



Cabinet Member Delegated Decision

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| Title | Bell Lane Primary School, Barnet NW4 2AS to convert to Academy status with Saracens Multi-Academy Trust acting as Sponsor |
| Date of Decision | 21 March 2024 |
| Report of | Councillor Barry Rawlings. Leader and Cabinet Member for Resources & Effective Council |
| Wards | Hendon |
| Key / Non-Key | Non-Key |
| Status | Public |
| Urgent | No |
| Subject to call-in | No |
| Appendices | Appendix A –Site Plan |
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Summary

Bell Lane Primary School, a Community School (the School) has been approved by the Secretary of State for Education (SoS) to convert to an Academy as part of a multi-academy trust (Saracens Multi-Academy Trust). As part of the conversion process, the Council is expected to grant a lease of the land and buildings used by the School to the Saracens Multi-Academy Trust in terms of the model long term Department for Education Academy Lease.

The Council, the Governing Body of the School and the Saracens Multi-Academy Trust are also required to execute a Commercial Transfer agreement, which includes information relating to;

- (i) Any employees of the Council or the Governing Body who are assigned to the school and who will transfer from the employment of the Governing Body or the Local Authority to the Saracens Multi-Academy Trust; and
- (ii) Assets and contacts which will transfer from the Local Authority or the Governing Body to the Saracens Multi-Academy Trust, together with other rights and obligations of the Council, the Governing Body or the Saracens Multi-Academy Trust.

The Commercial Transfer Agreement is to be covered in a separate decision.

The conversion to Academy status is sponsored and under the direction of the Department for Education, who have the power to compel the Council to enter into a Lease of the school to the academy trust.

The Leader and Cabinet Member for Resources and Effective Council is responsible for property assets, and the Portfolio Holder for Family Friendly Barnet is responsible for education.

The terms of the proposed lease are based on the Department for Education’s template school lease for a standard term of 125 years from completion.

Para 20 of schedule 1 to the Academies Act 2010 disapplies the Council’s obligation under section 123 of the Local Government Act 1972, to obtain best consideration, where property is let for the purposes of an academy.

Decision

1. The Leader and Cabinet Member for Resources & Effective Council authorises the:

- **Completion of an Academy lease on the terms detailed in section 1.6 below to the Saracens Multi-Academy Trust of the whole site shown edged red on the attached site plan on the terms set out in section 1.6 with such amendments as may be approved by the Head of Estates.**

1. Reasons for the Recommendations

- 1.1 Bell Lane Primary school is currently a maintained school. The governing body has applied to become an Academy, under provisions of the Academies Act 2010, within the Saracens Multi-Academy Trust. The school’s application and the school is scheduled to convert on 1 April 2024.
- 1.2 In order for the school to convert, Saracens Multi-Academy Trust has instructed legal.
- 1.3 It is proposed that the Department for Education’s template Academy Lease should be used.

The principal terms of the Academy Lease are as follows.

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| Landlord | The London Borough of Barnet |
| Tenant | Saracens Multi-Academy Trust |
| Premises | See attached site plan (Appendix A) |
| Term | 125 years |
| Rent | A peppercorn rent, if demanded. |
| Repairs | To keep the property in a clean and tidy, condition, to make good any damage caused together with any deterioration that has occurred from the Term Commencement Date of the Lease (this excludes anything pre the date of grant of the Lease for which the Council remains responsible. |
| Alterations | Landlord's consent not to be unreasonably withheld to the erection or structural or external alterations of any buildings or structures subject to the usual model form Academy Lease caveats. |
| Statutory Obligations | To comply with all laws affecting the property, the physical condition, or the users of them. |
| Use | Not to use the property other than for the purposes of the provision of educational services by the tenant and for community, fundraising and recreational purposes which are linked to this use. |
| Alienation | <p>The tenant may share occupation of part of the property with a body or individual providing services or facilities which are ancillary to the uses referred to in the user clause.</p> <p>Not to assign or transfer any part or parts of the whole property.</p> <p>The tenant is permitted to assign or transfer the whole property to SoS or an academy proprietor or a successor charitable or public body where the Secretary of State gives approval to such an assignment.</p> |

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| | | The tenant may underlet part of the property with the consent of the landlord, such consent not to be unreasonably withheld, and the tenant may sublet for less than ten years or to a statutory undertaker without landlord's consent. | |
| | Insurance | The tenant to insure | |
| | The security of tenure provisions of the Landlord and Tenant Act 1954 are excluded | Confirmed | |
| | Break | The lease may end if the tenant's funding agreement with SoS ends, unless SoS arranges for another entity to take over. The tenant has the right to end the lease every 25 years. | |
| | Forfeiture | Limited rights | |

2. Alternative Options Considered and Not Recommended

- 2.1 Bell Lane Primary School could continue to be maintained by the Local Authority. However, it is the Governing Body's view that opening an Academy would benefit the Borough's students.
- 2.2 The Council would be legally bound to offer a new lease in accordance with the Secretary of State for Education's approval to the proposal. SoS has made an Academy order, therefore the council has no say in whether the school should convert to an Academy.

3. Post Decision Implementation

- 3.1 Once this decision, and a decision to the proposed Commercial Transfer agreement have been approved, the Lease and Commercial Transfer Agreement will be sealed and signed by the Council.

4. Corporate Priorities, Performance and Other Considerations

Corporate Plan

- 4.1 The Barnet Education Strategy (2020–2023) sets the framework for the overall direction of travel for all education and learning services in the London Borough of Barnet.

Corporate Performance / Outcome Measures

- 4.2 An annual saving against maintenance and repair costs will be assured.

Sustainability

- 4.3 Not applicable

Corporate Parenting

4.4 Not applicable

Risk Management

4.4 If arrangements are not put in place for land and premises transfer, the school cannot become an Academy. SoS may transfer ownership of the school to another if the Council does not co-operate, under powers in the Academies Act 2010.

Insight

4.5 N/A

Social Value

4.6 N/A

5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)

Finance

5.1 Local Authorities are not involved in the decision as to whether a school becomes an Academy; this is a matter for the Secretary of State for Education. From April 2013 academies and maintained schools will be funded using the same funding formula. Academies are funded by Central Government. However, maintained schools (through the schools Forum) have the option of 'de-delegating' funding back to the local authority for some central services and contingencies. Academies cannot 'de-delegate' but can buy back into services. Should academies decide not to buy back services, some services currently funded via the centrally retained budget may need to be reduced, with a potential consequential reduction in staff.

Property

5.2. The freehold interest in this maintained school is currently held by the Council.

5.2.1 The Council as freeholder of the school land is required to transfer the school premises and rights over the site to the Multi-Academy Trust Academy and accordingly under the Academies Act 2010, the current land and premises occupied by the school at Bell Lane Primary School, Barnet NW4 2AS will be transferred to the Saracens Multi-Academy Trust. A 125-year lease will be granted at a peppercorn rent, in accordance with the Heads of Terms set out in section 1.6 of this report. This will enable the school to meet its intended conversion date of 1 April 2024. The land to be demised is shown edged in red on the attached site plan at Appendix A.

Staffing

5.3 As a community school, all staff at the school are employed by the Local Authority. When Bell Lane Primary School becomes an Academy, pursuant to the Transfer of Undertakings (Protection) of Employment Regulations 2006 (TUPE), the contracts of employment of any employees of the Council who are assigned to the School will transfer to the Saracens Multi-Academy Trust. The effect of TUPE is that the contracts of employment made between the Local Authority and the transferring employees will have effect from and after the transfer date as if originally made between Bell Lane Primary School and the transferring employees. Therefore, with effect from the conversion date, the Saracens Multi-Academy Trust will be

responsible for all emoluments and outgoings in respect of the transferring employees (including all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions). There may be a reduction in the number of staff funded from the centrally retained budget should academies decide not to buy back services.

5.4 Pensions

5.4.1 Non-teaching staff in a maintained school converting to academy status either belong to or are entitled to belong to the Local Government Pension Scheme (LGPS) and have their pension dealt with by the 'Administering Authority' applicable to schools in that Local Authority. Academies are separate scheme employers under the LGPS. Academies are 'scheduled body' employers, being listed in Part 1 of Schedule 2 to the LGPS Administration Regulations 2008 [SI2008/239] (as amended). They are not 'admitted bodies'.

5.4.2 Academies' funding agreements require them to offer LGPS membership to all non-teaching staff. Where maintained schools apply to convert to Academies under section 3 of the Academies Act 2010 and an Academy order is made under section 4, those existing staff who are already members of the LGPS by virtue of the Administration Regulations would not be affected by the conversion. Their membership of the LGPS would continue unaffected. After conversion, new non-teaching staff will be eligible to join the LGPS and will be automatically enrolled in the Scheme when employed. Whatever arrangements apply currently for remitting contributions as a maintained school, the academy will itself be responsible for remitting employer and employee contributions to the council as the 'Administering Authority' for Barnet's Local Government Pension Scheme Fund.

5.4.3 Teaching staff in a maintained school converting to academy status either belong to or are entitled to belong to the Teachers' Pension Scheme which is administered nationally by Teacher Pensions. On conversion to Academy status their membership will continue unchanged. All newly employed Teaching staff will also continue to have entitlement to join the Teaching Pensions Scheme.

6. Legal Implications and Constitution References

6.1 Cabinet Resources Committee on 19 July 2010 (Conversion of Schools to Academy Status) delegated "...authority to the Cabinet Member for Resources and Performance to approve, subject to relevant legislation and any title issues, the grant of long leases or to make freehold transfers of school property assets to any school converting to Academy status." This authority is not time limited, and the relevant legislation is still in force. As such, this authority can be relied on to make the decision to transfer the land to the Saracens Multi-Academy Trust. Following changes to the Council's constitution, the delegated authority now rests with the Leader and Cabinet Member for Resources and Performance.

7. Consultation

7.1 The Governing Body consulted parents and staff regarding the academy conversion.

8. Equalities and Diversity

8.1 Under the Equality Act 2010, the Council must have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act.
- b) advance equality of opportunity between those with a protected characteristic and those without.
- c) promote good relations between those with a protected characteristic and those without.

The 'protected characteristics' referred to are; age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination.

The proposed lease is not considered to have any adverse effects on those with protected characteristics.

9. Background Papers

9.1 Cabinet Resources Committee, 19 July 2010, Conversion of Schools to Academy Status:

[Meeting of Cabinet Resources Committee on Monday 19th July, 2010, 7.00 pm \(modern.gov.co.uk\)](http://modern.gov.co.uk)

Appendix A

Bell Lane Primary School Site Plan

