

Agenda Item No: 18

Report To: Cabinet

Date: 13th September 2018

Report Title: Ashford College Campus: Use of Chief Executive's Delegated Authority

Report Author: Tracey Kerly, Chief Executive

Portfolio Holder: Cllr Gerry Clarkson, Leader of the Council

Summary:

Following the approval by Cabinet and Full Council in July 2016 for the Loan/Grant to West Kent and Ashford College to deliver Phase 1 and 1a of the new Ashford College Campus on Elwick Road, this report informs members of the use of the Chief Executive's delegated authority on the grounds of urgency to vary the approved Funding Agreement in order to confirm the conversion of the £2 million loan for Phase 1 to grant before the delivery of Phase 1a.

Key Decision: NO

Affected Wards: All Wards

Recommendations: **The Cabinet be asked to:- Note that the Chief Executive exercised delegated authority on the grounds of urgency (Part 3, Appendix 5 of the Constitution, section 4.9) to vary the approved Funding Agreement in order to agree to the £2 million grant for Phase 1 of the Ashford College campus being converted to grant in advance of the delivery of Phase 1a.**

Policy Overview: The loans / grants provided to West Kent and Ashford College have secured the release of other external funding streams, and will enable delivery of Phase 1 and 1a of the Ashford Town Centre College Campus.

The College Campus is one of the Council's "Big 8" projects and is strategically important in delivering better further education provision, the regeneration of Ashford Town Centre and growth within the Borough.

This project is identified within the Council's Corporate Plan 2015-20, under Priority 1, Enterprising Ashford: Economic Investment and Growth as a key priority project.

Financial Implications: The changes to the Funding Agreement for the loan/grant with West Kent and Ashford College, allowing the conversion of the Phase 1 loan to grant, does not have any financial implication on the Council, as the loan was originally due to be converted to grant by July 2018 through the original programme. The conversion of the loan for the Phase 1a development has however been delayed due to the delay to



the programme for this building.

Risk Assessment No – a Risk assessment was completed as part of the original cabinet decision to loan/grant this funding.

Equalities Impact Assessment Not necessary the report deals with a financial transaction

Exemption Clauses: No

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Purpose of the Report

1. To report to Cabinet the use of urgent delegated authority by the Chief Executive as required by the constitution.

Issue to be Decided

2. To note the Chief Executive's decision to authorise changes to the Funding Agreement to facilitate the conversion of the Phase 1 loan to grant in July 2018, in advance of the delivery of the Phase 1a building being constructed.

Background

3. This report follows the reports to Cabinet of February 2015 and July 2016. The first report approved a bridging finance loan of £2m for the college, repaid from the proceeds of the disposal of the Jemmett rd campus.
4. At the Cabinet meeting of the 14th July 2016 and the Full Council meeting of the 21st July 2016, the Council approved bridging loans of up to £3 million to support the delivery of the new Phase 1 and Phase 1a Ashford College Campus developments. The conversion of these loans into a grant was dependent on completion of the both developments and successful operation of the College Campus for one term. The loans were split between £2 million for Phase 1 and £1 million for Phase 1a, to support the overall funding programmes required for each phase. Both Phase 1 and 1a were due to be delivered at the same time when the original funding agreement was put in place.
5. The Council approved this loan/grant conditionally as set out in the Heads of Terms agreed with West Kent and Ashford College, and reported as an exempt appendix to the July Cabinet report.
6. Three areas of the Heads of Terms (HoTs) were varied and approved by Cabinet in 13th October 2016, to enable a funding agreement between the Council and West and Ashford Kent College, and an intercreditor agreement between the Council, West Kent and Ashford College and their primary lender, to be completed.
7. In order to support the ongoing financial and academic success of the new Ashford College, and with the Phase 1 building delivered successfully and operational for one academic year. The Chief Executive has exercised her delegated authority on the grounds of urgency (Part 3, Appendix 5 of the Constitution, section 4.9) to authorise changes to the Funding Agreement, by agreeing the conversion of the Phase 1 loan to grant in advance of the completion of Phase 1a.

Amendments to the finalised Funding Agreement.

8. The original expectation was that both loans for Phase 1 and 1a of the Ashford Town Centre Campus would have been converted to grant by July 2018 on the original timescales for the delivery of the buildings, so the recent request from the College to convert the Phase 1 £2 million into grant is not earlier than expected in the funding agreement, but more that the Phase 1a loan will need to be extended to allow for delays to this element of the build.
9. The College completed construction of Phase 1 in September 2017, and this first phase has been open to students for a full academic year.
10. During the construction phase, the ground works for phase 1a were completed allowing the college to benefit having a single contract for ground works of both phases, and the Councils £1m loan/grant has been used to fund these works.
11. The College has been very successful meeting and exceeding targets that it has set itself in its business plan for attracting student numbers. This has created issues in itself creating the need for a review of the mix of courses that are provided from phase 1a and therefore the original scheme has undergone a number of changes to the internal design that has delayed the start of construction.
12. The College has now completed the sale of the Jemmett road site and has sought temporary sites for the provision of courses. It is also working with the Education and Skills Funding Agency on proposals to restructure its legacy debts from K-College and this process will deliver a funding package that will allow them to complete phase 1a.
13. In order to complete its work with the Education and Skills Funding Agency, the college has approached the Council requesting that the funding for phase 1 be converted to grant allowing it to meet a number of funding conditions necessary for the restructuring of its finances. This work needs to be completed over the summer so that the Colleges auditor can certify compliance with those conditions.
14. On the basis of the above, and in light of the fact that the College required an urgent decision, the Chief Executive has consulted with The Leader of the Council, relevant portfolio holders, the chair of Overview and Scrutiny, the Director of Law and Governance (the Monitoring Officer) and the Director of Finance and Economy (the Section 151 Officer).
15. Accordingly the Chief Executive has exercised her delegated authority to agree that the Council will amend the terms of the funding agreement and agree to the conversion of the £2m loan for phase 1 of the college to grant.

Other Options Considered

16. The other option considered was to delay the approval of the loan to grant until the changes could be reported to Cabinet for approval. This option would have delayed the decision and impacted on the Colleges ability to

comply with its financial conditions and its ability to apply for funding in the new College financial year. This impact could provide potential further delay to the delivery of Phase 1a of the new Ashford College Campus development, and therefore the reported approach was taken on urgency grounds.

Handling

17. As required within the constitution the Chief Executive in exercising her delegated authority, has consulted with the Leader of the Council, relevant portfolio holders, the chair of Overview and Scrutiny, the Director of Law and Governance (the Monitoring Officer) and the Director of Finance and Economy (the Section 151 Officer).
18. The change will be implemented through a deed of variation of the existing funding agreement with the College.

Portfolio Holder's Views

19. "I am supportive of the Chief Executive's decision and the use of delegated authority on the grounds of urgency. This agreement will allow the College to take forward their plans for phase 1a of the Ashford town centre campus and improve their offer to students."
20. Cllr Gerry Clarkson, Leader of the Council

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