

From: Matt Dunkley, Corporate Director for Children, Young People and Education

To: Richard Long, Cabinet Member for Education and Skills

Subject: Chilmington Green Secondary School Provision, Ashford

Decision Number and Title: 21/00014 - Chilmington Green Secondary Provision - Ashford

Classification: Unrestricted

Past Pathway of Paper: None

Future Pathway of Paper: None

Electoral Division: Ashford West, Cllr Charlie Simkins

Summary: This report provides the Committee with

Recommendation(s):

The Cabinet Member for Education and Skills is asked to agree the proposed decision to:

- (a) Transfer developer contributions from the Chilmington Green development relating to the secondary school, amounting to £22,500,000, to the Department for Education, as and when received, if the School is delivered via the DfE 'Wave' programme;
- (b) Approve up to £3,100,000 from the Children, Young People and Education capital budget to provide the access and service infrastructure required to provide a serviced school site; and
- (c) Delegate authority to the Director of Infrastructure to take necessary actions, including but not limited to entering into necessary contracts or taking other legal actions as required to implement the decision, in consultation with the Director of Education and the General Counsel.

1. Introduction

- 1.1 A new 6FE secondary school at Chilmington Green in Ashford has been approved via the Government 'Wave' programme. The Government 'Wave' programme can support the early delivery of education infrastructure through the provision of the capital funding required prior to the receipt of s106 contributions. This means that the Department for Education (DfE) will deliver the school and will be responsible for the capital cost rather than KCC. Given that a new secondary school can cost in the region of £28,000,000 this will be a substantial saving to KCC's Capital budget.

2. Background

- 2.1 Chilmington Green is a development with consent for 5,750 new homes. A s106 agreement provides a site for a new secondary school and, over time,

£22,500,000 of contributions. The Secretary of State for Education has agreed, in principle, that United Learning Trust can open a new 6FE secondary school in Ashford, on the Chilmington Green site. This is in Wave 13 of the free schools programme. The DfE expects Kent County Council to commit to pass over the £22,500,000 of developer contributions as and when it receives these from the housing developer. This arrangement supports the early delivery of the school and KCC's cash flow. A formal decision is needed to provide the DfE with surety.

- 2.2 KCC will take transfer of the site for the secondary school from the developer. This will be transferred freehold to the DfE if the wave school proceeds. The site needs to meet the transfer requirements of the DfE, including having utilities provided to the curtilage of the site, access, and a safe walking route from the housing development. The requirements sit with the developer to provide these as part of the transfer requirements in the s106. However, the developer has not yet discharged these obligations. In order to support the delivery of the school, which is needed to secure KCC's duty to ensure every child can access a high-quality school place, and ensure the Wave funding is not forfeit, KCC is negotiating with the developer for it to have the option to deliver these obligations, with the developer refunding the council, with interest. The necessary works have been costed at £3,100,000.

3. Alternatives considered

- 3.1. The only alternative in this case would be for KCC to deliver the school. However, KCC does not have the capital funding to deliver the school itself prior to receipt of the s106 contributions which would delay delivery of the school by several years. Without the Wave funding, KCC will be unable to provide the local school places needed to meet the demand in Ashford with families having to travel further afield for school places with the consequential increase in KCC's transport budget.

4. Financial Implications

- 4.1 Funding for Chilmington Green Secondary School has been agreed via a s106 agreement. There are 6 payments linked to both time or occupation triggers totalling £22,500,000 plus indexation. If the School is delivered via the 'wave' programme it is expected that the s106 payments, are transferred to the DfE as and when they are received by KCC.
- 4.2 The £3,100,000 estimated cost of delivering the site in a condition to enable transfer to the DfE would represent an immediate pressure on the capital budget, but this would be far less significant than those arising from the loss of the wave funding and should be recovered in due course.

5. Legal Implications

- 5.1 Kent County Council (KCC) as the Local Authority has a duty to ensure sufficient school places are available. If this decision does not take place there will be a risk that we cannot meet our statutory duties to provide education provision.

- 5.2 KCC will need to give the DfE a commitment to pass over the funding.
- 5.3 The s106 with the developer will be varied to provide for the repayment to KCC the costs of providing access and utilities to the school site, and for mitigating any issues on site which are the developer's responsibility under the s106.

6. Equalities implications

- 6.1 An Equality Impact Assessment has been completed. No adverse impact on protected groups have been identified at this point.

7. View of the Local Member- Cllr Charlie Simkins

It is positive that the DfE have approved the new secondary school at Chilmington Green through the Wave programme. This will secure the additional secondary school places needed for the Borough now and for the future as housing developments roll out. Agreeing to pass the developer contributions to the DfE as and we receive them is appropriate. While it is disappointing that the developer has not transferred the site to KCC in line with the s106 requirements, the proposal to allocate £3,100,000 from the Capital budget to ensure the site is in a condition to transfer to the DfE would have far less impact on the KCC Capital budget than that arising from the loss of the wave funding. I understand that the £3,100,000 should be recovered in due course.

I am fully supportive of the proposal.

8. Other corporate implications

- 8.1 None at this point

9. Governance

- 9.1 The Officer Scheme of Delegation; within the Council's Constitution, provides a clear and appropriate link between this decision and the actions needed to implement it.

10. Conclusions

- 10.1 The approval of a new 6FE secondary school at Chilmington Green in Ashford via the Government 'Wave' programme will support the early delivery of education infrastructure. Given that the DfE expects that KCC will commit to pass over the s106 contributions as and when received, formally committing to this will give the DfE the surety required.
- 10.2 The estimated £3,100,000 to ensure that the access and service infrastructure is complete to provide a service school site will represent an immediate pressure on the capital budget, but this would be far less significant than these arising from the loss of the wave funding. The s106 with the developer will be varied to provide for the repayment to KCC the

costs of providing access and utilities to the school site, and for mitigating any issues on site which are the developer's responsibility under the s106.

11. Recommendation(s): The Cabinet Member for Education and Skills is asked to agree the proposed decision to:

- (a) Transfer developer contributions from the Chilmington Green development relating to the secondary school, amounting to £22,500,000, to the Department for Education, as and when received, if the School is delivered via the DfE 'Wave' programme;
- (b) Approve up to £3,100,000 from the Children, Young People and Education capital budget to provide the access and service infrastructure required to provide a serviced school site; and
- (c) Delegate authority to the Director of Infrastructure to take necessary actions, including but not limited to entering into necessary contracts or taking other legal actions as required to implement the decision, in consultation with the Director of Education and the General Counsel.

12. Background Documents (plus links to document)

12.1 Commissioning Plan for Education Provision in Kent 2021-25

[Kent Commissioning Plan 2021-2025](#)

12.2 Report to Children's, Young people and Education Cabinet Committee – 9 March 2021

[Chilmington Committee report](#)

13. Contact details

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