

## **DELEGATED DECISION**

### **BY THE PORTFOLIO HOLDER FOR BUSINESS, EDUCATION & SKILLS**

#### ***Approval of funding contribution to support DFE bid for the proposed expansion of Fernwood Secondary School***

#### **Legal observations – education law**

The school organisation regime is set out in the Education and Inspections Act 2006 (“EIA”), regulations made under the EIA and guidance made by the Secretary of State, both statutory (using powers in the EIA) and non-statutory. Under section 19 of the EIA, a local authority is required to publish a proposal to make a prescribed alteration to a maintained school. In essence, a prescribed alteration is one designated as such by regulations.

However, this delegated decision relates to a school organisation proposal of Fernwood Secondary School (“Fernwood”), which is an Academy and not a maintained school. Therefore, the school organisation proposal itself is not a proposal of Nottingham City Council (“NCC”) but of the proprietor of Fernwood. It is likely that the Academy funding arrangements for Fernwood require the proprietor of Fernwood to comply with the school organisation regime. This is something that the proprietor of Fernwood would need to seek independent legal advice on.

The delegated decision before the Portfolio Holder is whether:-

1. To allocate a maximum of £0.984m of 'Basic Need' funding to support Fernwood's bid to the Department for Education (“DFE”), for funding to expand their capacity by an extra 3 forms of entry / 450 places.
2. To allocate £0.015m of funding towards fees for NCC Major Projects to support Fernwood with managing the delivery of this project, ensuring value for money and that the project is delivered to a high standard. Major Projects will support the school and design team through the development of design and delivery.

Basic needs funding is the money the DFE gives to local authorities each year to help them fulfil their duty to make sure there are enough school places for children in their local area. Therefore, on the face of it, the proposals set out in this delegated decision form for consideration by the Portfolio Holder would entail expenditure covered by the basic needs grant, and it is noted that NCC Finance have already advised that there is sufficient funding within NCC’s basic needs grant to cover what is proposed and that the proposals comply with NCC Financial Regulations. NCC will also need to ensure if the proposals are approved and implemented that any conditions imposed by the DFE for spending the basic needs grant are complied with.

Lastly, it is advisable that Human Resources (“HR”) and legal advice is taken in relation to the HR, employment law, commercial law and planning law ramifications of the proposals here (in terms of planning law, particularly relating to the potential use of section 106 funding).

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