

## Property Sub-Committee – 3 March 2021

### Recommendations by Cllr Mark Deaville - Cabinet Member for Commercial

**Site:**

See Schedule.

**Location/Electoral Division**

See Schedule.

Julia Jessell – Needwood, East Staffs  
Tina Clements – Tamworth,

**Proposed Transaction**

Grant of a Licence to Underlet. Under the terms of the current Academy lease for Thomas Russell Junior, underletting is not permitted. The Academy seek the Staffordshire County Council's ("Council") permission to grant an underlease from the Academy to Little Stars Pre School of a classroom (and outdoor playing area), the classroom will only be occupied during term-time, between the hours of 8:15a.m. – 3:45 a.m. During this time, the pre-school will have exclusive use of the classroom and outside area. The underlease is to be for a term of 3 years, and the rent will be £11.55 per hour with an annual increase of 5% each January.

Grant of a Licence to Underlet. Under the terms of the current Academy lease for Birds Bush Primary school underletting is only permitted for 3 years in accordance with the current Council's Academy lease. The Academy seek the Council's permission to renew the current underlease dated the 27 January 2017 to Little Stars Nursery in respect of the nursery building at the Birds Bush Primary School . The new underlease is to be on the same terms as the current underlease, but for an initial term of 5 years with a mutual option to renew for further 5 years at an initial rent of £9,000 per annum.

**Recommendations**

The underletting of the classroom and playing area at Thomas Russell Junior School and the underletting of the nursery building at Birds Bush Primary School should be permitted subject to:-

- a. Little Stars Pre-school and Little Stars Nursery entering a Licence to Underlet with the Council (with the form of underlease annexed to the Licence);

- b. The underlease containing an absolute prohibition on assignment or further sub-letting;
- c. The underlease containing a covenant that the Academy will comply with the terms and covenants contained in the headlease; and
- d. The Little Stars Pre-school and Little Stars Nursery's agreement to pay the Council's costs in preparing, negotiating and completing the Licence to Underlet.

**Decision Level/Authority/Officer Delegation Scheme number**

Property Sub-Committee decision as undervalue transaction.

**Details**

**1.Current Use and Owner/Occupier/Lessee etc**

The Sites set out in the Schedule are owned by Council and are used by the Schools detailed in the Schedule.

**2.Proposed Use**

The governing bodies of the Schools have voted to change their legal school category to an Academy. The Sites will therefore continue to be used as schools.

**3. Proposed Purchaser/Lessee/Lessor/tenant etc...**

See Schedule

**4. Estimated Value/Cost/Rental Income**

No valuation has been undertaken

**5. Proposed transaction sale price/outline terms**

Not for value as referred to above.

**6. Implications of transaction for County Council (Risks)**

**(a) Strategic: To include contribution transaction makes to outcomes listed in the Strategic Plan \***

None

**(b) Financial:**

**Capital costs/income**

**Revenue costs/income**

**Change in Property running costs**

None

**(c) Operational:**

None

**(d) Legal:**

None as the whole of the Site is occupied by the School and no part thereof is used by any third parties or any other part of the community

**7. Background Information:**

**(a) site history/details of negotiations etc**

**(b) Consultations carried out/required**

**(c) Alternative options for site**

**(d) Reasons for recommended option**

**(e) Rationale for acceptance of lower offer (where applicable)**

**(f) Relevance of Section 123 of the Local Government Act 1972/General Disposal consent Order 2003**

**(g) Resource/VFM Analysis**

As stated above, it is a requirement/expectation of the Department for Education that the Council grant consent to lease to an Academy in the standard form when a school converts to an Academy and this has been adhered to for the Thomas Russell Primary School and Birds Bush Primary School. The consent of the Secretary of State was obtained prior to completion of the Academy leases.

Given the covenant in the completed Academy leases (headleases) prohibiting any underletting, or restricting underletting to 3 years the solicitors for the Academies have requested the Council's consent to an underlease being granted by the Academies to the Little Stars Pre-school and Little Stars Nursery.

In considering the request for underletting, the Council will need to ensure that the Academy would comply with the existing terms and covenants in the current Academy lease. Further, the Council would want to be clear they are consenting to an underletting in this one instance only and that no further underletting would be permitted.

This could be achieved by the Council requiring the Academies, Little Stars Pre-school and Little Stars Nursery to enter a Licence to Underlet. The Licence to Underlet would be a single consent for the Academies to underlet the classroom and playing area at Thomas Russell Junior School and the underletting of the nursery building at Birds Bush Primary School. It would annex the agreed form of underlease that the Academy could grant and contain a requirement for the Academy School to comply with the terms and covenants in the headleases and prevent assignment of the headleases and further sub-letting.

The Council would seek to recover its legal costs in preparing, negotiating and

completing this Licence to Underlet.

**9. Community Impact (e.g., reference to communities or service users affected by the proposal)**

It is anticipated that there will be a continuity of School arrangements so the communities will not be impacted

**10. Comment by Local Member**

Not consulted

**11. Comments by SLT Members**

None

**12. Proposal supported by the Assistant Director for Commercial and Assets**

**Signed** Ian Turner



**Date** 19.02.21

**3. Officer advising on this transaction**

**Signed** Stuart Lane



**Date** 19.02.21