

**BOROUGH OF POOLE**

**CHILDREN'S SERVICES CAPITAL PROGRAMME BOARD  
2 JUNE 2011**

**CABINET  
14 JUNE 2011**

**ASHDOWN TECHNOLOGY COLLEGE PROJECT – FINAL BUSINESS CASE:  
REPORT OF THE STRATEGIC DIRECTOR**

**PART OF THE PUBLISHED FORWARD PLAN    YES**

**STATUS   Strategic**

**1.    PURPOSE**

- 1.1    To update Members on the timescale for submitting the Final Business Case ('FBC') and for contract award for the Ashdown Technology College project.
- 1.2    To seek Cabinet approval for the process for approving the Final Business Case as set out in section 4 of this report.

**2.    DECISION REQUIRED**

- 2.1    That delegated authority be granted to the Chief Executive, in consultation with the Leader of the Council and the Portfolio Holder for Major Capital Projects, to submit the Final Business Case to Partnerships for Schools in line with their deadline of 15 June 2011.
- 2.2    That the decision taken under authority by the Chief Executive will be reported to Council on 21<sup>st</sup> June 2011.

**3.    BACKGROUND**

- 3.1    The Borough of Poole is the lead authority in a partnership with Bournemouth Borough Council, established to procure a Panel Member from the Partnerships for Schools Framework to deliver the Ashdown Technology College scheme. (The agreement with Bournemouth Borough Council and Partnerships for Schools enables the selected Panel Member to be used to deliver other capital schemes that were in the now demised Building Schools for the Future programme).

- 3.2 In February 2011 the Chief Executive used delegated authority, in consultation with the Leader and Portfolio Holder (as was given to him by the Cabinet in January) to appoint the Selected Panel Member, Balfour Beatty Construction Ltd (BCCL). The decision was noted by the Council at its meeting on 12<sup>th</sup> April 2011.
- 3.3 The Department for Education (DfE) requires a FBC to be submitted before it will confirm the funding required by the Client, the Borough of Poole, to enter into contract with the Selected Panel Member, BBCL.
- 3.4 The Borough of Poole has established a client team, at a cost of £480,000, to enable it to submit a robust FBC and to ensure that the Contractor's Proposals meet its requirements.
- 3.5 Intense activity has been undertaken to:
- Refine the designs put forward by the Contractor with the school
  - Secure adequate change management plans for transforming learning at the school
  - Confirm that the commitments of the contractor, BBCL, meet our requirements and provide full value
  - Control the changes and secure agreement over necessary design and contract derogations
  - Secure planning permission
  - Secure contractor's responsibilities and school arrangements for ICT
  - Secure school agreements around Facilities Management
  - Establish a binding contract with BBCL
  - Complete the FBC to the satisfaction of PfS, commenting in particular on variations from the Outline Business Case v.43 (first submitted in September 2009 and varied after that time to take account of the reduced scheme), and on the affordability, funding and value for money within the scheme
  - Establish the arrangements for contract monitoring from July 2011 to July 2013; these arrangements are anticipated to cost up to £800,000 to be funded from the residual BSF(major projects) specific earmarked reserve.
- 3.6 The draft FBC and its 10 appendices were submitted on 9 May 2011 in line with our schedule and accepted by PfS as ready for review.
- 3.7 The FBC will be submitted to PfS on 15 June 2011, with the caveat that Council approval cannot be received until 21 June 2011.

#### 4. **APPROVAL PROCESS**

- 4.1 Prior to Council the FBC will have been reviewed by Borough of Poole officers and their Technical Advisers and recommended for approval by the Ashdown Technology College Project Board.

- 4.2 Previously the BSF Programme Board and BSF Steering Committee delegated the decision on the selection of the preferred bidder to the Borough of Poole. Approval of the FBC has also been agreed to be through the Borough of Poole.
- 4.3 PfS have set a deadline of 15 June 2011 for submission of the FBC. There is no negotiation on this date but Partnerships for Schools have been advised and understand that Council approval will not be secured until 21 June 2011.
- 4.4 Partnerships for Schools are expected to provide final approval on 29<sup>th</sup> June 2011.
- 4.5 There is significant work to be done to finalise the documentation required for the FBC and it is anticipated that this work will continue up to the 15 June deadline. Therefore, it is recommended that the following approval process be approved:
- ✧ that delegated authority is granted to the Chief Executive, in consultation with the Leader of the Council and the Portfolio Holder for Major Capital Projects, to submit the FBC to Partnerships for Schools in line with their deadline of 15 June 2011, subject to Council approval on 21 June 2011;
  - ✧ that the full FBC documentation is made available to Members for review following its submission to PfS on 15 June 2011;
- 4.6 Contracts for the building works and the ICT are expected to be signed between BBCL and the Borough of Poole by 6<sup>th</sup> July 2011 for work to start on site on 24<sup>th</sup> July 2011.

## 5. **FINANCIAL IMPLICATIONS**

- 5.1 The Council has currently been allocated Grant Funding for Ashdown Technology College by PfS of £13,581,824 for the construction element and £1,493,500 for the ICT hardware. The total funding available is £15,075,324.
- 5.2 The Ashdown project is being procured through the PfS Framework. The contractor, Balfour Beatty Construction Ltd, is required to Design and Build the new school and has accepted the majority of the financial risks under the Framework agreement, thus significantly reducing the financial risks to the Council .
- 5.3 The Council is required, as a condition of the Grant, to provide an undertaking that it will fully underwrite the scheme in the event of a cost overrun not covered through the contract with Balfour Beatty. In accepting the grant and the conditions attached to it, the Council will need to manage the resulting risks from undertaking the project itself. The commencement of the project on time is critical to managing a key financial risk and every effort is being made to achieve this. In addition, the investment in a robust client side team will help in mitigating ongoing financial risks through close

monitoring of the project throughout the construction phase. However, as with any large scheme, the risks cannot be wholly eliminated.

- 5.4 The construction grant currently approved by Partnerships for Schools for this project was increased in September 2010 by £163,711 (from £13,418,113 to £13,581,824). The additional grant was not automatically released to the contractor due to financial risks outlined in the Risk Management section below and the significant investment being made by the Borough of Poole. The intention was to hold the additional resource as a contingency in the event of a project overrun not picked up by Balfour Beatty or an unforeseen increase in the Project Management costs. It is anticipated that the extra funding will be available towards the Council's in-house Project Management costs, thus freeing up some of the resources outlined above to increase the overall contingency.
- 5.5 The Council are currently in negotiation with Ashdown Technology College to secure funding from them to act as a project contingency.

#### Capital

- 5.6 No capital resources are currently required for this project, although it should be noted that there are considerable risks that the Council are being asked to underwrite as part of a s151 letter prior to the release of the funding.

### **6. LEGAL IMPLICATIONS**

- 6.1 The works will be delivered under The Design and Build Contract Lump Sum Option for use with Contractors Framework 2009 (as amended) with derogations from the standard terms as agreed with the Contractor and approved by PfS.
- 6.2 The payment mechanisms are also derived from standard PfS documentation with adjustments to reflect the needs of the project.
- 6.3 The parties are in the process of clarifying and confirming the final terms of the contract following PfS guidance.
- 6.4 All the necessary statutory consents have been obtained or will be obtained for the works to commence on site.
- 6.5 The project governance arrangements for the contract are to have in place day to day management by authorised project managers and representatives from both parties on site and a Project Team of Council officers which will meet regularly through the build period to monitor the progress of the project and make any necessary decisions. This team will report regularly to the Children's Services Capital Programme Board.

### **7. RISK MANAGEMENT IMPLICATIONS**

- 7.1 Four key risks have been identified:

i) The Final Business Case documentation is not ready to be submitted to PfS on 15 June 2011 and that risks and issues have not been resolved to our satisfaction by the time the Council approves the FBC on 21 June 2011 and the Head of Financial Services signs the s151 letter. This could delay the construction start date and require acceleration costs to be incurred or for temporary accommodation to be required.

ii) Agreement on the contract for the works is not agreed with Balfour Beatty in time for works to commence on site on 24 July 2011 which could mean that there is a delay in the completion of the project. In this event, temporary accommodation may be required to ensure that the school can accommodate an additional year group (Year 7) when the change in the age of transfer takes effect in September 2013.

iii) Pre and post contract design changes result in additional costs which are above the level of funding available. A robust pre-contract change control process has been put in place to ensure that the designs set out in contractor's proposals are agreed and are in accordance with the employer's requirements in order to reduce the risk of post-contract design changes. A contingency of £273,000 (approximately 2.6% of the construction costs) is held by the client within the contract in the event of unforeseen circumstances. The implementation of a robust client side team to monitor and manage the project will go some way to mitigating this risk.

iv) The form of contract is not a construction industry standard contract as it is bespoke to the PfS framework and is in a prescribed form. The Council has not used it previously and Legal Services have identified some areas within the contract that need further clarification (such as compensation events, insurance on existing buildings and post contract design changes). There may be pressure of time to reach agreement on the contract with PfS and the contractor in order that works can start on site in accordance with the agreed programme.

7.2 Officers will continue to monitor and review these risks and will update them in the report to Cabinet and Council.

## 8. **CONCLUSION**

8.1 The recommendation to delegate authority to the Chief Executive to submit the FBC on 15<sup>th</sup> June will enable the work by officers to carry on up till that date and will allow the Council to comply with the PfS requirement to submit the FBC on that date.

8.2 A subsequent consideration by the Cabinet and Council of the FBC itself will allow the full transparency that is necessary to support a decision about the use of such a large amount of public money.

- 8.3 Achieving approval of the FBC is the very final decision required in order to release government funding for this very important scheme. The FBC encapsulates the Council's and the school's requirements for the detailed design of the scheme that will be build over the next two years.
- 8.4 Preparing to enter into a Design and Build contract for such a large and complex scheme presents major challenges and risks which must be identified and mitigated effectively. Members are asked to consider these risks carefully and to take account of these in the decisions made.
- 8.5 Officers will continue to work intensively on this scheme to mitigate the risks identified and to present a further report to the Council on 21 June.

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**Strategic Director**

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BACKGROUND PAPERS

Report to the Council in December 2009 about "Building Schools for the Future - Outline Business Case for the Joint Bournemouth and Poole Programme".

Report to the Cabinet on 9 February 2010 about the local “BSF Procurement Strategy”.

Report to the Cabinet on 7 September 2010 about “The future arrangements of the joint BSF programme and the Advancement of the Ashdown Scheme”.

Report to the Cabinet on 18 January 2011 about “Procurement of the Ashdown Technology College Scheme and Future Arrangements for the Academy Schemes”.