

DECISION-MAKER:	CABINET		
SUBJECT:	BITTERNE PARK SIXTH FORM – APPROVAL TO ENTER INTO A CONTRACT		
DATE OF DECISION:	15 MARCH 2010		
REPORT OF:	CABINET MEMBER FOR CHILDREN’S SERVICES AND LEARNING		
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STATEMENT OF CONFIDENTIALITY

Appendix 1 of this report is not for publication by virtue of category 3 (financial and business affairs) of paragraph 10.4 of the Council’s Access to Information Procedure Rules as contained in the Council’s Constitution. It is not considered to be in the public interest to disclose this information because this Appendix contains financial information disclosure of which would prejudice the Council’s ability to obtain best value for public funds through procurement processes.

SUMMARY

On 21st December 2009 Cabinet approved capital expenditure in the sum of £6,380,000 from the Children’s Services Capital Programme to provide a sixth form at Bitterne Park School. Approval is now required to undertake procurement and enter into a contract in line with the key terms set out in Confidential Appendix 1.

RECOMMENDATIONS:

Having complied with the requirements of Paragraph 15 (General Exception) of the Access to Information Procedure Rules, it is recommended that:

- (i) Subject to meeting Learning and Skills Council (LSC) timescales for funding, to delegate authority to the Executive Director for Children’s Services and Learning, following consultation with the Executive Director of Resources, the Solicitor to the Council and the Cabinet Member for Children’s Services and Learning, to undertake all aspects of the procurement of the sixth form facility, including award of contract, in accordance with contract procedure rules.
- (ii) To delegate authority to the Solicitor to the Council and the Executive Director of Resources to do anything necessary to complete the procurement and contract award or otherwise give effect to the procurement of the sixth form facility including but not limited to entering into funding agreements, contracts, licenses and any other legal or financial documentation required as long as the scheme remains within the previously agreed time, cost and quality parameters.

REASONS FOR REPORT RECOMMENDATIONS

1. This report is submitted for consideration as a General Exception under paragraph 15 of the Access to Information Procedure Rules in Part 4 of the Council's Constitution, notice having been given to the Chair and Vice Chair of the Overview and Scrutiny Management Committee and the Public. The matter requires a decision in order to comply with the programme for contract sealing set by the Learning and Skills Council as funder of the project.

CONSULTATION

2. The building project proposals have been discussed with the School and SCC officers and approved by the LSC.
3. A Project Board has been established to oversee the project comprising officers from the Council and Capita Symonds, Bitterne Park School and the LSC.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. To not seek approval now to undertake procurement and enter into a contract would result in non compliance with the timescale imposed by the LSC as funding body and the likelihood of losing the funding for the project.

DETAIL

5. The project is being funded by the LSC by the sum of £6.38m and managed by SCC. The contract will be between the City Council and the successful contractor and will be delivered in line with the requirements of the LSC as funding body and corporate financial and procurement regulations.
6. Further details of the project are provided in the Confidential Appendix and a more detailed background and history were reported to Cabinet on 21st December 2009. The project is progressing within previously agreed parameters.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

7. The current cost estimate for the project is £6.36 million including design risk contingency, furniture and equipment and professional fees. The project will be wholly funded by the LSC grant of £6.38 million. Funding will be drawn down from the LSC in accordance with the LSC requirements (on 1st April 2010 the responsibility for capital funding of school sixth forms will transfer to the School Funding Agency). A Memorandum of Understanding between the School and local authority defining the responsibilities for project risks has been agreed.

Revenue

8. Sixth form funding is currently overseen by the LSC but will transfer to the City Council in April 2010 as part of the overall transfer of responsibility for post 16 education.
9. Funding for school sixth forms is calculated using a national funding formula, the details of which were provided in the December report.

10. Bitterne Park School will need to manage the new sixth form from within the total of this additional grant funding plus its existing 11-16 school budget. The school will also need to plan for any shortfall in funding due to lower than anticipated take up of sixth form places.

Property

11. The grant for the new buildings will be paid by the LSC to the City Council. The land and building of the school, as a community school, rest in the ownership of the Council as the maintaining authority with the day to day control and management of the premises delegated to the Governing Body of the school within the restrictions imposing under the Scheme for Financing School and the terms of the School individual delegated budgets.

Other

12. The building will be designed to achieve British Research Establishment Environment Assessment Method (BREEAM) very good rating.
13. It is anticipated that the project will be procured via the Southampton City Council General Building Framework Lot 3. This is a single stage tender process using Joint Contract Tribunal (JCT) 2005 standard form of contract.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

14. Bitterne Park School (as proposer) has a legal duty under the School Standards & Frameworks Act 1998 as amended to implement the proposal to establish a sixth form by the date previously approved by the Authority (September 2012). If the school fails to reach agreement with the Authority or the LSC in relation to project management, site issues etc or they fail to meet the requirements of the statutory conditions imposed, the school will be required to apply to the Council, as decision maker for school organisation matters, to defer the implementation date or to revoke the proposals as appropriate. The procurement is being conducted in accordance with national procurement legislation and Constitutional requirements.

Other Legal Implications:

15. The Council, acting in its capacity as decision maker, must also have regard to all relevant equalities legislation, section 17 of the Crime & Disorder Act 1998 and the Human Rights Act 1998 in assessing the impact of these proposals on both individuals and the local community.

POLICY FRAMEWORK IMPLICATIONS

16. The proposed project, as set out in this request, is fully in accordance with the:-
 - Children and Young People's Plan 2009-12
 - 14-19 Learning, Skills and Employability Strategy 2009-12.Economic Development Plan 2009-12.

SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	Confidential Appendix
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Documents In Members' Rooms

1.	None
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Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	Programme	
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Background documents available for inspection at Children's Services and Learning, 5th Floor Frobisher House, Southampton.

KEY DECISION? YES

WARDS/COMMUNITIES AFFECTED:	Bitterne
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