be in place upon formal completion of the academisation.

6. Other implications

6.1. How will this contribute to achievement of the One Coventry Plan?

These proposals will support and synergise with the Councils Policies as set out below:

- Creating the Infrastructure – Aiding in Schools to be self-sufficient.
- Rationalising our property portfolio – Enabling schools to reach their potential.
- Creating the infrastructure for the city to grow and thrive – by providing additional school places for Coventry residents to attend.

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. A recent capital project, completed April 2022, has been undertaken at the Herald ELC to provide additional places and improve the learning facilities on the school site. Through the CTA and within the lease, City of Coventry officers will be looking to secure continuum of provision, with an agreed number of places, reserved for Coventry City pupils and allocated by the Council acting as Local Education Authority.

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.

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. 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.

6.5. Implications for partner organisations?

None that have not already been addressed.

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

None that have not already been addressed.

Collaboration with the Climate Change and Sustainability Team to address inefficient school buildings and support the City Council Sustainability Strategy will take place and recommendations implemented where funds allow.

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