

CLOSURE OF ABBOTSMEDE PRIMARY SCHOOL, ACADEMY TRANSFER AGREEMENT AND LEASE OF PREMISES

Councillor Lynne Ayres, Cabinet Member for Education, Skills, University and Communications

June 2017

Cabinet portfolio holder:	Councillor Lynne Ayres, Cabinet Member for Education, Skills, University, and Communications
Responsible Director:	Wendi Ogle-Welbourn, Corporate Director People and Communities
Is this a Key Decision?	YES If yes has it been included on the Forward Plan : Yes Unique Key decision Reference from Forward Plan: KEY/06MAR17/02
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO

R E C O M M E N D A T I O N S

The Cabinet Member is recommended:

- 1) To approve the closure of Abbotsmede Primary School, and authorise the execution and completion of a Commercial Transfer Agreement (CTA) between Peterborough City Council, the Governing Body of Abbotsmede Primary School and The Lime Trust;
- 2) To authorise the grant of a 125 year lease of the land and buildings occupied by the School known as Abbotsmede Primary School (including the nursery contained within the School), at a peppercorn rent to The Lime Trust; and
- 3) To authorise the execution and completion of a Licence to enter and Landlord's refurbishment works between Peterborough City Council and The Lime Trust.

1. SUMMARY OF MAIN ISSUES

- 1.1 It is the Government's policy for schools to become Academies.
- 1.2 As part of the conversion to an Academy, Department for Education guidance specifies that the land held by the Local Authority is to be leased to the academy on a 125 year lease for a peppercorn rent. Local Authorities also enter into a Commercial Transfer Agreement

("CTA") as part of the conversion, to set out the respective obligations of the parties in relation to the conversion (including in relation to the transfer of assets, contracts and liabilities).

1.3 The Lime Trust intends to change its company name from 'The Lime Academy Trust' to Lime Trust, in advance of the academy conversion, and has therefore been referred to in this report as Lime Trust (the "Trust").

1.4 The Trust will be responsible for the operation of the Academy upon conversion and will be the employer of school staff. The Council employees in respect of the school will therefore transfer from the Council to the Trust under the Transfer of Undertakings (Protection of Employment) Regulations 2006. The prescribed consultation meetings with staff and trade unions are underway. The respective liabilities of the Council and the Trust in relation to those employees are dealt with within the CTA.

2. PURPOSE OF THIS REPORT

2.1 This decision is proposed in accordance with the delegations for Councillor Ayres, Cabinet Member for Education, Skills and University exercising delegated authority under paragraph 3.4.3 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (i).

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4. DETAILS OF DECISION REQUIRED

4.1 The decision maker is asked to:

4.1.1 Approve the closure of Abbotsmede Primary School, which is currently a community school, and authorise the execution and completion of a Commercial Transfer Agreement between Peterborough City Council, the Governing Body of the school and The Lime Trust; and

4.1.2 Authorise the grant of a 125 year lease of the land and buildings occupied by the School known as Abbotsmede Primary School (including the nursery contained within the School), to the Lime Trust.

4.1.3 Authorise the execution and completion of a Licence between Peterborough City Council and The Lime Trust to allow the Council to carry out refurbishment works and grant access to the land and buildings to carry out the works.

5. CONSULTATION

5.1 The consultation process started on 22nd November 2016. The Governing Body of the School wrote to parents and staff providing information and inviting questions and comments. Meetings have been held with parents, staff and trade unions. The prescribed consultation required under the Transfer of Undertakings (Protection of Employment) Regulations 2006 is underway.

6. ANTICIPATED OUTCOMES

6.1 The anticipated outcome is that Abbotsmede Primary School, will close and re-open as an Academy operated by the Trust. The land and buildings currently occupied by Abbotsmede Primary School and the nursery within the School, will be leased to the Trust, and the staff,

assets and contracts relating to the School will be transferred to the Trust to enable it to operate the Academy from the conversion date (anticipated to be 1st July 2017).

7. REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION

- 7.1 The Council is obliged under the Academies Act 2010 to cease maintaining a school on the date it opens as an Academy. The DfE expect Local Authorities to co-operate with the Academy conversion process, once approved by the Secretary of State for Education.
- 7.2 The Council's consent is not required for a school to convert to an Academy and if the Council does not cooperate with the conversion process and negotiate and enter into lease arrangements and a CTA, the Secretary of State has the power to make transfer schemes under the Academies Act 2010 in relation to property, land, rights and liabilities (including rights and liabilities in relation to staff) which would be binding on the Council. It is therefore preferable for the Council to reach agreement with the Governing Body of the School and Trust and enter into the lease arrangements and CTA in respect of these matters, rather than be subject to transfer schemes made by the Secretary of State.
- 7.3 The proposed lease to the Trust includes the land currently occupied and used for the purposes of the School, together with the nursery contained within the School. The lease will contain clauses to ensure guaranteed early years provision in respect of the nursery.
- 7.4 The Children's Centre will not be included within the lease to the Lime Trust and is to be retained by the Council. Provisions regarding the Children's Centre's use of car parking facilities will be included within the lease.
- 7.5 The CTA sets out the respective obligations of the Governing Body of the School, the Council and the Trust arising from the academy conversion in relation to employees, contracts and assets (other than land), and the liabilities of each of the parties in that regard.
- 7.6 As part of the CTA, the Council will transfer the sum of £27,600 to the Trust shortly after conversion. The reasoning for this is explained in paragraphs 9.2.3 and 9.2.4 below.
- 7.7 As part of the conversion documents, the Council has agreed to carry out certain works to the School post-conversion. These works will be documented in a Licence between the Council and the Trust. Issues relating to roofing and pipe works had already been highlighted by the School and investigations were underway prior to notification of conversion. Works regarding the roofs and renewal of pipework will be funded by the Council as the Council's tender process is already underway and the works were already planned, irrespective of the conversion.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Refuse the closure of Abbotsmede Primary School, and the transfer to academy status: Once the school has been accepted for academy status by the Secretary of State, the Council is required to support the decision. Failure to cooperate could result in the Secretary of State making transfer schemes which would be binding on the Council.
- 8.2 Not to transfer the premises: This option was rejected because the Department for Education guidance specifies that the land held by the Local Authority is to be leased to the academy on a 125 year lease for a peppercorn rent and failure to follow the guidance and cooperate could result in the Secretary of State making a transfer scheme in relation to the land.
- 8.3 Sell the site to the Trust: This option was rejected because there is no requirement for the Trust to buy land (for which no funding has been made available) and the Council would

prefer to retain ownership.

9. IMPLICATIONS

9.1 Property

The land and buildings will remain under the ownership of the Council but the Trust will have full control of them, as tenant, for a 125 year period, unless the lease is terminated early for any reason.

9.2 Finance

9.2.1 The Trust will receive its funding direct from the Department for Education. Government funding for Peterborough schools will be reduced proportionately.

9.2.2 As explained in paragraph 7.6 of this report, above, the sum of £27,600 will be transferred to the Trust shortly after conversion.

9.2.3 The Council has reviewed the school's 2017-18 budget and acknowledges that there will be an in-year deficit. Where maintained schools face a budget deficit, they are expected to take action to balance the budget. Because the majority of schools' expenditure is on staffing costs, this inevitably means a reduction in staffing. The Council holds an ESG budget to support this and it is the policy to underwrite 70% of the agreed costs in relation to maintained schools.

9.2.4 This has been calculated to amount to £27,600. However, there is insufficient time to complete this process in advance of the conversion date. Therefore, in this case, an agreement has been reached for the Council to fund this, notwithstanding that it will no longer be a maintained school. This sum will be paid to the Trust on conversion.

9.3 Admissions

The Trust will be its own admissions authority and will determine its own admissions arrangements. Places will continue to be allocated via the co-ordinated admissions scheme.

9.4 Legal

As detailed within paragraph 7.1 of this report, the Council is obliged under the Academies Act 2010 to cease maintaining a school on the date it opens as an Academy. Paragraph 7.2 of this report sets out the implications if the Council fails to cooperate.

9.5 Equalities

There are no equalities implications arising from this decision.

10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

10.1 None.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

11.1 None.