

From: Peter Oakford – Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services; and
Rebecca Spore – Director of Infrastructure

To: Policy & Resources Cabinet Committee – 29 July 2020

Subject: Non-Key decision
Decision 20/00075 - Deed of Surrender and Grant of a new 99-year underlease to South East Power Networks (SEPN) at The Abbey School, Faversham.

Classification: **Unrestricted**

Past Pathway of Paper: FED approval

Future Pathway of Paper: Cabinet Member decision

Electoral Division: Faversham - Antony Hook

Summary: This report sets out the proposal to undertake a deed of surrender and enter into a 99 year underlease to South East Power Networks at The Abbey School in Faversham for the purposes of a new electricity sub-station / kiosk and invites Cabinet Committee to consider and comment.

Recommendation(s):

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on the proposed decision in Proposed Record of Decision.

1. Introduction

1.1 'The Abbey School (Faversham)' occupy the land known as The Abbey School under the terms of a 125-year lease dated 13th March 2012. The Secretary of State for Education (the "Secretary of State") intends to enter into a Design and Build Contract with T&B Contractors Limited to carry out design and construction work relating to The Abbey School, Faversham. Therefore, KCC are the "head landlord" in respect of the underlease for the new substation, with The Abbey School as 'landlord'.

1.2 As this proposed underlease is over 20 years, it falls outside of the Delegated Powers set out in KCC's Property Management Protocol. Therefore, this is a decision that must be taken by the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services.

2. Background

- 2.1 A new two storey block (1,491sqm) will be constructed to the east of the site on informal soft landscaping under the central governments Priority Schools Building Programme. KCC, The Abbey School and the Schools Governing Body have signed a “back to back” letter which sought formal agreement that the school and KCC would assist the Secretary of State in fulfilling those obligations that relate to the School’s site and activities.
- 2.2 These construction works necessitate that South East Power Networks (SEPN) surrender and dismantle their current electricity sub-station (surrendering their existing lease with KCC by deed) and take a new 99 year lease to build and maintain a new sub-station, known as a ‘GRP Kiosk’.
- 2.3 The terms of the 99-year underlease allow The Abbey School to consent to SEPN’s occupation of the site. As head landlord, KCC are not in ‘actual occupation’ of The Abbey School, hence KCC’s interests as Head Landlord are protected under the terms of the lease.
- 2.4 The DfE have not considered any other options as the substation is critical to the proposed project.

3. Financial Implications

- 3.1 A one-off payment “lease premium” of £1.00 (one pound) and a yearly nominal rent of one peppercorn, payable by the tenant.
- 3.2 As this is a Department of Education (DfE) project, any costs of the new sub-station infrastructure is for the DfE to meet under their project costs. There is no cost to KCC in respect of the sub-station.
- 3.3 As per the norm with DfE building projects, each party will bear their own legal costs. The rationale for this is that the DfE are supporting KCC’s statutory responsibilities to deliver school places by providing new school buildings at their cost. Current cost estimate for KCC for the deed of surrender and underlease stand at £3300.
- 3.4 Should the lease not be in place in time for the works to continue there is a risk that the Building Contractor will make a compensation event claim to the DfE seeking compensation for the delay. In this instance the DfE would seek to pass these costs to KCC.

4. Legal implications

- 4.1 Invicta Law is representing KCC in this matter. This is a sub-station / Kiosk lease to a utility company. KCC’s interests in the site are as head landlord and are protected under the terms of the lease.

5. Equalities implications

- 5.1 It is not felt that granting of this lease for sub-station / kiosk represents any impact on any of the nine areas specified by KCC under its Equality Impact Assessments. No detailed EqIA completed based on clear lack of impact.

6. Other corporate implications

6.1 This DfE project relates to the objective of strategic outcome 1 – “Children and young people get the best start in life”.

7. Governance

7.1 A Cabinet Member decision is required due to the length of the lease exceeding 20 years.

7.2 The proposed decision will delegate authority to the Director of Infrastructure to take necessary actions, included by not limited to entering into relevant contracts or other legal agreements, as required to implement this decision.

8. Conclusions

8.1 The proposed deed of surrender and underlease enables SEPN to dismantle and decommission their current substation, and re-provide a new substation / kiosk with the necessary capacity for the planned construction work at The Abbey School.

9. Recommendation(s):

Recommendation(s):

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on, the proposed decision (as set out in Appendix 1 - Proposed Record of Decision).

10. Background Documents

10.1 Appendix 1 – Proposed Record of Decision.

11. Contact details

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