

**Meeting: Cabinet/Council**

**Date: 20 April 2021/13 May 2021**

**Wards Affected: Barton with Watcombe**

**Report Title: Proposal for a peppercorn rent Lease for Burton Academy for land at South Parks**

**For implementation ASAP**

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## **1. Purpose of Report**

- 1.1 Children's Services seeks Council approval for a 15 year peppercorn rent lease to Burton Academy is part of the Catch 22 Catch 22 Multi-Academies Trust for land at South Parks Road, Torquay, please see Appendix 1: Plan of area to be leased.
- 1.2 Burton Academy delivers services to some of the most vulnerable young people in Torbay who are unable to access education in a mainstream setting.
- 1.3 In 2018 the Council recognised the shortfalls of the Academy's existing accommodation, supporting the provision of a new two storey extension on the site through the Children Service's Capital Programme. The extension addresses many of the existing accommodation issues and was implemented on the understanding the Council would lease the adjacent Council land back to the Academy to compensate for the area of external play space 'lost' through the new build.
- 1.4 The extension was completed in January 2021 and it is now necessary to finalise the arrangements of the lease of the Council land to ensure the Academy has sufficient external space to meet the needs of the pupils attending.

## **2. Reason for Proposal and its benefits**

*"We want Torbay and its residents to thrive."*

*"We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents."*

- 2.1 This proposal supports the Council's ambitions for ensuring that young people have the opportunity to succeed. The Academy works with some of the most vulnerable young people in the area, ensuring they have the necessary support to achieve their

potential. It supports the Council as corporate parent and tackles the inequalities arising from deprivation and vulnerability.

2.3 Burton Academy is a specialist provision which is non-profit making and has limited income; all its resources go into delivering services to some of the most vulnerable pupils in Torbay. High rental/lease costs would hinder the Academy by reducing the services it can deliver now and in the future.

2.4 The new extension has significantly improved the Academy's learning environment and has already had a positive impact on the motivation and engagement of pupils. This will lead to better outcomes and prospects for the future for the young people who attend the Academy. Provision of the required external space is an important part of meeting these needs and will complete the package of works that the Council has previously agreed to provide.

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### **3. Recommendation(s) / Proposed Decision**

That Cabinet recommends to Council:

That the TDA Director of Asset Management, Investment & Housing, in consultation with the Chief Executive of Torbay Council, be authorised to:

- a) Grant a 15 year lease at a peppercorn rent with an option to break in the 10<sup>th</sup> year.

### **Appendices**

Appendix 1: Plan of area to be leased

### **Background Documents**

- April 2018: PDDG Report: Brunel Academy Relocation Options Appraisal
- September 2019: Briefing note for Members

# Supporting Information

## 1. Introduction

- 1.1 Burton Academy is part of the Catch 22 Multi-Academies Trust, offering alternative education provision for 60 pupils aged 11 to 16 years old. Pupils attend from across the whole of Torbay when their needs cannot be met within a mainstream environment.
- 1.2 In 2019, the Council agreed the funding of a £1m extension at the Academy to address the inadequacies of its existing accommodation. This was the second phase of a long term plan of improvements for Burton Academy. The first phase saw the internal refurbishment to existing classrooms and internal remodelling, which was funded by Catch22 and completed in 2019. Feedback from the Academy is that these improvements have had a dramatic and positive impact on pupil's behaviour and engagement. Phase 2 and the new extension will be building on this positive outcome.
- 1.3 Burton Academy occupies a small, landlocked site and the building of the new extension has left the Academy with very little external space available for its pupils. The extension was proposed and subsequently implemented on the understanding that the Council would lease additional external play space to the Academy to compensate for the area lost through the new build.
- 1.4 Following the extension completed in January 2021 the lease is required to provide sufficient external space to meet the needs of the pupils attending. Without it the Academy will fall short of the DfE requirements for external area.
- 1.5 One of the main aims of extending the accommodation at the main Torquay site was to enable Burton Academy, currently operating across two sites, to consolidate itself on the one site. This creates a stronger school community, a more efficient learning environment and removes the complexity and financial burden of managing two sites. With the extension and the additional land, the Academy will only need one site and will be able to surrender the lease for its second site; the Polsham Centre, Paignton. The arrangement agreed by the Trust and Children's Services is that the commencement of the lease for the additional land will simultaneously trigger the surrender of the Polsham Centre lease.
- 1.6 The Polsham centre is a Council asset and Children's Services has stated that the building is needed by Children's Services to deliver other services. One possibility is to accommodate the Council's Sixth Day provision (a statutory provision for pupils that have been excluded from mainstream school). The provision had been sharing accommodation at a local special school but with raising pupil numbers the host school has had to reclaim the spaces used by the provision for teaching.
- 1.7 Children Services urgently needs to find a new base for the Sixth Day provision, plus with the growth in demand for this type of provision, there is a need to find a permanent, long term base in which the provision can establish itself and grow. To locate and find accommodation fit for service delivery will have a financial implication for the Council. The Polsham Centre with its central location and current educational

use provides an affordable solution, however, it is only an option if Burton Academy is able to surrender it back to the Council.

## **2. Options under consideration**

- 2.1 With the approval and subsequent building of an extension at Burton Academy there are no alternatives for consideration. The Academy has lost the majority of its external area which now needs to be re-provided.
- 2.2 The extension completed in January 2021 at a cost of £1.1m to the Council. This significant investment and the related positive outcomes will not be fully realised if the Academy does not have sufficient external space to meet the needs of its pupils or is able to amalgamate its provision on the one site and release the Polsham Centre back to the Council. The Council, by building the extension, has committed to providing the additional land to Burton Academy.
- 2.3 Burton Academy is a specialist provision with limited income and non-profit making; all its resources go into the service it delivers to some of the most vulnerable pupils in Torbay. Without a peppercorn rental agreement any additional rental costs could negatively impact on the services it delivers and the long term aspirations held by the service and Children's Services for its future. A peppercorn rent ensures the Academy can use its limited revenue to invest in services to meet the needs of the vulnerable pupils attending.

## **3. Financial Opportunities and Implications**

- 3.1 The area of land to be leased to Burton Academy was a community park which had previously been identified by the Council as surplus; the land has restricted access, is not in use and is in a poor state of repair. By leasing it to Burton Academy, the Council will ensure the Academy has sufficient land to meet the needs of its pupils. It will also mean that the Academy is responsible for maintenance costs and ensuring that the land is secure. The land will remain in Council ownership but the Council will not be liable for its running & maintenance costs.
- 3.3 Under the terms of the lease Burton Academy will be required to ensure that the site is enclosed with a secure metal fence and maintained throughout the term of the lease; this includes removal of existing, broken play equipment and defective surface. This significantly reduces the Council's financial liability for the site.
- 3.4 Once the lease is in place for the land at South Parks, the surrender of the lease for the Polsham Centre by the Academy will be triggered. Polsham is a valuable asset in a central location which can be utilised for other service providers such as the Sixth Day Provision.

## **4. Legal Implications**

- 4.1 The proposal is for a peppercorn lease to run for 15 years. In granting the lease the Council would be committed to a long term arrangement. However, it is intended that a break clauses will be incorporated into the lease in favour of the Council to provide flexibility to pursue alternative uses of the site in future years. The break clause will be at 10 years.

- 4.2 The lease would include the usual terms and conditions which protect the Council as the landowner with the liability, third party insurance and security of the site resting with the lessee.
- 4.3 The terms of the lease will ensure that the land is used solely for recreational use/outside space ancillary to the Social, Emotional and Mental Health (SEMH), or as amended by the Department of Education from time to time, education provision within the adjacent Burton Academy and for no other purpose.
- 4.4 Outside of normal school hours and under the direction and management of the tenant, the land may be used for ancillary community use.
- 4.5 A Disposal of Open Space Process has been duly completed with notices published in compliance with Section 123. No objections were received to the notice so the Council is therefore able to proceed with leasing the land to Burton Academy.

## **5. Engagement and Consultation**

- 5.1 As part of this proposal a Section 123 notice disclosing the Council's intention to dispose of the land was published in the newspaper and displayed in the local area. The closing date for objections was 25th July 2019, however, no objections were received.
- 5.2 The proposal has also been raised and discussed as an agenda item at various local forums, with other interested parties and with those directly affected by the proposal. This includes Children's Services as the Commissioner, Environmental Services, the Council's Strategic Land Task Group and the staff, young people, their families and other service users of Burton Academy.
- 5.3 The feedback from all parties has been supportive recognising the benefits the lease will bring to the Academy.

## **6. Purchasing or Hiring of Goods and/or Services**

- 6.1 No works or services will be purchased or hired as a direct result of this proposal.

## **7. Tackling Climate Change**

- 7.1 This proposal has no differential impact on climate change.

## **8. Associated Risks**

- 8.1 If a lease is not granted then services delivered by Burton Academy to some of the most vulnerable children in Torbay are at risk. The Academy would not have sufficient external space to meet the needs of its pupils and would not meet minimum DfE requirements.
- 8.2 If the lease for the land is not agreed, the surrender of the Polsham Centre will not be triggered and it will not be released for use by other service providers such as the Sixth Day Provision.

8.3 If the peppercorn rent lease is granted the Council is in a long term commitment and the land will not be available for any other purpose or for disposal until the break clause is triggered. However, to date there are no alternative options for the site. The site was previously up for disposal but being landlocked there was no interest and there are very limited opportunities for development.

## Equality Impacts

9.	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	Long term commitment to an Academy which directly and specifically benefits young people in the area with particular needs which can't be met in mainstream education		
People with caring Responsibilities	Long term commitment to an Academy which directly and specifically benefits young people in the area with particular needs which can't be met in mainstream education		
People with a disability			There is no differential impact
Women or men			There is no differential impact
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact
Religion or belief (including lack of belief)			There is no differential impact
People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact
Socio-economic impacts (Including impact on child	Long term commitment to ensure young people from deprived		

	poverty issues and deprivation)	backgrounds are given the support they need & the opportunities to thrive Opportunity to break cycles of poverty & neglect		
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Long term commitment to ensure vulnerable groups of young people are given the support they need & the opportunities to thrive The Academy equips vulnerable young people with the qualifications & life skills for the future; creating a healthy and prosperous community in the bay		
<b>10..</b>	<b>Cumulative Council Impact</b> (proposed changes elsewhere which might worsen the impacts identified above)	<p>Burton Academy caters for young people with very specific needs which cannot always be met in mainstream education.</p> <p>By supporting Burton Academy the Council is fulfilling its statutory role as corporate parent and its commitment to helping and supporting the most vulnerable.</p>		
<b>11.</b>	<b>Cumulative Community Impacts</b> (proposed changes within the wider community (inc the public sector) which might worsen the impacts identified above)	Without the provision at Burton Academy the Council would be failing in part of its responsibilities to young people in the area.		