

## KENT COUNTY COUNCIL – URGENT RECORD OF DECISION

### DECISION TAKEN BY:

**Peter Oakford, Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services (in the absence of the Leader and Cabinet Member for Education and Skills).**

### DECISION NO:

**24/00075**

### For publication

### Key decision: YES

*Key decision criteria. The decision will:*

- a) result in savings or expenditure which is significant having regard to the budget for the service or function (currently defined by the Council as in excess of £1,000,000); or*
- b) be significant in terms of its effects on a significant proportion of the community living or working within two or more electoral divisions – which will include those decisions that involve:*
  - the adoption or significant amendment of major strategies or frameworks;*
  - significant service developments, significant service reductions, or significant changes in the way that services are delivered, whether county-wide or in a particular locality.*

### Subject Matter / Title of Decision

**Chilmington Green Secondary School**

### Decision:

As the Deputy Leader, I agree to:

- 1) Allocate £1.5m of the Children's, Young People and Education capital budget to address the issues covered in the privileged legal advice considered.
- 2) Delegate authority to the Director of Infrastructure to enter into such agreements, on such terms as she approves, with any relevant parties, in order to support the exercise the Council's step in rights and to complete the construction works.
- 3) Delegate authority to the Director of Infrastructure to be the nominated Authority Representative within the relevant agreements and to enter into variations as envisaged under any of these contracts.

### Reason(s) for decision:

Chilmington Green Secondary School opened in September 2023 in temporary accommodation. The Department for Education (DfE) is delivering the new school premises, which are due to be operational September 2025. Issues have arisen which need to be resolved in order to ensure the new school building occupied. The legal responsibility for funding the resolution to the issues is a matter of contention and potential legal dispute.

The proposed decision supports the key priority "Levelling up Kent" within the 'Framing Kent's Future (2022-26)'. It helps deliver our commitment to maintain KCC's strategic role in supporting schools and settings in Kent to deliver accessible, high quality education provision for all families.

The proposed decision supports "Securing Kent's Future – budget recovery strategy". It contributes

towards delivering the Service's MTFP savings target, ensures value for money, and a sharp focusing of the available resources to delivering the Council's statutory duties.

### **Financial Implications**

Detailed funding considerations and the wider financial impact are set out in the Exempt Report. The current Basic Need Capital Budget totals £172.8m for the period 2024-2027 and will be impacted, at least in the short-term, whilst the legal responsibility for funding the additional costs is resolved and funds recovered. The Basic Need Capital Programme is managed as a series of projects and any additional funding requirement could require re-consideration of other planned activities. However, growing inflationary and other build cost increases including the increased risk of continued use of temporary accommodation supports the progression of this matter as quickly as possible to minimise greater financial costs being incurred.

### **Legal implications**

Detailed legal advice regarding the KCC liabilities and options for redress has been considered by the Decision-maker. The decision represents a recognition of relevant legal risks, balanced against the policy choice to prioritise the progression of the school project to ensure successful delivery of the school and compliance with KCC's statutory duty to ensure sufficient school places. Key considerations are set out in the Exempt Report.

### **Equalities implications**

The equalities impact assessment does not identify any negative impacts on any group with protected characteristics arising from this decision.

### **Data Protection implications**

The proposed decision does not create any data protection implications.

### **Reason for Urgency**

To make provision to respond to contractual dispute and continue to support the opening of essential secondary school provision.

### **Cabinet Committee recommendations and other consultation:**

Due to the urgency of the decision it is not possible to consult the Children's, Young People and Education Cabinet Committee.

**The Chair of the Scrutiny Committee**, in addition to agreeing that the decision could not be reasonably deferred, provided the following comments:

**Chair of Scrutiny, Mr Booth:** *I have read the note and fully understand the need for the decision. In my capacity as Chairman of Scrutiny, I am in full support of the decision and agree it is undertaken as soon as practicable.*

**The Group Spokespeople of the Scrutiny Committee** provided the following comments:

#### **Scrutiny Spokesperson, Jenni Hawkins:**

*Thank you for the email regarding the urgent decision regarding Chilmington secondary school. It sounds as though the council has no option but to take this action, so I have no objection.*

**The Chair and Group Spokespeople of the Children, Young People and Education Cabinet Committee** provided the following comments:

**CYPE Spokesperson, Mel Dawkins:** Noted the situation.

### **Any alternatives considered and rejected:**

Do nothing

**Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: None**

A handwritten signature in black ink, appearing to be 'P. O. O'Brien', written over a horizontal line.

6 September

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signed

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date