

TELFORD & WREKIN COUNCIL

CABINET - 19 SEPTEMBER 2013

THE BUILDING SCHOOLS FOR THE FUTURE PROGRAMME – APPROVAL TO ENTER INTO AN EARLY WORKS AGREEMENT AT TELFORD CO-OPERATIVE ACADEMY ON THE SITE OF THE OAKENGATES LEISURE CENTRE.

REPORT OF THE ASSISTANT DIRECTOR: EDUCATION AND CORPORATE PARENTING

LEAD CABINET MEMBER – CLLR PAUL WATLING

PART A) – SUMMARY REPORT

1. PURPOSE

1.1 This report seeks approval to enter into an Early Works Agreement on the Telford Co-operative Academy site which will be constructed on the site of the Oakenages Leisure Centre.

2. RECOMMENDATIONS

2.1 That the Assistant Director: Education and Corporate Parenting 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 on the Telford Co-operative Academy site, prior to the signing of the main Design and Build Contract, allowing enabling works to be undertaken to provide revenue income from the proposed 3G synthetic pitch and bring forward essential works for the new school building to open in September 2015.

3. SUMMARY IMPACT ASSESSMENT

IMPACT ASSESSMENT AT A GLANCE

COMMUNITY IMPACT¹?	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 the proposals are making a difference?	
	Yes	Long term improved attainment and reduced revenue costs for the school. Provision of a new 3g synthetic pitch to replace a facility that is circa 10 years old
	Will the proposals impact on specific groups of people?	
Yes	The children at this school will benefit from new facilities and the community will benefit from improved leisure facilities and pitches.	
COMPLETION/ DELIVERY DATE?	The Final Business Case is due to be approved by the Education Funding Agency (EFA) in November 2013 and the contract placed by December 2013.	
FINANCIAL (VALUE FOR MONEY) IMPACT?	Yes	The anticipated contract price for the scheme is within the funding envelope set by the Council and within the funding approval obtained through the Council's Capital Programme. The value of the Early Works Agreement (EWA), which forms part of the contract price, is £1.18m.
LEGAL IMPACT?	Yes	Detail provided in Section 7.
OTHER RISKS & OPPORTUNITIES ?	Yes	Detail provided in Section 8.
IMPACT ON SPECIFIC WARDS?	Yes	Ketley and Oakengates Wrockwardine Wood and Trench

4. SUMMARY

- 4.1 Telford Co-Operative Academy:** The development of The Telford Co-Operative Academy will consist of: creation of a new 1200 place school building, partial refurbishment of the adjacent Oakengates Leisure Centre and the provision of a 3g synthetic pitch.

Plans Board are due to consider the planning application, and the target Plans Board date is 25th September 2013 for the 3g pitch and 6th November 2013 for the main school application. The Final Business Case is being targeted for submission to the EFA at the same time as the main school planning application. Once these approvals are in place, the Council will enter into a contract with Shepherd Construction for the delivery of the new school and associated works on the Oakengates Leisure Centre site.

- 4.2 Telford Co-operative Academy is running to an exceptionally tight schedule in order for the school to be open and available for occupation in September 2015. To meet this deadline, Shepherd need to undertake the enabling works as soon as possible. In addition, to avoid the loss of income from the 3g pitch, the target date for availability of the new pitch is November 2013. . These circumstances demand that Shepherd and the Council enter into an Early Works Agreement (“EWA”) to enable the works to start. The total cost of the works under the proposed EWA is in the region of £1.18m.
- 4.3 Even if the Design and Build contract is not entered into for the new school there would still be a need to replace the 3g pitch. The existing facility was removed as part of intrusive site investigations as part of the BSF process. The works to form the coach turning circle, alterations to the junction and highways improvements would also benefit the site as this would improve current poor access and vehical movement.
- 4.4 At Cabinet on 8th November 2012 approval was given to enter into a “Future Schools Agreement” with Shepherd allowing the Council to give a series of works contracts to Shepherd without the need for separate procurements. The Future Schools Agreement was entered into on 5th February 2013 and remains in place. However, as with the Ercall Wood School project, Cabinet will be asked to give approval to enter into Single School Design & Build Contracts for each of the remaining projects together with all other associated contract documentation. As a consequence of this report not being presented to Cabinet until 19th September 2013 it has proved necessary to seek approval for the the works which need to be started prior to the main contract under the proposed EWA.

5.0 LEGAL COMMENT

- 5.1 At financial close the Council is required to execute the contract documents listed in paragraph 5.4. The contract documents are based on the required EFA standard form documentation and will be 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 design and build contract for the Telford Co-Operative Academy site development to Shepherd Construction is subject to full planning permission being granted. In addition, the award of the design and build contract is subject to approval by the EFA which will not be forthcoming until the planning permission is agreed and the contract documents are in an approved form.
- 5.3 Financial close and signing of the Contract is targeted for December 2013. In awarding the contract and proceeding with the Final Business Case , 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 Final Business Case 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 Limited jointly and severally with Regional and Local Education Partnership Limited, a Shepherd trading company established for the purpose of participating on the EFA framework)
- A Parent Company Guarantee from the contractor's parent company (between the Council and Shepherd Building Group Limited).
- A Development Agreement (between the Council and Telford Co-operative Multi Academy Trust) which will include a contract for the transfer of the existing sites by the Academy to the Council and for the Council to transfer the new site to the Academy.
- A Broker's Letter of Undertaking (between the Council, the contractor and the contractor's insurance broker).
- Collateral warranties will also be provided in favour of the Council and the Academy Trust by the contractor's professional team. Where these are not available at the date of completion, the contractor is obliged to procure them following completion.

6.0 OPPORTUNITIES AND RISKS

6.1 The main risk to the Telford Co-operative 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. To mitigate this risk a series of engagement sessions with the local community and pre application engagement with the Local Planning Authority has been undertaken prior to the submissions. The planning approval for the 3g pitch will already have been sought prior to works commencing.

7.0 FINANCIAL IMPLICATIONS

Early Works Agreement

- 7.1 The anticipated contract price, submitted by the contractor, for the Telford Co-Operative Academy is £16.95m. The contract price falls within the funding envelope set by the Council and approved through the Council's Capital Programme.
- 7.2 The value of the EWA, which forms part of the contract price, is £1.18m. The EWA will be part funded by BSF Grant which is predicated on the basis that the Council's Final Business Case for the full Telford Co-Operative Academy scheme is approved by Education Funding Agency, due to be submitted November 2013, and that the Council has entered into the Design and Build contract with the Framework Contractor, due to be signed December 2013.
- 7.3 The scope of works and schedule of costs, included at Appendix 1 (exempt paper), are scheduled to begin October 2013 and are anticipated to take 8-9wks to complete prior to the Design & Build contract being in place.
- 7.4 At the time of the main planning application for the school the outstanding liability for the Council would be £855K. The main allocation being to provide the 3g pitch which the Council is required to reinstate at full cost. If at this time planning was not approved for the main school application the remaining works could be aborted.
- 7.5 An interim payment for works completed under the EWA will be due upon the signing of the Design and Build contract for Telford Co-Operative Academy. If the contract has not been entered into by December 2013 the full liability (see Appendix 1 – exempt paper) will be

payable to Shepherd Construction Ltd. The works completed will be subject to the same valuation and payment methodology as detailed in Section 16 (Payment) of the Design and Build Contract.

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.
- Cabinet 8th November 2012 – Building Schools for the Future – Approval to submit the Final Business Case for Ercall Wood and Priorslee Land Acquisition. Minute CB-63
- Cabinet 30th May 2013 – Building Schools for the Future – Approval to submit the Final Business Case for Southall School and entry into an Early Works Agreement. Minute CB-10.

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

Ward	Member
Ketley & Oakengates	Cllr A Singh Jhawar, Cllr G Reynolds, Cllr H Rhodes
Wrockwardine Wood & Trench	Cllr S Reynolds, Cllr C Smith

