

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

5055

Author:

Lucy Juby

Department:

People

Contact:

Lucy Juby

(Job Title: Project Manager School Organisation, Email: lucy.juby@nottinghamcity.gov.uk, Phone: 01158765041)

Subject:

Capital funding to improve facilities for children with Special Educational Needs and Disabilities (SEND) at Greenfields Community Primary School

Total Value:

£360,000 (Type: Capital)

Decision Being Taken:

1. To allocate £302,818.36 of Education S106 funding and up to £57,182 of High Needs Capital Funding to develop and improve the SEND facilities at Greenfields Community Primary School.2. To approve the appointment of Lindums using the Scape Regional Construction Framework (Lot 4: North East) to carry out the works, and delegate authority to the Director of Education Services to award the contract.
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mso-fareast-language:EN-US">**

Reasons for the Decision(s)

This scheme is an extension to the Foundation Unit, which is a separate building from the main school. Currently the increase in pupils with autism and other complex needs is putting significant pressure on the Foundation Unit and there is a need to have some additional space and facilities to effectively support the needs of the pupils. The Council is in receipt of £302,818.36 of Section 106

funding that can be used to support works at Greenfields Community Primary School, linked to two separate developments as follows:

1) The education contribution arising from the Trent Bridge Quays Phase I (formerly Banton House) Meadow Lane S106 agreement (planning ref 13/02877/PFUL3) as varied was payable in three instalments of £27,820.34 each to be Index Linked in accordance with that S106 agreement, to be used "towards the provision of primary school places to accommodate pupils generated by the Development within the Greenfields Community Primary School."

Instead of three instalments, a single total sum of £115,912.70 was received by the Council on 28 February 2023. The Council has applied a sum of £3,477.38 from that total figure towards the administration and monitoring of compliance of the above S106 agreement, leaving a total of £112,435.32 available for allocation and the S106 agreement confirms that Greenfields Primary is the only school which can benefit from this funding.

2) The education contribution arising from the Queens Road, Nottingham Railway Carpark S106 agreement (planning ref 19/01642/PFUL3) was in the sum of £160,942 Index Linked payable in accordance with that S106 agreement.

The education contribution from the Queens Road S106 agreement was received by the Council on 2 December 2022 and totalled £191,455.99. The Council has applied a sum of £1,072.95 from that total figure towards the administration and monitoring of compliance of this S106 agreement, leaving a total of £190,383.04 available for allocation.

Spend obligations set out in the Queens Road S106 agreement are: "to use the Education Contribution towards the provision of new or enhanced education facilities to accommodate pupils generated by the Development at any or all of the following schools:- Greenfields Primary; Victoria Primary; Welbeck Primary; and/or the proposed new Waterside Primary." Greenfields Primary is currently full and oversubscribed and has been for some time. Currently the increase in pupils with autism is putting a great deal of pressure on the Foundation unit and there is a need for additional space and facilities in the unit to deal with the more complex needs of pupils, and to support them to remain in mainstream school. Refurbishment of three other rooms will also create calming and sensory space to support the

children as they move through the year groups. This project fits within the framework of the SEND Capital Strategy, one of the key principles of which is to provide appropriate facilities to ensure young people can have their needs met in their local inclusive mainstream school.

Combining the above two

streams of S106 Education funding will provide value for money and which aligns with the SEND Sufficiency Strategy to support the increasing number of pupils with autism and other complex needs, in their local mainstream school. The S106 funding must be spent or allocated for expenditure within five

years of receipt and in line with the obligations of the legal agreement. A

Scape Framework contractor (Lindums) has been engaged to provide a free Viability report, which has provided the budget for the scheme. If the project goes ahead they will be used to deliver the scheme.

This report has identified an agreed scope of works and a cost to undertake the works. The estimated cost includes a 7% contingency. Both the S106 and High Needs Capital funding was approved in principle for this purpose at the Council's Capital Board on 2nd October 2023.

Other Options Considered:

1. The legal obligations of the S106 agreements determine that the funding must be used for the purposes as specified in this report and if the funding has not been expended or allocated for expenditure within 5 years of receipt the Council risks clawback of the funds from the landowner who made the payment.2: To carry out the works in-house - the Council does not have the relevant expertise to carry out the works in-house and Lindums have been identified as the most suitable contractors through the Scape framework.

Background Papers:

Published Works:

Affected Wards:

Meadows

Colleague / Councillor Interests:

The Ward Councillors for the Meadows area have been informed of the proposal.

Consultations:

Date: 12/10/2023

Ward Councillors: Michael Edwards, Eunice Regan

The Ward Councillors for the Meadows area were informed and consulted and no comments were received.

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

N/A

Equality:

EIA not required. Reasons: Not a significant change in policy or practice.

Relates to Council Property Assets:

Yes

Relates to Building Services:

Yes

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

15/11/2023

Advice Sought:

Legal, Finance, Procurement, Property, Building Services

Legal Advice:

In relation to the S106 funding:

The Education Contribution from the S106 agreement in respect of the Trent Bridge Quays Phase I (formerly Banton House) Meadow Lane site (planning ref 13/02877/PFUL3) as varied ('Banton House Education Contribution') must be used ". towards the provision of primary school places to accommodate pupils generated by the Development within the Greenfields Community Primary School." and the Education Contribution from the S106 agreement in respect of the Queens Road, Nottingham Railway Carpark site (planning ref 19/01642/PFUL3) ('Queen's Road Education Contribution') must be used: ". towards the provision of new or enhanced education facilities to accommodate pupils generated by the Development at any or all of the following schools:- Greenfields Primary; Victoria Primary; Welbeck Primary; and/or the proposed new Waterside Primary."

No alternative expenditure proposals in relation to the spending of the Banton House Education Contribution and or the Queen's Road Education Contribution have been brought to my attention and so the Contributions appear to be available for allocation, and, as identified in this Form the Council may be liable to repay these Contributions if they are not spent or allocated for expenditure within 5 years of receipt (by 27 February 2028 in relation to the Banton House Education Contribution and by 1 December 2027 in relation to the Queen's Road Education Contribution). The spending proposals detailed in this Delegated Decision would appear to fall within the Council's obligations on the use of the Banton House Education Contribution and the Queen's Road Education Contribution.

Tamazin Wilson, Senior Solicitor, 19 October 2023

In making use of the £57,182 of High Needs Capital Funding for the proposed works, the Council must ensure compliance with any conditions imposed on the use of the High Needs Capital Funding.

In seeking to appoint via the Scape Framework, if used in accordance with the Frameworks requirements, this should provide a route to market that complies with the Council's constitution and other relevant legal requirements.

Anthony Heath, Senior Solicitor, 19 October 2023.

Finance Advice:

The following sums are in place:

13/02877/PFUL3 (as varied by 17/01720/PVAR3) Land to rear of and including Banton House, Meadow Lane. The signed agreement amount was £83,461. After indexing for RPI when the contribution was due, £115,912.70 was received on 20/03/23 and must be formally committed by 20/02/28 otherwise risk repayment. After administration and monitoring deduction, £112,435.32 is available with the condition worded as follows: "To use the Education Contribution towards the provision of primary school places to accommodate pupils generated by the development within the Greenfields Community Primary School".

19/01642/PFUL3 Car Park, Nottingham Railway Station, Queens Road. Signed agreement amount was £160,942. After indexing for RPI when the contribution was due, £191,455.99 was received on 02/12/22 and must be formally committed by 02/12/27 otherwise risk repayment. After administration and monitoring deduction, £190,383.04 is available with the condition worded as follows: "To use the Education Contribution towards the provision of new or enhanced education facilities to accommodate pupils generated by the Development at any or all of the following schools:- Greenfields Primary; Victoria Primary; Welbeck Primary; and/or the proposed new Waterside Primary".

Following approval, a capital project will be set up for a total value of £360,000 with funding of £302,818.36 from the above two S106 references, plus the balance of up to £57,181.64 from High Needs Capital funding.

Advice provided by Sarah Baker (Senior Commercial Business Partner - Corporate Landlord) on 16/10/2023.

Property Advice:

Property colleagues will support the project as necessary, and the proposals are noted. As the school is LA maintained there are no lease issues to consider, and as such there are no concerns over the recommended decision. Advice provided by John West (Estates Surveyor) on 18/10/2023.

Procurement Advice:

There are no Procurement concerns with the decisions being sought; use of the Scape framework to appoint a contractor is compliant with Article 18.43 of Contract Procedure Rules. Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 17/10/2023.

Building Services Advice:

We support this project however we would ask that plans/O&M are shared with the team so we can assess whether there are any statutory compliance concerns. Advice provided by Trevor Bone (Property Maintenance Manager) on 17/10/2023.

Signatures

Cheryl Barnard (PH - Children, Young People & Education)
SIGNED and Dated: 08/11/2023
Catherine Underwood (Corporate Director for People)
SIGNED and Dated: 26/10/2023