

TELFORD & WREKIN COUNCIL

CABINET - 30 MAY 2013

THE BUILDING SCHOOLS FOR THE FUTURE PROGRAMME – APPROVAL OF FINAL BUSINESS CASE FOR SOUTHALL SCHOOL, DAWLEY

REPORT OF THE DIRECTOR: DEVELOPMENT, BUSINESS & CUSTOMER SERVICES

LEAD CABINET MEMBER – COUNCILLOR PAUL WATLING

PART A) – SUMMARY REPORT

1. PURPOSE

1.1 This report seeks approval to submit the Final Business Case (FBC) to the Education Funding Agency (EFA) and subsequently to award the Single School Design & Build contract to Shepherd Construction and to enter into all related contract documents.

2. RECOMMENDATIONS

2.1 That the submission of the Southall School FBC to the EFA be approved and, subject to subsequent approval of the FBC by the EFA, thereby releasing BSF funding, that the Director: Development, Business & Customer Services in consultation with the Cabinet Member for Children, Young People and Families be authorised to award the Single School Design & Build contract to Shepherd Construction Limited (SCL) and to enter into all related contract documents.

2.2 That if necessary, the Director: Development, Business & Customer Services in consultation with the Cabinet Member for Children, Young People and Families be authorised to enter into an early works agreement with Shepherd Construction Ltd, prior to the signing of the main contract, to allow key works to be undertaken in the school summer holidays.

2.3 That the Assistant Director of Law, Democracy & Public Protection be authorised to agree and execute all necessary documentation. This authorisation is to include delegation to the Assistant Director of Law, Democracy and Public Protection to affix the common seal of the Council to contractual documentation as appropriate.

3. SUMMARY IMPACT ASSESSMENT

IMPACT ASSESSMENT AT A GLANCE

COMMUNITY IMPACT?	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	Children & Young People – supports strategic priority for developing learning communities across the Borough.
	Are there any measures that will be used to show how the proposals are making a difference?	
	Yes	Improved attainment in the school. Reduced facilities management revenue costs for the school.
	Will the proposals impact on specific groups of people?	
	Yes	The children attending Southall School will benefit from these much needed new facilities and improvements.
COMPLETION/ DELIVERY DATE?	The Final Business Case is due to be approved by the EFA in June 2013 and the contract placed by the end of June 2013.	
FINANCIAL (VALUE FOR	Yes	The anticipated contract price for the scheme is within the funding envelope set by the council and within the funding approval obtained

MONEY) IMPACT?		through the Council's Capital Programme.
LEGAL IMPACT?	Yes	Detail provided in Section 7.
OTHER RISKS & OPPORTUNITIES ?	Yes	Detail provided in Section 8.
IMPACT ON SPECIFIC WARDS?	Yes	Dawley Magna.

4. SUMMARY

4.1 The project at Southall School includes the construction of a new sports hall with changing rooms and teaching spaces to the area in front of the school. The project also includes the refurbishment of areas within the existing school building. The target for the start on site for Southall School is July 2013 and it is anticipated that the new facilities will be available early 2014. The Outline Business Case (and the subsequent amendments as a result of the government's spending review in November 2010) for all schools in the Building Schools for the Future programme has been approved by Cabinet. The Final Business Case (FBC) for each school project has to be approved by Cabinet prior to its submission to EFA and DfE for funding approval. The EFA gave Stage 0 approval (authority to initiate the procurement process) for Southall School on 4 October 2012.

4.2 Final Business Case

Background. The FBC must be approved by the EFA and DfE before BSF funding will be released. The purpose of the FBC is to define the procurement result and to track both the integrity of the procurement process and the differences between the agreed positions at FBC and the intended positions described at the approval of Stage 0. It outlines the scheme, the affordability of the final solution and the arrangements in place for contract administration and monitoring. On 29 March 2012 Cabinet approved the appointment of Shepherd Construction Ltd as the "Selected Panel Member" to construct Ercall Wood Technology College and future schools including Southall School, if requested. Since this date, Shepherd has been working to finalise the design of the scheme and have submitted a detailed planning application for the school in April 2013.

Submission. The Final Business Case is being prepared. The key points of the submission will be that the scope of the scheme is as planned at Stage 0 and that it is affordable. A "template" approach to the format of the FBC has been adopted by EFA and a copy is attached at Appendix 1. Subject to Cabinet approval, the FBC will be submitted to EFA for approval and to the DfE for funding allocation once Shepherd Construction has provided acceptable proposals that are within the budget allocated for the scheme and has secured planning approval for the site. The target date for review by Plans Board is 12 June 2012. If approved at Plans Board, the FBC will be submitted to EFA immediately after this date in order to allow contract signature at the end of June 2012.

Contract. Once the FBC submission is approved by EFA and the DfE with funding allocated, the Council will be in a position to enter into contract with Shepherd Construction.

4.3 Procurement / Competition

The appointment of Shepherd Construction as our preferred BSF framework contractor in July 2012 followed the EFA process for its National Academies Framework contract and used standard EFA documentation. The initial contract was for the construction of the Ercall Wood Technology College but the framework allows for the Council to appoint Shepherd Construction to carry out further work without having to go through another competitive process.

4.4 Contract Arrangements.

Framework requirement. The EFA Framework Contract that we are obliged to use expires on 11 November 2013, by which time we must have issued the Future School Notice and commenced the design process with Shepherd Construction for projects that are to be constructed under the framework.

Form of Contract. The form of contract of "Design & Build" is the EFA standard contract for use with the "Academies Framework". Shepherd Construction has submitted their Contractor's Proposals which provide construction strategies, drawings and specifications for site. These proposals have been examined in detail by the projects technical, financial, legal and ICT work streams and issues raised will need to be resolved before final approval by EFA. Any significant technical, financial or legal issues that remain to be resolved will be shown in the FBC.

Contract Sum. The contract will be fixed price, lump sum. The funding allocation is ring fenced to deliver the project as planned. No alterations to the contract, with any adverse cost implications, will be agreed with either the contractor or the end user. This will therefore reduce the risk of an over spend on the project.

Early Works Agreement. In order that refurbishment work within the existing school building can be carried out during the 2013 summer holidays, it may be necessary, if the Design and Build Contract has not been signed, to initiate an early works agreement with Shepherd Construction Ltd. To minimise risk to the council, this agreement would only be entered into if all the necessary approvals for the Design and Build contract are in place and it would be time and value limited. A similar arrangement was used for the Abraham Darby contract.

4.5 Stakeholder Consultation. The school and all other stakeholders, as members of the Design User Group, have been closely involved in the process and in the subsequent development of the design for the school. Their involvement will continue as construction progresses, particularly in respect of design and fit-out detail that has yet to be finalised.

5.0 LEGAL COMMENT

5.1 At financial close the Council is required to execute the contract documents listed in paragraph 7.4. The BSF Contracts have been drawn up in accordance with the EFA Framework Agreement and have been developed in accordance with the Council's project specific requirements by the Council's project team in consultation with external Legal Advisors, Ward Hadaway.

5.2 The award of the BSF Contracts to Shepherd Construction is subject to full planning permission being granted. In addition, the award of the BSF Contracts is subject to approval by the EFA which will not be forthcoming until the planning permission is agreed.

5.3 Financial close and signing of the Contract is targeted for June 2013. In awarding the BSF Contracts and proceeding with the FBC, the Council must continue to ensure that there is compliance with procurement legislation and the financial and contract procedure rules contained within the Council's constitution at Part 4, Sections 6 and 7 respectively. A close working relationship with the EFA will also be required to ensure that the FBC is acceptable and that the project can proceed. These areas will need to be continuously reviewed and those who are granted delegated authority in paragraph 2.1 of the report will require updates and information to ensure that these risks are addressed and that informed decisions can be made. If delegated authority is allowed by the Cabinet, the delegated decision making set out in paragraph 2 should be formally recorded.

- 5.4 Legal Documents.** The main documents to complete and execute are:
- The Single School Design and Build Contract (between the Council and Shepherd Construction)
 - A Parent Company Guarantee from the contractor's parent company (between the Council, Shepherd Construction Ltd and its parent company).

6.0 OPPORTUNITIES AND RISKS

- 6.1** The main risk to the Southall School scheme is the planning decision. Full planning permission is required to ensure that the Final Business Case receives approval from the EFA and DfE thereby guaranteeing the funding.

7.0 FINANCIAL IMPLICATIONS

Affordability of the Design and Build of Southall School

- 7.1** The indicative contract sum for the design and build of Southall School is based on Shepherd Construction Ltd's Future School Proposal and is within the funding envelope set by the Council, as set out in Table 1 below. The contract sum will be finalised in line with the agreed pre-contract programme. It is anticipated that there is a sufficient level of grant contingency contained within the funding envelope to manage the design risk, due to client changes, up to the final design being agreed and the contract awarded. The grant contingency will need to be assessed once the contract price has been fixed with any residual funding reallocated across the programme in accordance with the BSF Grant Conditions. A contractor contingency of 3% is included within the indicative contract price.
- 7.2** Funding for the scheme will be released by the EFA following their approval of the FBC and the final contract documents. A funding draw down submission will be made by the Council to the EFA which reflects the timings of the contractor milestone payment schedule, as included in the contract, to mitigate the impact of timings of cash flows.

Table 1 Summary of the Design and Build construction affordability

Funding – as included in the Councils Capital programme	£000's	£000's
BSF Grant approved for Southall School following the Efficiency Review of 2010	(1,776)	
BSF Grant Contingency	(200)	
Condition Grant	(117)	
Capital Receipt	(11)	
School Contribution	(23)	
Sub Total		(2,127)
Capital estimates		
Indicative contract sum	1,873	
Project delivery costs funded from Grant	50	
Client Contingency	200	
Sub Total		2,123
Affordability shortfall / (surplus)		(4)

Early Works Agreement

- 7.3** This section will need formalising following Shepherd Construction Ltd's review of the programme and draft milestone payment schedule which will ascertain
1. The value of works to be undertaken in the forthcoming summer holidays, and
 2. The value of orders needing to be placed pre-August 2013
 3. The terms of the Early Works Agreement including cost and phasing of payments of works undertaken under the agreement

Lifecycle and FM Strategy

- 7.4** Southall School will form part of the T&W facilities management sinking fund which was created to fund the ongoing costs associated with achieving the required specification for

lifecycle and maintenance. The sinking fund strategy was approved by Cabinet as part of the BSF OBC Cabinet approval and the Abraham Darby Academy FBC approval. Both capital and revenue contributions will be agreed with the school prior to FBC submission and these will be detailed in letters of commitment from the school's governing body.

ICT Managed Service

- 7.5** The Council will continue to draw down, from EFA, ICT funding for the scheme in line with the ICT programme which was approved by Cabinet as part of the Abraham Darby Academy FBC and which was further updated as part of the national spending review of the BSF Programme.

8.0 PREVIOUS MINUTES

- Cabinet 24th November 2008 - Planning of School Places: Campus Telford & Wrekin. Minute CB94 refers.
- Cabinet 6th April 2009 - Campus Telford & Wrekin: Additional Post-16 Provision, Trust School Status, BSF Procurement Approval. Minute CB182 refers.
- Cabinet 15th September 2009 – Planning of School Places: Campus Telford & Wrekin – Part 2. Minute CB60 refers.
- Cabinet 23rd March 2010 – Borough Towns Initiative Sports & Learning Community – Final Business Case and Award of Contracts relating to BSF and Abraham Darby Sports & Learning Community. Minute CB181 refers.
- Cabinet 11th January 2011 – School Organisation – Borough Towns Initiative – Sports and Learning Community Update. Minute CB109 refers.
- Cabinet 22nd September 2011 – Planning of School Places – Secondary School Provision. Minute CB45 refers.
- Cabinet 26th January 2012 – Ercall Wood Land Acquisition and Disposal. Minute CB-92 refers.
- Cabinet 29th March 2012 – Building Schools for the Future – Contractors Framework Procurement Approval. Minute CB-123 refers.

- 9. WARD IMPLICATIONS** - There are implications for the following wards:

Ward

Dawley Magna

Member

Cllr Frances Bould, Cllr Clive Elliott, Cllr Jane Pinter

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Appendix 1 - FBC Template

Education Funding Agency FBC Submission Arrangements

Introduction

The purpose of this document is to set out the EFA requirement for the submission of Final Business Cases (FBCs) for approval. Current arrangements require the production of a Final Business Case document supported by a number of Appendices. The Guidance provides an outline and the whole process is not dissimilar to the production of an Outline Business Case (OBC).

PfS currently operates two very different styles of submission in Business Case Approvals.

1. OBC submissions are by nature, and justifiably, detailed and complex as it is the first major exposition of the business rationale behind an authority's project, demonstrating Value for Money, Affordability and Deliverability of the LAs Transformational SfC proposals.
2. Stage 0 submissions have been radically and successfully modified to allow the LAs to reference previously provided information, provide updates where appropriate and to provide a simple commentary against a small number of headings. The whole process is covered in three tables with the focus on change since FBC approval, continued VFM, Affordability and Deliverability.

The current FBC requirements are more akin to OBC than Stage 0. However, as the purpose of the FBC, is to confirm the Outline Business Case outcomes rather than present a new case, then the FBC requirements have more in common with Stage 0 where the purpose is to confirm the Business Case assumptions of the previous FBC and OBC. It is therefore intended that a form of FBC submission modelled on our new Stage 0 process rather than the format in the current FBC Guidance be introduced.

The LA requirement at FBC would be to:

- Identify changes in the scope, affordability, proposed procurement route or deliverability of the project since OBC. A tabular form of submission would ensure that only relevant information is requested and provided and that provision of the information on a pro-forma is easier for the LA to action than production of a new document;
- Reference previously provided information rather than re-produce it, again using a simple table where responses can be entered;
- Provide a short commentary on a range of specific questions only where a response is necessary, again using a simple table where responses can be entered;
- Clearly identify outstanding issues (derogations, internal approvals, external agreements in a simple list that gives transparency in the final 6 weeks of the Close process;
- Achieve Close with no outstanding Conditions Precedent on their FBC.

The document describes the evidence required from the LA to support the Final Business Case and allow progress to Close and the issue of a Promissory Note. Whilst the process is 'light touch' it nevertheless requires the LA to be rigorous in their approach to ensuring that the evidence required will be in place at the required time.