

**DERBYSHIRE COUNTY COUNCIL**

**CABINET MEMBER MEETING FOR**  
**COUNCIL SERVICES**

**10 April 2017**

**Report of the Strategic Director Corporate Resources**

**Assignment of Lease and Taking of Under- Lease of Premises at  
Chesterfield**

**1. Purpose of the Report**

To advise the Cabinet Member of the assignment of a lease of land and premises at Old Whittington and to seek approval to take a new sub-lease of part of the premises.

**2. Information and Analysis**

The Mary Swanwick Primary School occupies both land and premises owned by the Council and land and premises owned by a charity called The Webster's Whittington School Charity and Estates. The Council has a 50 year lease of the premises owned by the Charity which commenced 13 December 2006 and a rent of £1,000 per annum is currently payable. The school has applied to become an academy and under the terms of the legislation providing for this conversion process the land and premises must be transferred to the new academy.

The situation at the Mary Swanwick School is further complicated by the fact that the Council also operates a Children's Centre from part of the premises which sit upon the land owned by the Charity. The Council wishes to continue to run the Children's Centre at this location for the foreseeable future and so provision must be made for this during the academy conversion procedure.

Following discussions between the charity, the Department for Education, the academy trust and the Council a suitable solution has been agreed upon. It is proposed that the Council should assign its current lease to the academy and then take a sub-lease from the academy of those parts of the premises occupied by the Children's Centre. The terms of the sub-lease will protect the Councils current use of the premises including rights to park and suitable rights of access.

### **3. Financial Considerations**

The Council will be required to pay a proportion of the £1,000 per annum rent payable to the charity under the lease together with a proportion of the running costs of the shared parts of the premises on a pro-rata basis. The Council will be responsible for the running costs of the premises occupied solely by the Children's Centre, but it will no longer be responsible for the running costs of those parts of the premises solely occupied by the school.

### **4. Legal Considerations**

By virtue of the Academies Act 2010 the Council is required to transfer ownership of any legal interest it has in the land and premises of a school that is converting to an Academy to the Academy Trust.

### **5. Property Considerations**

The sub-lease is to be for an initial term of 7 years but will not be contracted out of the provisions of the Landlord and Tenant Act 1954 which confers security of tenure on the tenant. This will allow the Council to renew the lease at the end of the term or be compensated by the Landlord if possession secured under the terms of the act.

The Council will pay for all of the outgoing attributable to the Childrens Centre premises and will pay a proportion of the current rent payable (approximately 44%) to the head Landlord. At the present time the rent passing is £1,000 per annum and 44% of this is £440 per annum.

DCC will be liable for maintenance and repair of the Childrens Centre premises.

The sub-lease will provide for access to all common parts required by the Childrens Centre together with shared use of the parking area.

### **6. Social Value Considerations**

The relevance of social value in terms of social, economic and environmental wellbeing has been considered in the preparation of this report. Meeting the current and future educational needs of communities in the best possible way (i.e. sustainable development) is central to the role of the County Council as Local Authority for educational provision in consultation with local planning authorities, which are responsible for preparing and implementing their local plans.

## **7. Other Considerations**

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, equality and diversity, human resources, environmental, health and transport considerations.

## **8. Background Papers**

N/A

## **9. Key Decision**

**NO**

## **10. Call-in**

Is it required that call-in be waived for any decision on this report? **NO**

## **11. Officer Recommendation**

That the Cabinet Member

11.1 Notes the assignment by the County Council of the lease of land and premises at Mary Swanwick Primary School that it holds from the Webster's Charity and Estate to the Learners Academy Trust and:-

11.2 Approves the taking of a sub-lease of premises occupied by the Old Whittington Children's Centre at Mary Swanwick Primary School for the Learners Academy Trust on the terms set out in the report.

JUDITH GREENHALGH  
Strategic Director Corporate Resources

