

## **Children and Families Committee**

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<b>Date of Meeting:</b>	23 May 2022
<b>Report Title:</b>	School Organisation: Academisation of Schools: <b>Oakfield Lodge School</b> (Pupil Referral Unit)
<b>Report of:</b>	Deborah Woodcock, Executive Director of Children's Services
<b>Report Reference No:</b>	CF/47/22-23
<b>Ward(s) Affected:</b>	All Wards

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### **1. Purpose of the Report**

- 1.1 This report sets out the arrangements in place to support the intended academy conversion of Oakfield Lodge School to become part of the Manor Hall Academy Trust. The report provides the necessary assurances to enable committee to consider their support for the conversion and provide delegated authority to enable the conversion to take place.

### **2. Executive Summary**

- 2.1 This report relates to the conversion of Oakfield Lodge School to an academy which, in accordance with the decision taken at Children and Families Committee on 12 July 2021 (see appendix 1) is being referred to the committee for approval. There are third-party interests in land which form the school's site and the resulting land transactions and this therefore falls outside the officer delegations. This school is our only pupil referral unit and supports some of our most vulnerable pupils who have been excluded from school, a number of whom are open to social care. It was therefore felt appropriate for committee to be engaged in this decision making process.

### **3. Recommendations**

That the committee:

- 3.1 Supports that Oakfield Lodge School, Warmingham Road, Crewe, Cheshire, CW1 4PP will convert to academy status on or after 1 September 2022 as per the Department for Education (DfE) Academy Order dated 16 September 2021 (see appendix 2).
- 3.2 Supports that Oakfield Lodge School joins the Manor Hall Academy Trust which currently consists of 12 schools.
- 3.3 Authorises the completion of a Commercial Transfer Agreement to the Manor Hall Academy Trust and the management committee of Oakfield Lodge School relating to the transfer of all staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and assets to the trust.
- 3.4 Authorises the Executive Director of Children's Services in consultation with Chief Finance Officer and Monitoring Officer to take all steps necessary to agree and execute the Commercial Transfer Agreement.
- 3.5 Authorises the grant and completion of all transactions in relation to land as are necessary in order to facilitate the conversion, including (but not limited to) the grant and completion of a lease to the Manor Hall Academy Trust for 125 years substantially in the form of the model lease produced by DfE at a peppercorn rent.
- 3.6 Authorises the Executive Director of Place and Director of Finance and Customer Services to take the steps necessary to agree the required transactions in relation to land to enable the transfer, in line with the agreed heads of terms.
- 3.7 Notes that the Chief Finance Officer has authority to take all steps necessary to agree, transfer and adjust relevant budgets and allocate balances in accordance with Department for Education Guidance.

#### **4. Reasons for Recommendation**

The contextual background and history to Oakfield Lodge School is outlined below:

- 4.1 Oakfield Lodge School is a 60 place pupil referral unit which provides educational support for pupils who have been or are at risk of permanent exclusion. The school is currently a local authority maintained school. The school site plans are included as appendix 3. The school currently shares the site with a separate provider which supports vulnerable primary aged pupils. This element of the site will be retained by the council and is shown edged blue on the plan.
- 4.2 Oakfield Lodge School was judged inadequate by Ofsted in January 2014. The school has made improvements and was judged requires improvement in

March 2016 and September 2018. The school currently remains requires improvement.

4.3 However, in June 2021, an Ofsted monitoring visit reported that:

*Leaders and governors have made effective use of the support available to strengthen senior leadership. They have worked closely with the local authority and a multi-academy trust. Leaders have also consulted with colleagues from other mainstream schools and pupil referral units to broaden the curriculum offer.*

4.4 Oakfield Lodge School has been located in a range of temporary (unsatisfactory) buildings. In December 2019, the school moved into a new purpose-built accommodation with a capital investment of £2.4 million on Warmingham Road, Crewe. The funding for this was mainly through Department of Education capital grants with a contribution from S106 funding.

4.5 The move to the new build saw the school vacate their temporary accommodation (known as 'The Stables') which was on the same site of the new build. This resulted in 'The Stables' being available to the council for alternative education use.

4.6 Following consultation, the vacated buildings were leased to the Youth Engagement Schools Trust (YES). Condition funding from the Department of Education was used to improve the buildings. Inadequate mobile classrooms were removed. The provision now operates from this site with further work needed to finalise formal lease arrangements with the YES Trust. As the lease is for land that the local authority will retain this will not impact on the conversion.

4.7 Oakfield Lodge School proposes to join Manor Hall Academy Trust which already incorporates 12 schools. This trust is a specialist trust for schools supporting pupils with social, emotional, and mental health needs. Two Cheshire East special schools are already supported by this trust and there are other pupil referral units within the trust which will further develop best practice at Oakfield Lodge School.

4.8 Oakfield Lodge School is already an 'Associate Member' of the Manor Hall Academy Trust which involves the school having formal support mechanisms from the trust in advance of full academisation.

## **5. Other Options Considered**

5.1 To do nothing and continue to maintain the school. If this option is considered then the Secretary of State has the power to make the transfer under the Academies Act 2010 and this would be legally binding on the authority.

- 5.2 To actively oppose the conversion of the school which would require a legal challenge to the secretary of state academy order and the Secretary of State has the power to make the transfer under the Academies Act 2010 and this would be legally binding on the authority.

## **6. Background Information**

- 6.1 The Academies Act 2010 empowered the Secretary of State for Education to create academies through Academy Orders.
- 6.2 Oakfield Lodge School is a pupil referral unit, and an Academy Order for the school to convert was granted dated 16 September 2021 – see appendix 2.
- 6.3 Oakfield Lodge School is our only pupil referral unit. Following conversion we will continue to commission places through the same arrangements that currently exist. The demand for places will be assessed as part of our sufficiency statement that will be updated in the Autumn.
- 6.3 The specific land interests at Oakfield Lodge School are outlined below. The following information sets out the actions to be taken to ensure compliance in this conversion and to protect the council's interests.

Property position pre-conversion:

This is a maintained school and as such the building and land comprising the school site are in the freehold ownership of Cheshire East Council.

As set out in paragraphs 4.5 and 4.6, Oakfield Lodge School and YES trust provision currently co-exist on the same site. They have a shared access and egress arrangement utilising separated entrances and exits and share the same foul water system.

- 6.4 To accomplish the conversion and protect the council's interests, legal documentation will be put in place as follows:

To facilitate conversion the council is entering into a 125-year lease in the standard form required by the DfE with the trust.

The lease is a full repairing and insuring lease, ensuring that responsibilities are transferred to the trust.

Oakfield Lodge and the YES trust co-exist on the site and a separate lease is in the process of being granted, to ensure that both schools have separate independent access arrangements and both schools are separately responsible for the financial costs and utility services with both schools having a clearly defined boundary.

6.5. The council is the residual employer of all staff. The council's standard Commercial Transfer Agreement (CTA) is being entered into by the council, governing body and academy trust as per guidance given by the Department for Education (DfE).

## **7. Implications of the Recommendations**

### **7.1 Legal**

7.1.1 The council is obliged under the Academies Act 2010 to cease maintaining a school on the date it opens as an academy. This report sets out the implications if the council fails to cooperate and enter into a lease and CTA.

7.1.2 Under the DfE "Land Transfer Advice" note dated 2013 the council should ensure that arrangements are in place to secure the continued use of the land when maintained schools transfer to academy status. It is therefore necessary to make arrangements to transfer the land and buildings to the trust. As the proposed conversion date is 1 September 2022 it is necessary for the lease to be entered into prior to the end of the summer term as the DfE will require confirmation that the lease has been entered into prior to the conversion date.

7.1.3 As Oakfield Lodge School is a maintained school, the council are currently responsible for the maintenance of all the buildings, grounds and for the payment of all utility services following the conversion of the school all liabilities will be transferred to the school under the 125 year lease.

7.1.4 It is noted that there are shared facilities between the two school sites, it will be therefore necessary to ensure that arrangements are detailed in both leases for the shared responsibility of maintenance, repair, and cost of the facilities. In order to avoid any future complications it will need to be clear within the documentation as to what proportion each property will be responsible for to ensure that the council's liabilities are reduced in future.

7.1.5 The Commercial Transfer Agreement (CTA) is negotiated and drafted by legal services and the council's CTA is closely aligned to the DfE standard template. The CTA transfers the council's non-land assets, including contracts, IT, and staff, to the academy.

### **7.2 Finance**

7.2.1 The academy will be responsible for all outgoings related to the land to include public liability and premises insurances or participation in the DfE Risk Protection Arrangement, and repairs / maintenance.

The council will retain a landlord role, but the leases will contain provisions for recovering costs for approvals required under the terms of the leases e.g., for alterations.

- 7.2.2 The council has 60 places at the PRU costing £1.4m per annum for place and pupil (top up) funding. This remains unchanged and post conversion these places will appear on the Council's annual high needs place change return to the DfE.
- 7.2.3 The trust will receive its place funding direct from the DfE. This will form a deduction to Cheshire East's High Needs Dedicated School Grant allocation in due course which will be equivalent to the allocation currently made to the school so have a net nil impact on our high needs funding block. The funding for each pupil will continue to be paid from Cheshire East's high needs allocation. Again net nil impact.
- 7.2.4 The school may decide to purchase services through the academy trust that are currently purchased from the local authority as this may provide efficiencies to them. A review is being commissioned to look at the implications that academy conversions has on services that are currently funded through school buy back arrangements.
- 7.2.5 The Commercial Transfer Agreement (CTA) includes standardised text that confirms the council remains liable for any pre conversion costs and the academy is responsible for post conversion costs. It must be noted that any cash balance or local bank account balance remains the property of the council (excluding any local school funds).
- 7.2.6 The finance service has to complete a "final balance" calculation for each conversion to ensure all costs and funding are correctly allocated. This can be complex, and it must be agreed with the school within four months of conversion.
- 7.2.7 The results of the spring term 2022 finance visit and 2020/21 outturn show that the school had a surplus carry forward of £316,518 as at 31 March 2021. The school are forecasting a surplus for 2021/22 of £337,417 and the school is forecasting to remain in surplus for the next two years 2022/23 and 2023/24. There are no issues with any current deficit balances, loans, or leases with this school. The service is satisfied that the recommended option is supportable. As of 6 May 2022, the draft outturn figures do not look significantly different.

### **7.3 Policy**

7.3.1 The implementation of academy conversion is undertaken in accordance with national legislation as per the various Education Acts as referred to earlier in this report.

#### **7.4 Equality**

7.4.1 The academies conversion programme is a central government policy. The local authority will continue to commission places from the school. Positive relationships will remain with the school and headteacher on a wide variety of educational themes post conversion.

#### **7.5 Human Resources (HR)**

7.5.1 The council employees in respect of the school will transfer from the council to the academy under TUPE regulations. The school uses the dedicated local authority HR service for schools who advise on human resource implications to ensure all statutory requirements are met.

7.5.2 In addition, members of staff at the school will transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 to the trust under a Commercial Transfer Agreement (CTA).

7.5.3 The statutory TUPE consultation has been completed. This has been managed and co-ordinated by the council's HR Team. There has been on-going consultation with staff from Oakfield Lodge School and formal TUPE consultation meetings with the unions occurred on 13 October 2021.

#### **7.6 Risk Management**

7.6.1 The management of risk is governed by the structured legislative process which is followed; this ensures due diligence is undertaken at all stages. The council is required to take all reasonable steps to facilitate the conversion and then "cease to maintain" the school.

7.6.2 All parties are kept regularly informed of progress to ensure any concerns are picked up and resolved at the earliest opportunity to keep the conversation on track. Given the complex land transactions additional meetings have been put in place with the school to work through the complexities.

#### **7.7 Rural Communities**

7.7.1 There are no direct implications for rural communities

#### **7.8 Children and Young People/Cared for Children**

**7.8.1** This school is our only pupil referral unit and supports some of our most vulnerable pupils who have been excluded from school, a number of whom are open to social care. The conversion to a trust that is a specialist trust for schools supporting pupils with social, emotional, and mental health needs will enable Oakfield Lodge School to learn and share best practice which will lead to further improvements to meet the complex needs of many of their pupils. Two Cheshire East special schools are already supported by this trust and the local authority already has a good relationship with the Manor Hall Academy Trust.

**7.9 Public Health**

7.9.1 There are no direct implications for public health.

**7.10 Climate Change**

7.10.1 There are no direct implications for climate change.

<b>Access to Information</b>	
Contact Officer:	Mark Bayley Head of Service – Infrastructure and Outcomes <a href="mailto:mark.bayley@cheshireeast.gov.uk">mark.bayley@cheshireeast.gov.uk</a>
Appendices:	Appendix 1 – Previously agreed Committee approval on Avademy Conversions Appendix 2 – Academy order for Oakfield Lodge Appendix 3 – Oakfield Lodge Academy Lease Plan
Background Papers:	<a href="https://www.gov.uk/government/collections/convert-to-an-academy-documents-for-schools">https://www.gov.uk/government/collections/convert-to-an-academy-documents-for-schools</a>