

CABINET

18 DECEMBER 2012

GATEWAY 3 CONTRACT AWARD: WAINSCOTT PRIMARY SCHOOL: NEW BUILDINGS FOR EXPANSION TO 2 FORMS OF ENTRY

Portfolio Holder: Councillor Les Wicks, Children's Services

Report from: Barbara Peacock, Director of Children and Adults

Author: Chris McKenzie, Head of School Organisation & Student Services

Summary

This report presents the Final Business Case for the expansion of the buildings at Wainscott Primary School to accommodate 2 forms of entry following consideration at Procurement Board, along with the associated contract documents, and asks for Cabinet approval to finalise the formal contract with BAM Construction Limited, within the funding available and identified in the body of this report.

1. Budget and Policy Framework

- 1.1 The Wainscott Primary School final business case presents the proposals for the new building at the existing school site to allow for expansion to 2 forms of entry, as planned in the Capital Programme and following approval by Cabinet of the outline business case and Gateway 1 on 7 August 2012 (decision 111/2012)
- 1.2 The new buildings will be funded by the Department for Education Basic Need Grant, developer contributions from the Liberty Park development and capital receipts from the sale of education land.
- 1.3 The final business case is a key stage in the procurement process and is presented with the various contractual documents that support the financial close for the Wainscott Primary School expansion to 2FE.
- 1.4 Procurement Board has recommended that this report is presented to Cabinet for approval of financial close on the new building project for Wainscott Primary School and the award of the contract to BAM Construction Limited, through use of the Future Schools Agreement approved by Cabinet in February 2011 (decision 37/2011).

2. RELATED DECISIONS

2.1 Wainscott Primary School has been identified for expansion to accommodate increasing pupil numbers arising from the Liberty Park development as well as the movement of families into the Medway area. Following the Cabinet decision on 1 November 2011, (decision number 143/2011), a public consultation commenced in January 2012 on the proposals to make prescribed alterations to Wainscott Primary School to:

- expand the lower age limits and size of buildings;
- increase the number of pupils from 1FE to 1.5FE.

The outcome of the consultation and any subsequent prescribed alterations to the school was presented to Cabinet on 17 April 2012 and it was agreed to undertake the statutory consultation (decision no. 66/2012). Following the statutory consultation, there were no objections to the proposals and the determination was completed under delegated powers of the Director of Children & Adults Services, in consultation with the Portfolio Holder for Childrens Services on 23 July 2012. The purpose of the associated building project is to provide accommodation to enable up to an additional 2FE to be accommodated at Wainscott Primary School. Current analysis of pupil need in Wainscott shows there will be a need to accommodate an additional 0.5FE at Wainscott Primary School for September 2013, with a further requirement to accommodate a further 0.5FE extra pupils in September 2014.

2.2 On 15 February 2011, Cabinet approved the list of schools on the Future Schools Agreement (decision 37/2011) including Wainscott Primary School. This decision gives the Council the option to issue a notice to BAM Construction Limited, the Framework Contractor, to provide a proposal for the expansion of Wainscott Primary School in accordance with the brief. Following consultation with the Council's procurement team and external legal advisors, this is the route that will give best value for money and the most expedient programme. Further details on the procurement options and the advice received are outlined below in section 6.

2.3 The outline business case presenting the proposals for the new building at the existing school site to allow for expansion to 2 forms of entry was approved by Cabinet on 7 August 2012 (decision 111/2012).

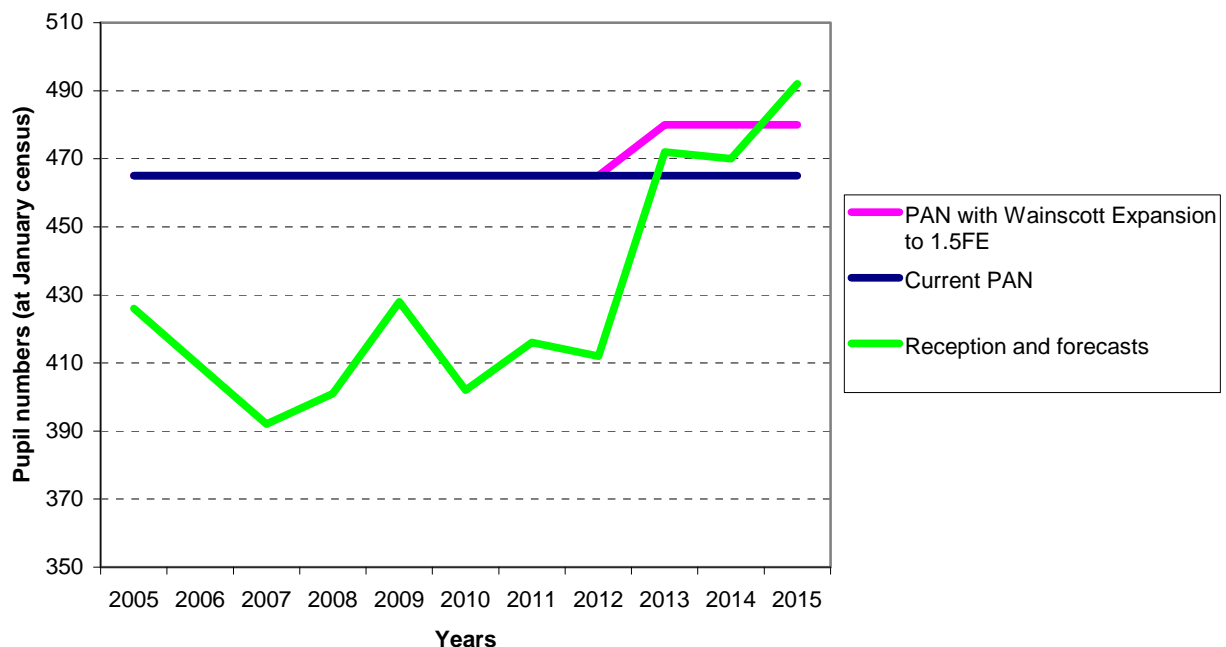
2.4 Cabinet Members have been advised of the options for the future of the Victorian building to the western side of the school site and this will be subject to a report to Cabinet in due course.

3. BACKGROUND/INTRODUCTION

3.1 Wainscott is a community primary school, which currently provides education for pupils aged 4 to 11. The school is popular with parents, and at its last Ofsted inspection in 2012 was rated as 'Good'. The school is now working towards becoming an 'Outstanding' school by its next inspection.

- 3.2 Under its current admissions arrangements (PAN 30), the school has been consistently oversubscribed and for the September 2011 reception class intake received 53% more first preferences than places available. The proposals to expand the provision at Wainscott Primary School are demand led, and the popularity of the school is likely to continue due in the main to an increasing local population, with ongoing developments including the adjacent Liberty Park and Sandacres at Upnor likely to continue to produce future demand.
- 3.3 In the recent round of school admissions consultations, to take effect from September 2013, consultation took place to increase Wainscott's Published Admissions Number (PAN) from 30 to 45.
- 3.4 National policy emphasises that the local authority has a key role to support parents and families through promoting a good supply of strong schools and should focus on supplying enough good spaces rather than reducing surplus places. Medway's School Organisation Plan principles state that popular and successful schools should expand.
- 3.5 It is not expected that the proposals will have a detrimental impact upon the numbers or standards at the other primary schools in Strood. Forecasts indicate that without expansion of provision in the area, there will most likely be a shortage of spaces in reception classes from 2013, and the expansion of Wainscott will help to alleviate that pressure.

This graph shows the increase expected in the Strood area for reception classes



- 3.6 Wainscott Primary School has a private nursery located on its site in a leased building. The options considered in this final business case allow for continuation of nursery provision at the school with the required

enhancements to accommodate sufficient nursery places for pupils progressing through the foundation stage and on to Key Stage 1 and 2 in the expanded provision.

- 3.7 Full Council agreed the Council's capital programme at their meeting on 23 February 2012. This includes DfE Basic Need Grant and developer contributions from Liberty Park, to fund the expansion at Wainscott. More detail on funding the project is included in section 5.3 dealing with whole life costing and budget.

Impact of the proposals on arrangements for looked after children

The development of additional school provision in the Wainscott area will ensure that all children including looked after children are able to access good local school provision. Looked after children and adopted children receive the highest priority for admission to schools. If necessary, the Admissions Code allows the Council to place looked after and adopted children in schools that otherwise be deemed full. This ensures that the Council can secure appropriate provision for children that are looked after or adopted.

4 SUMMARY OF THE FINAL BUSINESS CASE

4.1 Strategic Context

- 4.1.1 The Outline Business Case (OBC) was approved by Cabinet on 7 August 2012.

The Final Business Case (FBC) is presented to Cabinet with this report as part of the exempt appendix. **The Final Business Case (exempt) and accompanying exempt appendices have been circulated separately to Cabinet Members and Group Rooms.** The new building will be based on detailed development of the design presented at OBC stage as the control scheme for Wainscott Primary School. During the detailed design stage, surveys have been undertaken which have identified the poor stability of the site ground conditions. The existing drainage system has also been confirmed as extremely poor and fails to be adequate to service the existing buildings. The addition of the new accommodation requires renewal and expansion of the drainage system. The poor drainage characteristics of the soil have added to this problem.

- 4.1.2 The scheme has been submitted to the Council for full planning approval and this will be a condition of the contract with BAM Construction Limited. The planning decision will be reached on 2 January 2012 and the conditions will be included in the design & build contract.

4.2 Whole Life Costing/Budgets

4.2.1 Indicative Funding Allocation

At OBC stage the cost estimates were prepared in accordance with EFA indicative funding allocation based on the National Framework construction

rates. At OBC the design option had a new build gross floor area of 1,850m². The gross floor area of the scheme in the Contractor's Proposals is 1,404m². This new build area reduced as more of the existing building, is being retained and refurbished. The refurbished area has a gross floor area of 306m².

The total estimated construction cost at OBC stage was estimated as £3,697,795 at Quarter 2 - 2012 price levels. Due to the additional works required, as outlined in 4.1.1 above, the total construction cost from BAM Construction has been confirmed as £3,923,471.

Category	LA funding estimate £
Construction	2,996,463
Site Costs – land purchase	110,000
Abnormals	52,800
Professional Fees	378,842
FF&E	260,610
ICT Hardware	20,000
Technical Advisors	86,300
Survey Fees	18,456
TOTAL	3,923,471

The funding is made up as follows:

i) £1,386,471 – DfE Basic Need Grant

ii) £2,537,000 – Developer Contributions

- 4.2.2. As the decision on the future of the Victorian building has yet to be decided, the breakdown of the project funding has been adjusted and will be funded from Basic Need Grant and Developer Contributions. Following members' decision on the future of the Victorian building, if a capital receipt is available, the funding sources can be further adjusted to reflect this. Members should also note that negotiations on price continue with the contractor until financial close and will be such that the cost is at the amount shown in 4.2.1 or lower.

4.3 Risk Management

The risk register for the Wainscott Primary building project is maintained and managed by BAM Construction Limited following Cabinet approval of the OBC. A copy of the register is included in the exempt appendices. Risks are monitored through the Children & Adults Cabinet Advisory Group and highlight reports and issues requiring input from the Council are reported on to the Children & Adult Capital & Property Board as required. The capital programme manager monitors risk monthly, as a minimum, for

the whole Capital Programme and presents a report and updated risk register for the whole programme to Children & Adult Capital & Property Board each month.

4.3.1 Residual Risk

Following Cabinet approval of the OBC, the capital allocation for design development is within the Council's capital programme and the financial risk will be managed through the Council's capital monitoring process.

Should any of the residual risk identified below result in additional cost to the project the project team will seek to manage these changes to remain cost neutral overall. Whilst substantial financial risk will pass from Medway Council to BAM Construction Limited at Financial Close, limited residual risks will remain with the local authority and will potentially require remedial action by the project team. Examples of these risks are detailed below:

- Discovery of asbestos within existing buildings in addition to that identified in the Type 2 survey.
- Discovery of ground obstructions requiring removal or bridging in addition to that identified in surveys
- Potential requirement for upgrade of existing utilities infrastructure - electricity, water, gas and telecoms, although drainage surveys have already been completed.
- Discovery of existing services requiring diversion or protection in addition to that identified in surveys
- Insolvency of main contractor leading to potential additional costs in re-procuring and completing the construction works over and above the value of the Parent Company Guarantee.

4.3.2 What if the builder goes bankrupt or fails to deliver?

Approving the FBC will commit the Council contractually to BAM Construction Limited for the design and build of Wainscott Primary School.

Due diligence is carried out by the Education Funding Agency on all of the Panel Providers prior to entry on to the framework and this is continually monitored by EFA to identify any changes or potential changes in financial standing.

Prior to the selection of BAM Construction Ltd, financial checks on the companies were undertaken by the Council's technical advisors to supplement the due diligence being carried out by EFA prior to any financial commitment by the Council.

Further steps are being undertaken to protect the Council's position with the preferred Contractor as part of the process to form a contract. The two main mechanisms are:

- Obtaining a Parent Company Guarantee: This ensures that where the preferred bidder is a subsidiary to a larger organisation (parent company) the parent company is obliged to deliver the project as set out in the contract for example failure to deliver to the agreed specification, programme and costs in the event of a breach of contract by the subsidiary and failure on the part of the subsidiary to rectify the breach.

Or

- Obtaining a Bond: This is an independent insurance policy which means that if the contractor goes bankrupt the Council can claim on this insurance to cover associated costs to the amount agreed in the bond. The cost of this bond would be met from within the total capital allocation from PfS.

A Parent Company Guarantee will apply will apply to this contract.

The contract to be entered into by Medway Council and the contractor will set out the processes and procedures to be followed in the event that the contractor goes into receivership or is declared bankrupt and also the consequences of any such declaration. The design & build contract is included in the appendices and is the standard form developed by EFA. No alterations or amendments to the contract are permitted and BAM Construction Limited have accepted the terms of the contract as part of their pre-qualification process for the EFA National Framework. The council has received legal support from Bevan Brittan, who are the council's legal advisors from the EFA Framework for Consultant Advisors.

4.4 **Market Testing (Lessons Learnt/Bench Marking)**

4.4.1 Wainscott Primary School new building is to be procured via BAM Construction Ltd as approved by Cabinet on 7 August 2012, following assessment of the procurement options. BAM Construction is one of 12 panel members on the Education Funding Agency National Framework. This Framework identifies the 12 Panel Members (sometimes called bidders or contractors) who have been accepted on to the EFA framework having competitively proved their ability to carry out work of this nature.

4.5 **Stakeholder Consultation**

The following key stakeholders have been consulted from the early commencement stages and have been consulted during the various meetings that have taken place as outlined below.

Children & Adult Capital Programme Cabinet Advisory Group

The above group meets bi-monthly to monitor the ongoing management of the project.

Members of this group are:

- Councillor Wicks (Portfolio Holder for Children's Services)
- Councillor Jarrett (Portfolio Holder for Finance)

- Councillor Brake (Portfolio Holder for Adult Services)
- Councillor Wildey (Portfolio Holder for Children's Social Care)
- Barbara Peacock (Director of Children and Adult Services) - Chair
- Mick Hayward (Chief Finance Officer)
- Perry Holmes (AD Legal & Corporate Services)
- Chris McKenzie (Head of School Organisation & Student Services)

Children & Adult Capital & Property Board

The above group meets bi-monthly to monitor the ongoing management of the project.

Members of this group are:

- Perry Holmes (AD Legal & Corporate Services)
- Chris McKenzie (Head of School Organisation)
- Nick Anthony (Head of Corporate Property Services)
- Phil Watts (Finance Manager, Children & Adult Services)

Project Team

The project team will be in place until the building is handed over. The purpose of the project team is to act:

- As guardian of the Education Vision for the school;
- As the key group responsible for ensuring the design proposals are within the agreed funding envelope (with the Framework User accountable for delivery within budget);
- As the main stakeholder body for consultation on all design matters;
- To input to the brief for the design of the new accommodation;
- To ensure that the views of students, parents and the wider community are taken into account in the final design

The project team is managed by the school organisation team in children and adults directorate and has the following membership:

- Chris McKenzie, Head of School Organisation (project sponsor)
- Sarah Woods, capital project manager
- Paul Clarke, school organisation officer
- Liz Edwins, head teacher, Wainscott Primary School
- Peter Casselton, Chair of Governors, Wainscott Primary School

The project team is supported through the procurement and project cycle by Cathy Arnold, Head of Category Management, Place & Projects.

4.6 Equalities Issues

The proposals are fully compliant with all equalities legislation and the consultation process has taken into account the requirements of all building users both within the School and also the wider community.

4.7 Environmental Issues

The new building will be rated as “very good” under the BREEAM requirements and the planning application includes a photo-voltaic system, which will enable the School to provide a minimum of 10% of its own energy needs as well as earning a income from the feed-in tariff for supply back to National Grid. The feed-in tariff figures will be confirmed as part of the final contractor’s proposals presented to Cabinet in December 2012. The building will be naturally ventilated to keep running costs low and provide a healthier internal environment for teaching and learning.

The pupils will be able to learn about sustainable living from the way the building has been designed and built and from the way it operates. There will be energy monitors placed in reception to show how the building is performing.

BAM Construction Limited are members of the Waste & Resources Action Programme (WRAP) and are committed to sustainable management of site waste. Materials are all being sustainably and responsibly sourced.

5. PERMISSIONS / CONSENTS

A full planning submission was made in October 2012 and a decision is expected by January 2013. Planning consent is a condition of the contract and the application is made at the contractor’s cost. The contractor has also engaged STG for building control approvals.

Sport England has been sent the proposals and has confirmed that as the land on which the new building will be sited has been used as a playing field within the last five years, they will oppose the granting of planning permission. Therefore, In accordance with the Town & Country Planning (Consultation)(England) Direction 2009, the matter will be referred to the Secretary of State if permission is granted on 2 January 2013. This referral will delay the project by around 1 month and work is underway to revise the contract programme accordingly so as to minimise the impact on the school and pupils.

6. INVITATION TO TENDER

6.1 Summary of Tender Process

The EFA procurement route as approved with the outline business case (decision 111/ 2012, follows the H M Treasury Green Book five case model, as summarised below):

Produce Outline Business Case (OBC)	→	Issue notice to develop scheme	→	Approve scheme and GW3	→	Produce Final Business Case (FBC)	→	Enter into D&B Contract and development agreement – Financial Close	→	Construct New Buildings
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The shaded box is a step that only applies for the FSA procurement route if the scheme is above the EU threshold. The option developed to detailed design stage falls below the EU threshold for works contracts and so there is no requirement to request formal sign off for the Final Business Case with the EFA. The sign off will be via Procurement Board and Cabinet through the Council's Gateway process.

6.2 Tender Evaluation

The tender evaluation process follows the EFA evaluation requirements and the evaluation report is included in the appendices as it includes commercially sensitive information.

6.3 Preferred Panel Member

BAM Construction Limited were appointed as preferred panel member in August 2012 following formal approval of the OBC. The submission from BAM is within the required funding envelope and can deliver the vision for the school as set out by the project team. The contractor's proposals form part of the design & build contract and have been reviewed by the council's technical advisors to ensure that all requirements are covered fully.

A parent company guarantee is a requirement of the contract. The financial management of the project will be supported by the council's cost consultant, Sense Limited, who will oversee the monthly cost reporting and valuations prior to the certification of any payment. A full milestone payment schedule has been provided to the council.

Contract management will be undertaken by the technical advisers, Mace Group.

7. PREPARATION OF THE NEXT STAGE OF PROCUREMENT

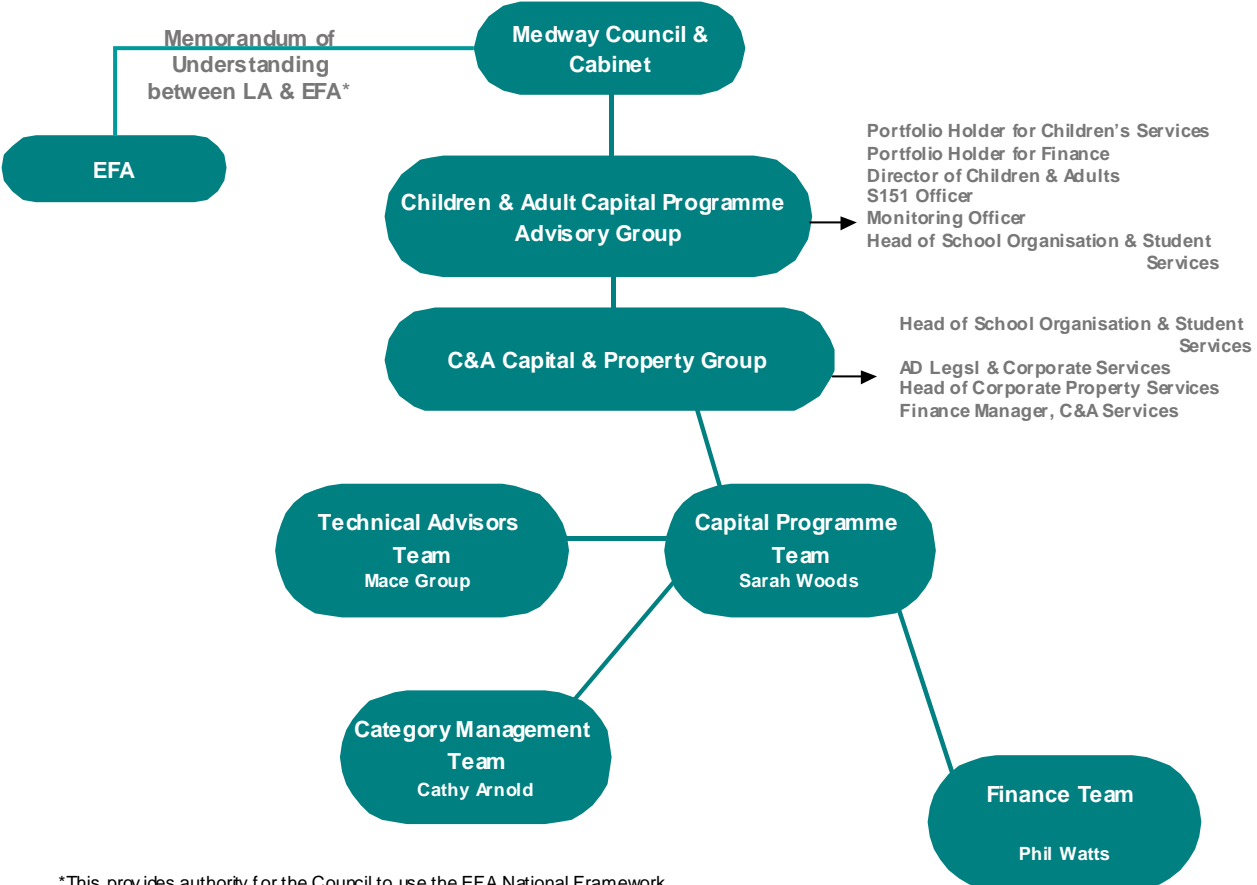
7.1 Resources & Project Management

The school organisation team has the resources in place to act as client for the programme of new buildings and manage the contractor as the project is delivered. A full governance structure has been implemented and is shown in the diagrams that follow. This provides quality assurance for the management and monitoring process.

7.2 Contract Management

In addition to the in-house resource for programme management, the council has procured the services of Mace Group, following an invitation to tender questionnaire exercise as its technical advisors to support contract management throughout the delivery stage and for final account and the retention period.

Governance of Wainscott Primary School Expansion Project



*This provides authority for the Council to use the EFA National Framework

8. PROCUREMENT BOARD

- 8.1 Procurement Board considered this report on 28 November 2012 and supported the recommendations as set out in 10.1 below.

9. FINANCIAL, PROCUREMENT, LEGAL & ICT COMMENTS

- 9.1. Finance: As indicated in the FBC, the Council has committed to establish additional pupil provision at Wainscott Primary School following the statutory consultation process. The project is to be funded from developer contributions and DfE Basic Need Grant, with the possibility to generate some capital receipts. Revenue costs will be met from within the schools own budgets.

Full details of the funding sources and life-cycle costings are included in the OBC in the Exempt Appendices.

- At FBC stage, the Council is committed to spending the funds described above, capped at £3,923,471 as set out in 4.2.1. This commitment is formalised by Cabinet through their agreement of the recommendation to delegate the completion of contract details and financial close to the Director of Children & Adults, in consultation with the Portfolio Holder for Children's Services and the Assistant Director, Legal & Corporate Services, as noted in 10.1 below.
- 9.2 Procurement: The use of the EFA framework to appoint BAM Construction for design and build as enabled savings in respect of officer's time and associated cost in undertaking a separate procurement exercise in relation to the build of the Wainscott Scott School. Strategic Procurement is satisfied that a compliant process has been conducted which should deliver best value, the proposed contract award with this report is reflective of this Strategic Procurement has provided quality assurance from the onset of this procurement process and will continue to do so throughout the project life-cycle.
- 9.3 Legal: The contract value falls below the EU threshold for works and so formal advertisement in OJEU was not required. Other than the principles of fairness, transparency and equal treatment, there are no other requirements applicable in terms of the EU Procurement. In tendering the contract the Council has complied with its Contract Rules, which allow the use of a Framework without further advertising, provided use of the framework has been approved. Use of the EFA framework, (formerly known as the PfS Framework) was approved by Cabinet in February 2011.
- 9.4 ICT: An ICT Project Manager will need to be involved at an early stage to ensure ICT requirements are planned and budgeted for, and included within the plans prior to work commencing. Any changes to the existing IT as a result of the building works must be considered before building work commences to ensure that there is no unplanned loss of service for the

school. Costs for the ICT Project Manager will need to be considered, as resources will need to be procured externally to provide this service.

10. RECOMMENDATIONS

10.1 Cabinet is asked to:

- Approve the Final Business Case for the expansion of Wainscott Primary School to 2 forms of entry
- Agree to the award of the contract to construct new buildings for Wainscott Primary School to BAM Construction Limited using the EFA Design & Build Lump Sum Contract for use with the EFA Contractor Framework and to delegate authority to the Director of Children & Adult Services, in consultation with the Portfolio Holder for Children’s Services and the Assistant Director of Legal & Corporate Services to finalise the contract.

11. SUGGESTED REASONS FOR DECISION(S)

11.1 As explained in the body of this report the use of the EFA National Framework for the procurement of the Design and Build Contractor is the best option to allow delivery of the new school buildings within the desired timeframes and is the procurement route approved within the OBC.

APPENDICES

The exempt appendix gives full details of the Appendices to this report, which are exempt from publication for reasons of commercial confidentiality and sensitivity.

Report Originating Officer:	Sarah Woods	☎ 01643 332116
Chief Finance Officer or deputy:	Mick Hayward	☎ 01634 332220
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Background papers

Description of document	Location
Outline Business Case for Wainscott Primary Expansion - 7 August 2012	http://democracy.medway.gov.uk/mglssueHistoryHome.aspx?lId=8182
Outcome of consultation for the proposed prescribed alternations at Wainscott Primary School – Cabinet – 17 April 2012	http://democracy.medway.gov.uk/mglssueHistoryHome.aspx?lId=7907
Outcome of consultation for the proposed prescribed alternations at Wainscott Primary School – C&YP	http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=378&MId=23

<p>Overview & Scrutiny committee – 14 March 2012</p>	<p>95&Ver=4 (item 879)</p>
<p>Full Council Meeting minutes – Capital Programme – 23 February 2012</p>	<p>http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=122&MId=2416&Ver=4 (item 826)</p>