

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

22nd February 2024

**Report of the Executive Director – Corporate Services and
Transformation**

Transfer of Land at Brookfield Community School

(Cabinet Member for Education)

1. Divisions Affected

1.1 Walton and West

2. Key Decision

2.1 This is not a Key Decision

3. Purpose

3.1 The purpose of this report is to seek Cabinet approval to transfer Council-owned land which was erroneously registered in the name of the Council as trustee for Chesterfield School Foundation Charity back to the Council, and to transfer the charitable land held by the Council in its capacity as trustee for the charity to Foundation Derbyshire.

3.2 In considering this report, Cabinet will be acting on behalf of the Council as Trustee of Chesterfield School Foundation.

4. Information and Analysis

4.1 Background

- 4.2 Until recently, the Council was the sole trustee for forty-seven charities with educational purposes. In 2020, the Council began the process of transferring these charities to Derbyshire Community Foundation (operating as Foundation Derbyshire) under the Charity Commission's Revitalising Trusts Programme, in order to ensure that they were effectively managed in the future. Foundation Derbyshire is a locally-based charity that promotes and encourages local philanthropy, creating funding sources for the hundreds of community groups and charities delivering vital services across the county.
- 4.3 Forty-four of the educational charities have now transferred to Foundation Derbyshire. One transferred to a parochial church council, and there are two which have remained with the Council and for which transfer to Foundation Derbyshire remains outstanding, owing to the issues around land that they own.
- 4.4 One of these is the Chesterfield School Foundation which benefits pupils and former pupils of the six secondary schools which were in the Borough of Chesterfield prior to a local government reorganisation in 1974. These are now Brookfield Community School, Outwood Academy Newbold, Parkside School, Outwood Academy Hasland Hall, St. Mary's RC High School and Whittington Green School.
- 4.5 One of the assets owned by Chesterfield School Foundation is the school land at Brookfield Community School and this land is to be transferred to Foundation Derbyshire.
- 4.6 In carrying out the background work to enable the transfer of the school land it has become apparent that the legal title to Brookfield Community School is registered at the Land Registry under the same title number as adjoining land owned by the Council under the name of the trustee of Chesterfield School Foundation. Upon a review of the title deeds, it was discovered that there was an error on first registration and the land owned by the Council and the land owned by the Council as trustee for the Chesterfield School Foundation charity should have been registered under different title numbers.
- 4.7 In order to rectify this situation, the legal title needs to be split into two and the Council land transferred from the trustee of Chesterfield School Foundation to the Council. Cabinet, in its capacity as trustee for the charity, is therefore asked to agree the transfer of the land edged red on the plan at Appendix 2 entitled 'Brookfield Community School – Derbyshire County Council Land' to the Council. The land that belongs to Chesterfield School Foundation can be seen edged red on the plan

entitled 'Brookfield Community School – Chesterfield School Charity Land'.

- 4.8 Cabinet is also asked to agree the transfer of the land owned by Chesterfield School Foundation to Foundation Derbyshire once the legal title has been rectified.

5. Alternative Options Considered

- 5.1 The alternative option available to the trustee of the charity is:

- a) To do nothing with the legal title. In this alternative, the Land Registry will continue to incorrectly reflect the legal ownership of the land. The Council is scheduled to transfer the school land to Foundation Derbyshire. When this transfer goes ahead, either the entire land will be transferred to Foundation Derbyshire incorrectly or there will be a parcel of land remaining still in the name of the Council as trustee of Chesterfield School Foundation.

6. Implications

- 6.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

7. Background Papers

- 7.1 None.

8. Appendices

- 8.1 Appendix 1- Implications.

9. Recommendation(s)

- 9.1 That Cabinet:

- a) in its capacity as trustee for the Chesterfield School Foundation, approves the transfer of the land to the Council edged red on the plan entitled 'Brookfield Community School – Derbyshire County Council Land' at Appendix 2 which has previously been incorrectly registered in the name of the Council as trustee of Chesterfield School Foundation;
- b) consequently approves the transfer of the land edged red on the plan entitled 'Brookfield Community School – Chesterfield School Charity Land' to Foundation Derbyshire; and

- c) Authorises the Director of Legal and Democratic Services to enter into all necessary documentation.

10. Reasons for Recommendation(s)

- 10.1 To rectify the legal title and ensure the Land Registry correctly reflects the correct ownership of land to facilitate the transfer of the charity land to Foundation Derbyshire.

11. Is it necessary to waive the call-in period?

No

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Implications

a) Financial

The total value of the fund and the assets does not include the area of land which should be in the legal ownership of the Council as such there will be no effect of the charitable fund or assets of the fund.

b) Legal

The Charities Act 2011 provides that charity trustees have a duty to ensure that charitable assets for which they are responsible are both invested appropriately and used for carrying out the charity's objects.

However, this particular asset is not an asset of the charity and has been registered incorrectly in the Council's name as trustee of the Chesterfield School Foundation charity. A transfer of the land to the Council will rectify the legal title and ensure the Land Registry is to be correctly reflect the correct ownership of the land.

c) Human Resources

None

d) Equalities Impact

None

e) Corporate objectives and priorities for change

None

Other (for example, Information Technology Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

None

