

Novation of Peterborough City Council and Kier Design and Build Contract for the Nene Park Academy with Cambridge Meridian Academies Trust (CMAT) and the Execution of the Academy Long Lease between PCC and Cambridge Meridian Academies Trust

Councillor Holdich, Cabinet Member for Education, Skills and University

MARCH 2015

Deadline date: March 2015

Cabinet portfolio holders:	Cllr Holdich Cabinet Member for Education, Skills and University
Responsible Director:	John Harrison, Corporate Director of Resources
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/06JAN15/01
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 requested to:

1. Approve the Council entering into a lease with Cambridge Meridian Academies Trust back dated to expire on 31 August 2136;
2. Approve the Council to novate the design and build contract (including collateral warranties) between PCC and Kier Construction (Eastern) to Cambridge Meridian Academies Trust;
3. Approve the Council entering into a Deed of Transfer and Release with the Big Lottery Fund and Cambridge Meridian Academies; and
4. Authorise the Director of Governance to enter into any additional documentation considered necessary to complete the lease and novation arrangements.

1. SUMMARY OF MAIN ISSUES

- 1.1 This report outlines the requirements to enter into a long lease with Cambridge Meridian Academies Trust (CMAT) for the site at Nene Park Academy (shown on the site plan at Appendix A) and to novate the Council's design and build contract with Kier to the CMAT.

2. PURPOSE OF THIS REPORT

- 2.1 The purpose of this report is to provide background information and seek the Cabinet Member's approval in relation to the recommendations.
- 2.2 This decision is proposed in accordance with the delegations for the Cabinet Member for Education, Skills and University exercising delegated authority under paragraphs 3.4.3 and

3.4.8 of Part 3 of the constitution in accordance with the terms of his portfolio at paragraph (b).

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 Cabinet Member is requested to authorise the Director of Governance to enter into the legal agreements to enable a long lease to be executed and the design and build contract between the Council and Kier Construction (Eastern) to be novated to CMAT.

5. **CONSULTATION**

- 5.1 CMAT are fully aware of the requirements, processes and draft agreements.

6. **ANTICIPATED OUTCOMES**

- 6.1 A long lease will be granted to CMAT. The lease term will be from the date of the lease until 31 August 2136, which is 125 years after the opening of Nene Park Academy. This will give them the responsibility for the maintenance of the buildings and any outgoings in relation to the property.
- 6.2 The Design and Build contract between the Council and Kier Construction (Eastern) executed on 7 December 2011 will be novated to CMAT. This process will include the assignment of the collateral warranties. This will mean that if any issues arise in future in relation to the design and build of the school buildings, these matters will be dealt with directly between CMAT and the party at fault without the involvement of the Council.
- 6.3 The Deed of Transfer and Release is required in relation to the Multi Use Games Area that was built within the grounds of the Orton Longueville School with funding from the National Lottery. The land is subject to a restriction to ensure that the terms of the grant are complied with and the lease can only be granted if CMAT enters into a direct agreement with the Big Lottery Fund to confirm that they will comply with the terms of the grant agreement.

7. **REASONS FOR RECOMMENDATIONS AND ANY RELEVANT BACKGROUND INFORMATION**

- 7.1 It should be noted that a CMDN is not normally required because a Development Agreement is entered into with the Academy Trust at the same time as the Design and Build Contract which puts in place the legal obligation to enter in to a 125 year lease and to novate the design and build contract. For example, this happened for City of Peterborough Academy, Fulbridge Academy etc. A Development Agreement was not entered into for the Nene Park Academy with CMAT because the school build project was originally intended to form part of the Council's Building Schools for the Future (BSF) programme which was cancelled. At this time there was uncertainty as to the long term implications of the changes and whether there was an ongoing requirement for a Development Agreement. However, subsequently the requirement for a Development Agreement to be entered into between the Council and the Academy Trust became the Council's preferred legal approach.
- 7.2 It should be noted that parts of the lease will specifically allow the Academy Trust to sub-let to Peterborough United Football Club, place a requirement on the Trust to provide an autism unit and expand the school's pupil capacity if necessary.
- 7.3 The approach to enter into a long term 125 year lease and novate the design and build contract with CMAT is consistent with the Academies policy and consistent for example with

the Council's approach for City of Peterborough Academy, Fulbridge Academy in recent years.

8. ALTERNATIVE OPTIONS CONSIDERED

The following options were considered and rejected:

- 8.1 To do nothing will mean the Council cannot comply with the agreements made with CMAT to be the Academy sponsor of Nene Park Academy. Further, the Department for Education on behalf of CMAT will intervene, as any alternative approach will be contrary to their Academies policy.

IMPLICATIONS

Legal and Financial

- 9.1 The legal and financial implications of this Cabinet Member Decision Notice are set out in the main body of the report.

Environmental

- 9.2 None.

9. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

None.

10. 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

- Nene Park Academy Site Plan – Appendix A