

URGENT REPORT TO THE LEADER AND THE DIRECTOR OF PEOPLE – CHILDREN AND ADULTS SERVICES

22 DECEMBER 2021

MARITIME ACADEMY TEMPORARY ACCOMMODATION 2023/24

Portfolio Holders: Councillor Mrs Josie Iles, Portfolio Holder for Children's Services
(Lead Member)

Councillor Martin Potter, Portfolio Holder for Education and Schools

Report from: Lee-Anne Farach, Director of People - Children and Adults Services

Author: Paul Clarke, Head of School Services

Summary

The Maritime Academy free school was due to open in temporary accommodation in September 2022. The DfE require confirmation that Medway Council will underwrite the cost of providing temporary accommodation in the 2023/24 academic year in the event that the permanent accommodation is not available for September 2023. The DfE will not move forward with providing temporary accommodation for 2022/23 without a commitment from the Council to underwrite the cost for the 2023/24 academic year.

1. Budget and Policy Framework

- 1.1. The Leader has urgency powers to make decisions which would ordinarily be made by the Cabinet. These provisions are set out in the Constitution (paragraph 2.2 of Part 3 (Responsibility for Cabinet functions) of Chapter 3 (Responsibility for Functions) of the Constitution.
- 1.2. The Chairman of the Children and Young People Overview and Scrutiny Committee has agreed that the taking of these decisions are urgent and cannot be reasonably deferred until the next Cabinet meeting on 11 January 2022, in accordance with Section 11 (Cases of special urgency) of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and Rule 17 (Special Urgency) of the Access to Information Rules (Part 2 of Chapter 4 in the Constitution). This is because it is imperative that the Council takes urgent action to ensure that the DfE can continue to provide and prepare temporary accommodation for the 2022/23 academic year.
- 1.3. Additionally, and in line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. The Chairman of

the Children and Young People Overview and Scrutiny Committee has agreed that the decisions proposed are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in.

- 1.4. It is the responsibility of Cabinet to ensure that expenditure remains within the budgets approved by the Council, but it remains the responsibility of Council to approve additions to the Capital Budget. Therefore, it is proposed that the Director of People – Children and Adults Services uses the urgency provisions as set out in paragraph 4.1 of the Employee Delegation Scheme (including consultation with the Leader of the Council and the Leader of the Labour and Co-operative Group) to agree the additions to the capital budget funded from borrowing. The use of these urgency provisions will be reported to Full Council on 20 January 2022 for information.
- 1.5. This proposal will support the Council Plan priority of ‘Supporting Medway’s people to realise their potential’, and the outcome of ‘All children achieving their potential in schools’.

2. Background

- 2.1. Medway Council has a statutory duty to provide sufficient school places.
- 2.2. The Maritime Academy is a Department for Education (DfE) funded free school which was planned to open in temporary accommodation in September 2022, while construction is completed on its permanent site. However, there have been delays which are likely to prevent the permanent buildings opening in September 2023 as planned. The DfE has requested assurances that the Council underwrites the cost of providing further temporary accommodation for the 2023/24 academic year. The DfE will not commit to the temporary accommodation in 2022/23 without the Council committing to funding and preferably delivering accommodation in 2023/24 if it is required.
- 2.3. The 180 places provided by the temporary accommodation at the former Stoke primary School site for 2022 are urgently required to meet demand for the 2022/23 academic year. Without these places the council would need to provide these places elsewhere across the secondary school estate through bulge classes. The cost of this is significantly higher than the cost of the temporary provision in 2023 and 2024.

3. Options and advice and analysis

- 3.1. The Maritime Academy was due to open in temporary accommodation in September 2022 with an intake of 180 pupils, with the permanent site opening in 2023.
- 3.2. Delays to the planning process in recent months have meant that it is now unlikely that the permanent building will be ready for September 2023, and whilst the temporary option for 2022 can be delivered, the DfE have expressed concerns around what would happen in the period between September 2023 and the permanent school being completed and ready for occupation. The proposed temporary option for 2022 utilising the Stoke Primary School site would not support a second year within the current capacity available.

- 3.3. The DfE have confirmed that if there is no certainty regarding the temporary accommodation for 2023, they would not continue with the temporary site for 2022. This would leave the Council with the responsibility to provide the places within the current schools across Medway through additional bulge classes, for the next 2 years. This provides significant challenges as all schools are in excess of their PAN and have, in recent years, already taken bulge classes when the Leigh Academy in Rainham was delayed.
- 3.4. The cost of the bulge classes that would need to be provided by the Council for 2022 should the DfE not proceed with the temporary accommodation and potentially the start of 2023 is estimated to run in excess of £10m. This high cost is due to the exhaustion of more lower cost alternatives over the previous years.
- 3.5. The options for providing the temporary accommodation in 2023 are:
- 3.5.1. Option 1 - Make partial use of the permanent building. However, it would depend upon the building being ready for partial occupation, which will not be known until much closer to the target date of September 2023, and therefore cannot be relied upon as a solution at this time. Officers will continue to work closely with the DfE to press for this option if the building is not fully completed – **this is the preferred option, but it is unlikely that the building will be sufficiently ready in time.**
- 3.5.2. Option 2 - A second year at the Stoke Primary School site, which will require temporary capacity to be provided at the site as well as transport provided for a second year. This would keep the school together rather than having two year groups taught in two separate sites. The estimated cost of this is £1.6 million. **In the likely event that Option 1 is not achieved, this is the next preferred option.**
- 3.5.3. Option 3 - Provide the temporary provision on the permanent site. This would require a section of the site to be made available and appropriately serviced but would mean that the two year groups would be taught separately which would provide challenges for the school to deliver a full curriculum as well as a disjointed staffing provision. Estimated cost £1.2m to £1.6m
- 3.5.4. Option 4 - Provide temporary accommodation at an alternative site in the local area. This would result in the two year groups being taught separately and the logistical and organisational challenges that it involves. Estimated cost £1.2m to £1.6m.
- 3.5.5. Option 5 - Not agree to the temporary accommodation in 2023, which would result in the DfE not providing temporary accommodation in 2022, and work with other schools to meet the need through bulge classes, see 3.4.
- 3.5.6. Option 6 - Consideration of sharing a school site not in Medway. However due to PFI restrictions this has been ruled out as an option.
- 3.6. The ability to move onto part of the permanent site (option 1), or the further expansion of the Stoke Primary School site (option 2) , provide the best possible solutions for the pupils attending the school, it reduces unnecessary movement between a range of sites and provides the best facility for the school to deliver a

broad and balanced curriculum offer.

- 3.7. Officers have discussed the situation with the DfE and Regional Schools Commissioner's office. In consideration that option 1 will not be able to be confirmed until nearer the time, it is agreed by all parties, that unless option 1 becomes available, further expansion of the Stoke Primary School site (option 2) is the most viable solution moving forward.
- 3.8. Initial estimate of the total cost of providing the expansion to the Stoke site, so that it can cater for pupils for 2 years is £1.6 million, based upon the temporary provision being required for a year. This could reduce if the length of time the temporary buildings are required for is much shorter e.g., if the school is completed by January 2024.
- 3.9. It is recommended that modular units are hired. The cost per month would be in the region of £40,000, the more significant costs come from the initial groundworks, connection to services, installation and removal of the units as well as making good the area utilised when vacated. There is currently no basic need funding available from the Government, and so these temporary classes would be funded by council borrowing.
- 3.10. The DfE and officer preference is for the building to be ready in time for September 2023, or at least partially ready so that no temporary accommodation is needed, and all efforts will be put into pressing for this. However, there is a high risk that this will not be the case. The second preferred option is that the school moves onto part of the permanent site that is made available for Sept 2023. This will require services to be in place for Sept 2023 and a section of the build to be complete. We would not know this until nearer the time, but due to build processes is also unlikely. It will, however, remain a consideration moving forward.
- 3.11. The DfE free schools team has assured officers that the build contract for the permanent site does include liquidated damages penalties should the permanent building be delayed for reasons the contractor has the ability to control and these would be payable once the project is in delay. It is likely however, that the cost of constructing temporary accommodation would outweigh any penalty levied against the contractor.
- 3.12. To progress this matter beyond the decision to agree to underwrite the cost of the temporary buildings, the DfE would, in the first instance, require a letter from the Council confirming this. This would be followed by a formal agreement which would require formal legal input from both parties.
- 3.13. When the Council issues the formal planning notice for the permanent school, the DfE will re-run the programme for the main project to look at the likelihood of overrun. At that point all options will be considered.
- 3.14. Transport costs for any temporary solutions are expected to cost more than the existing revenue budget. The first year (academic year 2022/23) is an estimated additional cost of £150,000 (for year group 7). For the academic year 2023/24, this is estimated to be a cost of £300,000 (for year groups 7 and 8). Therefore, the additional costs to the revenue budget will be £450,000 across the 2022/23 to the 2024/25 financial years. The additional revenue costs that relate to the 2022/23 financial year, will be reflected in the proposed revenue budget

presented to Cabinet on 8 February 2022.

4. Climate change implication

- 4.1. No climate change implications arise directly from this report, however as any projects are progressed from the options above, designs and construction methods will consider such impacts and look to contribute to the councils ambitious and exciting climate change agenda.
- 4.2. By creating local provision for children and young people, it is expected that there would be a reduction in car journeys across Medway which will reduce any impacts upon air quality. Should the need arise for the temporary accommodation to run into a second year at Stoke, then transport will be provided to reduce multiple car journeys between the Strood area and Stoke.

5. Conclusion

- 5.1. In order to facilitate Option 2 (as set out at paragraph 3.5.2), should Option 1 (as set out at paragraph 3.5.1) become unviable, the Council is required to underwrite the funding of the temporary accommodation for the 2023/24 academic year.
- 5.2. An urgent decision is required as the DfE require confirmation that the Council will underwrite the cost of temporary accommodation for the Maritime Academy for the academic year 2023/24 should the need arise, before they will agree to provide temporary accommodation for the 2022/23 academic year. This decision is required before the Christmas break 2021 to ensure that the DfE continue with preparing the temporary accommodation for 2022 in the new year to ensure the premises are ready for the new academic year.

6. Risk management

- 6.1. There are risks resulting directly from this report, both should the Council agree to underwrite the cost of temporary accommodation or if it does not. These are set out above within the options in section 3 and in the table below.

Risk	Description	Action to avoid or mitigate risk	Risk rating
The Council's statutory duty to provide sufficient good quality school places	If insufficient school places are made available to meet demand, the Council would be failing to meet its obligations.	Agree to fund the cost of a second year of temporary accommodation to protect the first year.	B1
Funding risk to the council	Basic need funding is limited, and the extent of the emerging need may mean that additional funding will need to be sourced to cover the costs of providing the temporary accommodation.	Utilise funding and council borrowing where appropriate.	A1
Risk of insufficient place being available	Without the agreement of the council the DfE will not proceed with the temporary accommodation for 2022 resulting in the Council becoming responsible for the delivery and funding of bulge classes for 2 years to meet demand	Agree to underwrite the cost of the temporary accommodation for 2023/24 academic year should the need arise.	B1

7. Financial implications

- 7.1. It is considered likely that the Council will need to fund temporary accommodation for the academic year 2023/24 and preparatory work to install temporary accommodation will need to begin during 2022/23. Where possible the council will keep preparatory work costs to a minimum until confirmation of need is received.
- 7.2. The estimated cost of delivering the most likely option, Option 2, is £1.6 million. This will need to be funded from borrowing.
- 7.3. Currently, no basic need funding is provided by central government to Medway council to provide additional places, therefore funding of this is reliant upon council borrowing due to the delay in receiving funding through this route.
- 7.4. There may be developer contributions agreed which could reduce the borrowing requirement, and occasionally additional funding sources and initiatives become available to the council. Where possible the Council will seek to make use of those opportunities to reduce the demands upon the limited funding currently available.
- 7.5. The additional revenue costs of transport, as set out at paragraph 3.14, are in excess of the current revenue budget. The element that relates to the 2022/23 financial year will be reflected in the proposed revenue budget presented to Cabinet on 8 February 2022.

8. Legal implications

- 8.1. Under section 14 of the Education Act 1996, each LA is required to provide sufficient school places for primary and secondary education in its area.
- 8.2. As the proposals are to meet basic need for school places and are funded through the council then all decisions on funding approval will follow the Council's procurement procedures and will be robustly monitored.

9. Recommendations

- 9.1. The Leader is asked to agree, using urgency powers, to agree that the Council commit to underwrite the funding of the temporary accommodation for the Maritime Academy, if required in the academic year 2023/24, as set out in paragraph 3.5.2 and to note that the proposed addition of £87,500 will be incorporated into the Council's Revenue Budget 2022/23 report to Cabinet (8 February 2022) to fund the transport costs for the 2022/23 academic year.
- 9.2. The Leader is asked to agree that recommendation 9.1 is considered urgent and therefore should not be subject to call-in.
- 9.3. The Director of People is asked to agree, using urgency powers, to add £1.6 million to the capital programme, to be funded from new prudential borrowing.

10. Suggested reasons for decisions

- 10.1. By approving the recommendations in section 9, the Cabinet through the Leader's and Director of People – Children and Adults Services' Urgency Powers will be ensuring that the Council meets its statutory duty to ensure sufficient good quality school places are available.

Lead officer contact:

Paul Clarke – Head of School Services
01634 331031 or paul.clarke@medway.gov.uk

Appendices

None

Background papers

School Place Planning Strategy 2018-22
<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=42617>

.....(signed) (date)

Councillor Alan Jarrett, Leader of the Council

.....(signed) (date)

Dr Lee-Anne Farach, Director of People – Children & Adults Services