

BUILDING SCHOOLS FOR THE FUTURE – PHASE 2 FINAL BUSINESS CASE

To: Cabinet

Date: 5th July 2011

From: Executive Director: Children & Young People's Services

Electoral division(s): Chatteris, March East, March North, March West, Roman Bank and Peckover, Waldersey, Whittlesey North, Whittlesey South, Wisbech North, Wisbech South

Forward Plan ref:

Key decision: No

Purpose: To update Cabinet with developments in respect of the Building Schools for the Future (BSF) programme in Fenland

To seek Cabinet endorsement for the Final Business Case for the Phase 2a Schools and approval to enter into contracts to build the Phase 2a Schools

To seek Cabinet approval to dispose of a leasehold interest in the land for the Cromwell Leisure Suite at less than best consideration

Recommendation: Cabinet is recommended to:

- a) Confirm that the Building Schools for the Future (BSF) Contract Documents listed at Annex 1 of this report and any other related contracts, agreements and instruments required to give effect to the Projects (including, but not limited to, collateral warranties and direct agreements) may be entered into once (a) final and formal confirmation of BSF funding for the Project has been received from Partnerships for Schools; and (b) any final outstanding issues have been addressed to the satisfaction of the Executive Director: Children & Young People's Services and the Corporate Director of Finance, Property and Performance in consultation with the Cabinet Members for Learning and Resources;
- b) Note the summary of the Final Business Case at paragraph 2.9 and endorse the strategy for funding these projects at paragraph 4.1 of this report;

- c) **Declare property forming part of Cromwell Community College Playing Fields as surplus to Council requirements and to authorise the Corporate Director of Finance, Property and Performance to dispose of an eighty year leasehold interest in the property at less than best consideration on terms to be agreed with Fenland District Council.**

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1.0 BACKGROUND

- 1.1 The Building Schools for the Future (BSF) programme in Cambridgeshire will re-build and refurbish four secondary schools, one special school and one Pupil Referral Unit in Fenland. The capital value of these projects is £90 million with a further £9 million for Information Communication Technology (ICT) infrastructure and equipment. The Fenland 'Wave' was originally intended to be the first part of a county-wide programme to modernise 44 secondary and special schools in Cambridgeshire as part of the national BSF programme to rebuild or refurbish every secondary school in England. A particular feature of BSF was the requirement to establish a special purpose vehicle – the Local Education Partnership (LEP) – with exclusivity to deliver all the BSF projects in a local authority area. The national BSF programme was cancelled by the Coalition Government in July 2010. The Fenland projects were sufficiently advanced by then to continue, albeit in the case of the Phase 2 projects, with some reduction in the original level of funding.
- 1.2 Financial Close was achieved and contracts were signed for the Fenland Phase 1 Schools (Neale-Wade Community College and Thomas Clarkson Community College) on 18th May 2010. At the same time, the Local Education Partnership - Cambridgeshire Learning and Community Partnerships Ltd - was established and Facilities Management (FM) ICT Managed Services contracts were signed for all six BSF schools in Fenland. Equitix Ltd is the consortium lead in the Local Education Partnership supported by the building contractors Kier Eastern and Galliford Try, the FM services company Mitie and the ICT provider Dell.
- 1.3 Construction work began at the Phase 1 Schools in July 2010 and is due to be completed at both schools by early 2013.
- 1.4 Written approval from Partnerships for Schools (PfS) for the Council's 'Stage 0' submission for the Phase 2a schools (Cromwell Community College, Sir Harry Smith Community College and Meadowgate Special School) was received on 14th February. This confirmed £28.5m of funding for the three schools in accordance with a package of savings proposed by the Council in November 2010.
- 1.5 A report to Cabinet in March 2011 set out an accelerated programme for the Phase 2a schools with the objective of starting on site in summer 2011, some six months earlier than originally planned.
- 1.6 This report updates Cabinet with progress against this accelerated programme, summarises the Final Business Case (FBC) for the Phase 2a schools and seeks Cabinet's consent to enter into contracts to build the Phase 2a schools once confirmation of the funding has been received from Partnerships for Schools and outstanding commercial and contractual matters have been satisfactorily resolved.

2.0 MAIN ISSUES

Phase 1 Progress

- 2.1 One year into their building programmes, the Phase 1 projects continue to make good progress on site. The contracted handover dates remain on target to be achieved as follows.

Milestone	Thomas Clarkson College	Neale-Wade College
Phase 1 completion	Jan-2012	Aug-2011
Phase 2 completion	Nov-2012	Aug-2012
Phase 3 completion	-	Dec-2012
Final completion	Nov-2012	Feb-2013

Phase 2a

- 2.2 The Phase 2a schools are:

- Sir Harry Smith Community College, Whittlesey
- Cromwell Community College, Chatteris
- Meadowgate Special School, Wisbech

- 2.3 Detailed design work at the Phase 2a schools began in January 2011. The key dates within this programme, and progress to date, are as follows.

Milestone	Estimated Date	Actual Date
Stage 1 Submission (Initial Proposals from the LEP)	March 2011	18 th March 2011
Stage 1 Approval (Approval of LEP Stage 1 proposals by the Authority)	April 2011	4 th April 2011
Planning applications submitted	April 2011	11 th April 2011
Stage 2 Submission (Detailed Proposals from the LEP)	June 2011	20 th June 2011
Stage 2 Approval (Approval of LEP Stage 2 proposals by the Authority)	July 2011	
Planning consent secured	July 2011	
Contracts Signed	July 2011	
Start on site	August 2011	

- 2.4 The works programmes at the Phase 2a schools are approximately two years in duration leading to completion by September 2013.

- 2.5 This programme is currently on target to be achieved. However, there are a number of risks and dependencies associated with this which could delay the planned start on site in August. These include:

- Securing planning consent and discharging any pre-commencement planning conditions;
- Finalising the contracts with the LEP, sub-contracts with the builders, interface agreements with ICT provider and so on;
- Approval of contract derogations and the Final Business Case by Partnerships for Schools

- 2.6 Contingency plans are being prepared in the event that contracts are not signed by late July, including:
- Delaying the start on site date until contracts are signed; or
 - Maintaining the current programme by starting the works under an Early Works Agreement.
- 2.7 There are risks and costs associated with both of these options. Consequently, the focus continues to be on achieving contract close by July which remains the optimum outcome.

Final Business Case

- 2.8 The draft Final Business Case for the Phase 2a schools was submitted to Partnerships for Schools on 3rd June with a final version to be submitted following the Cabinet meeting in early July. Final Business Case approval is a pre-requisite for contract and financial close and provides the promissory note for the capital grant draw-down for the three schools over the next three financial years.
- 2.9 Among other things, the Final Business Case for the Phase 2a schools confirms that:
- the key objectives set out in the Outline Business Case (OBC) have been (or will be) delivered by the procured solution;
 - there are some limited changes from the Outline Business Case in respect of the scope of the works envisaged at the Phase 2a schools (principally arising from the requirement to achieve savings of around 18% across the three projects against the Outline Business Case funding level);
 - a comprehensive and robust design development and new project approval process has been carried out to ensure the value-for-money of the Phase 2a schemes;
 - the schemes are considered to be affordable within the funding available;
 - risk transfer within the Design & Build (D&B) contracts under which these schemes will be built is in line with the standard form BSF contracts and established market practice in which design and construction risk is borne principally by the contractor with the Council retaining risk in relation to certain title matters, planning judicial review risk and certain latent defect risks;
 - the schemes, and their implications, are acceptable to the Council and the schools and the required agreements are in place with the respective Governing Bodies ;
 - an appropriately experienced and resourced team is in place to manage these projects through the construction phase.
- 2.10 The ICT and FM contracts for the Phase 2a schools were entered into at the same time as the contracts for the LEP and the Sample Schools in May 2010. The FM and ICT services for the Phase 2a schools will be delivered in accordance with the scope and revised specification and/or fee adjustment arrangements contained within these existing contracts.

- 2.11 The Final Business Case submission requires evidence that the Council's Cabinet is content to proceed to enter into contracts for the development of the Phase 2 schools. The necessary recommendation is proposed at recommendation (a) above. The affordability and resourcing implications will be set out in more detail in a letter from the Council's Accounting Officer¹ ("S151 Officer") which accompanies the Final Business Case.

Phase 2b

- 2.12 Phase 2b is a single school project - Fenland Junction Pupil Referral Unit (PRU). The unit is currently located in March. The BSF project proposes re-locating the unit to a new, purpose built facility in Wisbech or March.
- 2.13 Written confirmation was received from Partnerships for Schools in February that 100% of the original funding (£2.5m) has been agreed for this project. This remains subject to 'Stage 0' and Final Business Case approval in due course.
- 2.14 Three potential sites in Wisbech have been identified, one owned by the Council and two in private ownership. Surveys and other site appraisal work is ongoing to establish what constraints exist with these sites and the speed with which a planning application could be brought forward. Options in March are also being reviewed. This exercise will be concluded with a view to identifying a preferred site by the end of July.

Cromwell Community College Leisure Suite

- 2.15 The proposal to develop a community Leisure Suite at Cromwell Community College was set out in an earlier report to Cabinet (March 2011). Officers have continued to develop this project in partnership with Fenland District Council, Chatteris Town Council and the Governing Body of Cromwell Community College.
- 2.16 In summary, Fenland District Council and Chatteris Town Council are providing funding to build the Leisure Suite (gym, dance studio and associated reception and changing facilities) on the Cromwell Community College site. The County Council will build the facility as a sub-project of the BSF project at the college. A long-term leasehold interest of the Leisure Suite will then be granted to Fenland District Council who will operate the facility in association with community partners on a not for profit basis.
- 2.17 Public benefit will be derived through the co-location of community infrastructure on the single site and cost savings will be derived from delivering the facility in conjunction with the BSF project at the college.
- 2.18 The site area subject to the lease will be approximately 0.12 hectares together with rights of shared access and parking. An independent consultant has determined the current market value of the freehold interest in this land. The external valuation is very well within the delegated authority of the Director of Finance. A recommendation to dispose of this land at less than best consideration is set out at recommendation (c) above.

¹ Corporate Director of Finance, Property and Performance

- 2.19 The Council has recently completed the purchase of 3.3 hectares of land to the south of the college for the provision of additional playing fields to address a shortfall in the amount of playing field at the school currently.
- 2.20 The timing of when this land will be brought into use as playing field will have a bearing on when the disposal (lease) of the Leisure Suite to Fenland District Council can take place under legislation designed to prevent school playing fields from being built on or sold off – section 77 of the School Standards and Framework Act 1988. The Leisure Suite project team is continuing to work through the implications of this and its possible impact on the timing of the Leisure Suite development.

3.0 ALIGNMENT WITH PRIORITIES AND WAYS OF WORKING

3.1 Supporting and protecting vulnerable people when they need it most

There are no significant implications for this priority.

3.2 Helping people live healthy and independent lives in their communities

There are no significant implications for this priority.

3.3 Developing the local economy for the benefit of all

The following bullet points set out details of implications identified by officers:

- Schools modernised through BSF will provide high quality environments for teaching and learning and improved venues for community activities of various kinds in the future

3.4 Ways of Working

The following bullet points set out implications identified by officers for ***Working together***:

- A Local Education Partnership joint venture company (Cambridgeshire Learning & Community Partnerships) has been established to deliver the BSF projects in Fenland. Building on the successful delivery of these projects to date, this vehicle has the potential to deliver other schools and non-schools capital projects in the future.

4.0 SIGNIFICANT IMPLICATIONS

4.1 Resource and Performance Implications

The report above sets out details of significant implications in respect of the following:

- Implications of delay – paragraph 2.5-2.7
- Land disposal – paragraph 2.18

In addition, the following bullet points set out details of significant implications identified by officers:

- **Funding Strategy** – The strategy to meet the costs associated with the Phase 2 projects is as follows:
 - *Build costs.* The Phase 2 schools are all conventional Design and Build schemes funded by government capital grant;
 - *FM costs.* The Governing Body Agreements entered into with the BSF schools in Fenland commit the Phase 2 schools to make revenue and capital contributions to FM costs of their modernised schools. These contributions were agreed as part of the Phase 1 Final Business Case and the FM Managed Services contract to which these contributions relate is now in operation
 - *Lifecycle costs.* It was noted in the Outline Business Case for the Fenland BSF projects that in order to meet the realistic lifecycle maintenance costs of these schools over time, additional capital contributions would be required from the Council to ensure that schools modernised through BSF are appropriately maintained thereafter. For the five design & build schools in Fenland, the capital contribution was estimated to be approximately £11.5m (nominal) over 25 years.
 - The Council is committed to ensuring that schools modernised through BSF are appropriately maintained thereafter. However, with increasing numbers of Academy schools, a new capital regime likely following the recent James Review and far less capital funding available generally, there is greater uncertainty and risk around the Council's ability to fund lifecycle costs at the BSF schools in the future.
 - *ICT costs.* ICT contract costs are met through a combination of capital grant from government and revenue contributions from schools. There is some risk to the Council if actual pupil numbers are less than those upon which schools' contributions are based because the ICT contract sum is fixed. It had previously been agreed with the Cambridgeshire Schools Forum to address this through a call on the secondary quantum of the Dedicated Schools Grant (DSG). However, there is now increased risk around the viability of this support mechanism as the DSG comes under more pressure from further austerity measures affecting school budgets and an expansion of Academies and Free Schools.
- **Human Resources** - Approximately seven staff currently employed by the Phase 2 schools as ICT technicians will transfer to the employment of the ICT managed service provider (Dell). For those transferring employees currently in the Local Government Pension Scheme (LGPS), their new employer will seek Admitted Body status to the LGPS. The Council will retain pension contribution rate risk above a fixed rate calculated by the pension fund actuary and also the risk of

historic scheme underfunding. After the transfer date, the scheme will be closed to new employees.

4.2 Statutory, Risk and Legal Implications

The following table set out details of significant risks identified by officers:

Risk	Description
Programme Delay	Delay in achieving necessary consents/approvals and/or during construction cause programme and/or budget overruns
Impact of Inflation	BSF funding is awarded at a point in time and is fixed at that point. The actual movement in construction indices during the design development and construction phases may differ (adversely) from the indexation assumption on which the grant is based
Authority Capital programme	Future reductions in (non-BSF) capital allocations to the Authority and/or unavoidable calls on capital reduce the Authority's ability to support future lifecycle costs in BSF schools
'Demand Risk'	Student numbers on roll do not match the forecasts on which the ICT costs are based
ICT Services	ICT Managed Service performance is not acceptable
FM Services	FM Managed Service performance is not acceptable
Scope creep	Changes to design compromise affordability
Furniture, Fittings & Equipment (FFE)	Unrealistic expectations and/or inadequate budget for FFE
Education Outcomes	Educational outcomes do not improve as a result of BSF investment.
Cromwell Community College Leisure Suite	Issues with the Leisure Suite sub-project have an adverse impact on the time and/or cost of the BSF project at the college

A detailed risk register is maintained for the project in which these and other risks, and possible mitigation measures, are reviewed regularly by the BSF Programme Board.

4.3 Equality and Diversity Implications

There are no significant implications for any of the prompt questions within this category.

4.4 Engagement and Consultation

There are no significant implications for any of the prompt questions within this category.

Source Documents	Location
Previous Cabinet Reports	.

Annex 1 – BSF Contract Documents

The principal contracts to be executed at Financial Close in respect of the Phase 2a Schools to which the Council is a party include the following.

Contract	Parties	Description
Design & Build Contract (Lump Sum)	(1) CAMBRIDGESHIRE COUNTY COUNCIL (2) CAMBRIDGESHIRE LEARNING AND COMMUNITY PARTNERSHIPS LIMITED	Contract with the LEP for the design and build of Cromwell Community College
Design & Build Contract (Lump Sum)	(1) CAMBRIDGESHIRE COUNTY COUNCIL (2) CAMBRIDGESHIRE LEARNING AND COMMUNITY PARTNERSHIPS LIMITED	Contract with the LEP for the design and build of Sir Harry Smith Community College
Design & Build Contract (Lump Sum)	(1) CAMBRIDGESHIRE COUNTY COUNCIL (2) CAMBRIDGESHIRE LEARNING AND COMMUNITY PARTNERSHIPS LIMITED	Contract with the LEP for the design and build of Meadowgate School