

CABINET

29 OCTOBER 2013

GATEWAY 1 PROCUREMENT COMMENCEMENT: SAXON WAY PRIMARY SCHOOL EXPANSION TO TWO FORMS OF ENTRY: TEMPORARY ACCOMMODATION

Portfolio Holder: Councillor Mike O'Brien, Children's Services (Lead Member)

Report from: Barbara Peacock, Director of Children and Adult Services

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Philip Tucker, Interim Capital Programme Manager

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Summary

This report seeks permission to commence the procurement of Temporary Accommodation Hire for 2 years (including enabling works) to allow Saxon Way Primary School, Gillingham, to expand to a two form of entry (2FE) listed as Option 3a on the outline business case as approved at Cabinet on 6 August 2013 (decision number: 136/2013). The Saxon Way Primary School expansion to 2FE project may consist of 3 stages:

 Temporary Accommodation Hire for 2 years (including enabling works) to be completed by September 2014

The preferred approach will be to initially install temporary accommodation to enable the first phase of expansion to take place.

The following two phases will only progress once Medway Council is sure that the expected number of students actually materializes. If the student numbers do not increase the Council will not proceed with Phases 1 and 2.

- Phase 1:PPA, SEN & SENCO due to be completed by September 2016 Phase 1 will provide a purpose built staffroom, Planning Preparation and Assessment (PPA) room, a Special Educational Needs (SEN) group room, speech and language and Special Educational Needs Coordinators (SENCO) office. The learning resource centre with ICT provision will be created. This will enable the existing staff room and SEN and ICT rooms to be reinstated as classroom spaces.
- Phase 2:Single Storey Extension due to be completed by September 2017
 Phase 2 will provide a single storey extension with four additional classrooms, required from September 2017 onwards.

This Gateway 1 report for Temporary Accommodation Hire for 2 years (including enabling works) has been approved for submission to Cabinet after review and discussion at Children's and Adult's Directorate Management Team meeting on 1 October 2013 and Procurement Board on 15 October 2013.

The Children and Adults Directorate Management Team has recommended that this procurement project be approved as a Category B High Risk procurement project at Procurement Gateway 1 by Cabinet. This is because although this procurement project is a Goods Category B Low Risk procurement with a total contract value below £250,000.00, there are political implications and/or service sensitivities that Cabinet should be aware of.

These political implications and/or service sensitivities are:

Ofsted placed the Saxon Way school into Special Measures in May 2012,a factor which is inconsistent with the policy of good schools expanding. However, an interim head teacher and an Interim Executive Board have been appointed to drive standards forward and a recent monitoring inspection by Ofsted in December 2012, highlighted that the school is making reasonable progress.

Colleagues from School Improvement are of the view that in this case Saxon Way should not be dismissed from expansion considerations as improvement in standards is evident, and expansion could help the school's progress and viability.

Saxon Way converted to academy status on 1 September 2013 under the sponsorship of the Griffin's School's Trust, when the first additional places were be required. Academy status, in itself, does not need to affect the expansion; the local authority are the commissioner of places and as this is a basic needs expansion from a 1FE to a 2FE, the funding responsibility falls to the Local Education Authority. The Council does however need the cooperation of the sponsor in any expansion project. The sponsor has confirmed that it will be supportive of an expansion at the school.

The funding for the project was included in the Children and Adults capital programme approved by Full Council on 21 February 2013.

1. Budget and Policy Framework

1.1 Service Background Information

- 1.1.1 This project supports the Council's School Organisation Plan 2011 2016, approved by Cabinet on 1 November 2011 (decision number 143/2011), which highlights the need for more pupil places in the Gillingham area. The Council has a statutory duty to ensure there are sufficient school places as set out in the Education & Inspections Act 2006.
- 1.1.2 The School Organisation Plan 2011-16 highlighted that in some areas of Medway pressure on pupil places was expected, initially in Key Stage 1. The specific problem areas were the Chatham and Gillingham West areas.
- 1.1.3 The report noted that Saxon Way Primary School was currently a one form of entry (1FE) primary school, it enjoyed a larger than average site, and was close to the major developments at Grange Farm and Victory Pier, as well as

a number of smaller schemes. It was considered that expanding Saxon Way to a 2FE Primary school would be in accordance with Medway's preferred primary school size, and that from a geographical and capacity aspect, Saxon Way would be a good solution.

1.1.4 It is not possible to predict with any certainty whether the birth rates will continue to rise, level out or fall in the coming years. However, 2010/11 had the highest birth numbers on record across Medway. In Gillingham the past four years have been the highest on record and the trend overall is increasing. These children will filter into reception classes over the next four years.

1.2 Council's Strategic Priorities And Core Values

The procurement of this requirement directly links into the following Council Strategic Priorities and Core Values:

Core Values

Putting our customers at the centre of everything we do.

This project will deliver against the Core Value of 'Putting our customers at the centre of everything we do' through: the delivery of suitable temporary accommodation for the expansion of Saxon Way Primary School allowing the school to become more confident in the accuracy of the rise in pupil numbers before committing to permanent structures.

Giving value for money

This project will deliver against the Core Value of 'Giving value for money' through: the delivery of suitable temporary accommodation for the expansion of Saxon Way Primary School allowing the school to become more confident in the accuracy of the rise in pupil numbers before committing to permanent structures. The comparison in price between the Temporary Accommodation stage and Phase 1 highlights an estimated 87% saving on building a permanent structure for which there is not enough time to build.

Strategic Priorities

Safe, clean and green Medway.

This project will deliver against the Strategic Priority of 'Safe, clean and green Medway' through: work to the fabric of the existing buildings that will include insulation, which will reduce the running costs for the school.

Children and young people having the best start in life in Medway.

This project will deliver against the Strategic Priority of 'Children and young people having the best start in life in Medway' through: the delivery of investment in Medway School buildings to provide 21st Century accommodation in order to achieve and succeed in learning.

Adults maintaining their independence and live healthy lives.

This project will deliver against the Strategic Priority of 'Adults maintaining their independence and live healthy lives through: improving the SEN provision at the school will give these pupils a better start in life which will provide a strong foundation upon which they can live independent and healthy lives.

Everybody travelling easily and safely around Medway.

This project will deliver against the Strategic Priority of 'Everybody travelling easily and safely around Medway' through ensuring there is suitable primary school provision throughout Medway, so that parents and children have a shorter journey to school.

Everyone benefiting from the area's regeneration.

This project will deliver against the Strategic Priority of 'Everyone benefiting from the area's regeneration' through providing suitable primary school capacity for the environs of the Grange Farm and Victory Pier developments.

1.3 Strategic Council Obligations

The procurement of this requirement directly links into the following Strategic Council Obligations:

See reference to Council's School Organisation Plan 2011 – 2016 in item 1.1 above.

Medway Council Plan

This project links into the Medway Council Plan through:

See reference to Council's School Organisation Plan 2011 – 2016 in item 1.1 above.

Other Strategic Council Obligations

This project links into the following other Strategic Council Obligations through:

See reference to Council's School Organisation Plan 2011 – 2016 in item 1.1 above.

1.4 Departmental and Directorate Service Plans

This project links into the following Departmental/Directorate Service Plans through:

See reference to Council's School Organisation Plan 2011 – 2016 in item 1.1 above.

1.5 Funding/Engagement From External Sources

As this project encompasses funding/engagement from external sources, authority to proceed with this procurement direction has been reviewed and approved by the following Partnering Organisations/External Funding bodies:

The project will be funded from a combination of DfE Grant and Developer Contributions.

2. Background

2.1 **Project Details**

- 2.1.1 This procurement is a Works/Construction project.
- 2.1.2 This report seeks permission to commence a new procurement project with a proposed contract duration of 137 days (start to finish) / 45 days (works only) with provision to extend.

The contract is proposed to commence on 12 February 2014 and conclude on 21 August 2014.

2.1.3 This project is dependent upon and connected to other projects. These projects are:

The Saxon Way Primary School expansion to 2FE project may consist of 3 stages:

 Temporary Accommodation Hire for 2 years (including enabling works) to be completed by September 2014

The preferred approach will be to initially install temporary accommodation to enable the first phase of expansion to take place.

The following two phases will only progress once Medway Council is sure that the expected number of students have actually materialized. If the student numbers do not increase the Council will not proceed with Phases 1 and 2.

 Phase 1:PPA, SEN & SENCO - due to be completed by September 2016

Phase 1 will provide a purpose built staffroom PPA room and SEN group room, speech and language and SENCO office. The learning resource centre with ICT provision will be created. This will enable the existing staff room and SEN and ICT rooms to be reinstated as classroom spaces.

 Phase 2:Single Storey Extension - due to be completed by September 2017

Phase 2 will provide a single storey extension with four additional classrooms, required from September 2017 onwards.

2.1.4 This project is required to fulfil Medway's mandatory/statutory/legal obligations. These mandatory/statutory/legal obligations are: the Council has

a statutory duty to ensure there are sufficient school places as set out in the Education & Inspections Act 2006.

2.2 Business Case

2.2.1 Procurement Project Outputs / Outcomes

As part of the successful delivery of this project, the following procurement project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/outcomes	When will success be measured?
1. Appointing a contractor for the works who will deliver a quality product within the timescales required and within the given budget	Successful completion of the building works within the timescales which will be measured through the tender process	Building & Design Services.	Monitored throughout the programme by monthly site visits and contractor reports.
2. Appointing a contractor for the building works who is able to work within the constraints of a school environment	Successful procurement of the contractor within the specifications contained within the tender process	Building & Design Services.	Monitored throughout the programme by monthly site visits and contractor reports.

2.2.2 Procurement Project Management

This procurement project will be resourced through the following project resources and skills:

- Susan Goss, Category Specialist Place & Projects
- Philip Tucker, Interim Capital Programme Manager
- Angela Heselgrave, AMP Support Officer, Children & Adults
- Rob Banks, BDS
- Cost Consultant, Stuart Collingwood, Bailey Partnership
- Architect, John McCormak, Fulkers

2.2.3 Post Procurement Contract Management

The contract management of this procurement project post award will be resourced through the following contract management strategy:

- Susan Goss, Category Specialist Place & Projects
- Philip Tucker, Interim Capital Programme Manager
- Angela Heselgrave, AMP Support Officer, Children & Adults

- Rob Banks, BDS
- Cost Consultant, Stuart Collingwood, Bailey Partnership
- Architect, John McCormak, Fulkers

2.2.4 TUPE Issues

Further to guidance from Legal Services, Human Resources and Category Management, it has been identified that TUPE does not apply to this procurement process. This is because it is a Works/Construction procurement.

3. Options

In arriving at the preferred option as identified within Section 4.1 'Preferred Option', the following options have been considered with their respective advantages and disadvantages.

3.1 Do nothing

The option of doing nothing is not a viable option because the school needs to expand to cope with increasing pupil numbers.

3.2 In-house service provision

The option of providing this requirement through in-house service provision has been considered but is not a viable option because the council does not have directly employed professional consultants or contractors.

3.3 Using another local authority to deliver projects

The option of using another local authority to deliver project has been considered but is not a viable option.

3.4 Procurement via an EU compliant framework

The option of using an EU compliant framework to deliver projects has been considered and the following frameworks have been identified from which Medway Council's projects can be satisfied.

List frameworks and framework provider details: Government Procurement Service Framework RM875 Modular Building Systems. Lot 8 Educational Units Lease/Hire includes the following suppliers:

- Elite Systems
- Elliot Group
- Extraspace Solutions UK
- Portakabin
- Premier Interlink (Waco UK Ltd)
- Roan Building Systems
- The McAvoy Group

Below are the advantages and disadvantages of this option:

Advantages

- Greater choice and flexibility.
- A quicker route to market.
- Procurement with confidence through a fully EU compliant offering.
- Reduced procurement costs and resources.
- Full compliance with building regulations including "part L/Section six" conservation of fuel and power.
- Up to sixty years design life with minimum maintenance costs.
- Covers both the hire of the modular building and the appropriate enabling or connection works.

Disadvantages

- National rather than local suppliers.
- Distance between supplier and site.
- On-going maintenance.

3.5 Formal tender process in line with Contract Procedure Rules

The option of formally tendering this project solely in line with Medway Council's Contract Procedure Rules has been considered because this project is a Category B Procurement that has a total contract value above £100,000.00 but below the EU Procurement Threshold for Works of £4,348,350, thus only requiring a competitive process in line with Contract Procedure Rules. Analysis of the options for formal tender via the various select list options is given in paragraph 3.10 below.

3.6 Formal tender process in line with EU Procurement Regulations.

The option of formally tendering this project in line with EU Procurement Regulations has been considered but this is not a viable option because the value of the requirement is below the EU Procurement Threshold for Works of £4,348,350.00.

3.7 Internal Medway Council Collaboration between departments

The option of procuring requirements through internal collaboration between Medway Council departments in order to exploit economies of scale and synergies has been considered but no such opportunities exist.

3.8 External public sector collaboration (e.g. other Councils, Fire Service, PCT, Police)

The option of procuring requirements through external collaboration between Medway Council and other external public sector organisations in order to exploit economies of scale and synergies has been considered and the recommended option is to utilise the Government Procurement Service Framework RM875 Modular Building Systems.

3.9 Private sector collaboration e.g. Private Public Partnering/Private Finance Initiatives

The option of procuring requirements through private sector collaboration between Medway Council and other external private sector organisations has been considered but no such opportunities exist.

3.10 Procurement via a below EU Threshold Select List

The option of using a below EU Threshold compliant Select List to deliver procurement requirements has been considered and the following Select Lists have been identified from which Medway Council's procurement requirements can be satisfied.

1) Constructionline – the UK register of pre-qualified construction services

Advantages

- Reduces the requirement on bidders to submit information
- Contractors are already checked for financial viability, quality and service
- Building and Design Services have already paid to utilise this service

Disadvantages

- External fees paid to utilise the framework
- Current pressure of Local Authority work is resulting in reluctance of best quality contractors to price traditional tendered contracts
- Discriminates against those suppliers who have not paid to be members of Constructionline
- Full tender process needs to be undertaken

2) Kent County Council Select List of contractors

Advantages

- Reduces procurement time
- Contractors are already checked for financial viability, quality and
 service.
- Building and Design Services have already paid to utilise this service

Disadvantages

- External fees paid to utilise the framework
- Current pressure of Local Authority work is resulting in reluctance of best quality contractors to price traditional tendered contracts
- The KCC Select List does not include temporary accommodation providers

3) Tendering directly to the marketplace

Advantages

- Potentially better value for money, as framework prices are usually fixed and do not always reflect market changes
- No additional fees to Medway for use of a framework

Disadvantages

- Medway would need to carry out additional checks for financial viability, quality and service, therefore impact on the project programme as it would increase procurement time
- The tender would have to follow a full OJEU compliant process which would mean we wouldn't achieve the required programme

No other options have been identified.

4. Advice and analysis

4.1 Preferred option

Further to an extensive review of procurement options as highlighted within Section 3 'Options' above, the following preferred option is recommended to the Cabinet including justification for this recommendation: Government Procurement Service Framework RM875 Modular Building Systems (see item 3.4 for justification).

4.2 Equality Act 2010

Supplier's compliance with the Equality Act 2010 has been assessed by the Government Procurement Service in the procurement of the framework and a copy of the assessment is attached to this report.

4.3 Corporate Sustainability Plan

There will be no adverse environmental impact through the delivery of these projects. The school organisation service is applying the principles of the Waste & Resources Action Programme to all its projects to ensure that materials are sustainably resourced and that any waste is recycled responsibly, with waste to landfill at a minimum. The projects are being delivered in line with the Corporate Sustainability Plan. Social, economic and environmental factors have been assessed by the Government Procurement Service in the procurement of the framework.

4.4 Carbon Reduction Commitment Energy Efficiency Scheme (CRC)

The Carbon Reduction Commitment Energy Efficiency Scheme (CRC), which started in April 2010, is a mandatory carbon emissions scheme that aims to increase energy efficiency in the UK. It will have financial and legal implications for local authorities and most schools in the UK, so gives an additional incentive for schools to reduce their energy use. As part of the Council's response to the new scheme, all designs for capital programme schemes require that works are undertaken to make schools more energy efficient whilst ensuring that overall schemes provide the best value for money. Reduced energy use will enable the Council to meet the CRC requirements and also reduce the cost of energy bills for schools. The

Government Procurement Service has assessed environmental performance in the procurement of the framework. The framework specifies modular buildings full compliance with part L/section 6 of building regulations with regard to conservation of fuel and power.

5. Risk Management

5.1 Risk Categorisation

The following risk categories have been identified as having a linkage to this procurement project:				
Procurement process		Equalities		
Contractual delivery		Sustainability / Environmental		
Service delivery		Legal		
Reputation / political		Financial		
Health & Safety		Other/ICT*		

For each of the risks identified above further information has been provided below:

Risk Categories	Outline Description	Risk Likelihood A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible	Risk Impact I=Catastrophic II=Critical III=Marginal IV=negligible Impact	Plans To Mitigate Risk
a) Contractual delivery	Failure of contractor to deliver contractual arrangements	D	II	Inclusion of Contract monitoring procedures within the contract documents. Default clauses are part of the contract documentation.
b) Service delivery	Lack of specified performance	D	III	A detailed specification with key milestones and performance indicators.

c)	Health & Safety	Risk of an accident on-site	D	111	Robust H&S procedures to be established by the contractor and monitored by BDS.
d)	Financial	Possibility of unforeseen costs identified	D	III	Detailed investigative work prior to the tendering of works undertaken to highlight any issues.

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 Before commencement of the procurement process in order to direct the specification

As part of this project, the following mandatory/statutory/legal internal stakeholder consultation is required before the commencement of the procurement project in order to direct the specification:

- Susan Goss, Category Specialist Place & Projects
- Philip Tucker, Interim Capital Programme Manager
- Angela Heselgrave, AMP Support Officer, Children & Adults
- Rob Banks, BDS
- Cost Consultant, Stuart Collingwood, Bailey Partnership
- Architect, John McCormak, Fulkers
- Head Teacher, Saxon Way

6.1.2 During the procurement process in order to aid the evaluation process

As part of this project, the following mandatory/statutory/legal internal stakeholder consultation is required during the procurement process in order to aid the evaluation process:

- Susan Goss, Category Specialist Place & Projects
- Philip Tucker, Interim Capital Programme Manager
- Angela Heselgrave, AMP Support Officer, Children & Adults
- Rob Banks, BDS
- Cost Consultant, Stuart Collingwood, Bailey Partnership
- Architect, John McCormak, Fulkers
- Head Teacher, Saxon Way
- 6.1.3 Post procurement/tender award in order to aid the contract management process

As part of this project, the following mandatory/statutory/legal internal stakeholder consultation is required post tender award in order to aid the contract management process:

- Susan Goss, Category Specialist Place & Projects
- Philip Tucker, Interim Capital Programme Manager
- Angela Heselgrave, AMP Support Officer, Children & Adults
- Rob Banks, BDS
- Cost Consultant, Stuart Collingwood, Bailey Partnership
- Architect, John McCormak, Fulkers
- Head Teacher, Saxon Way

6.2 External Stakeholder Consultation

- 6.2.1 Before commencement of the project in order to direct the specification external stakeholder engagement is required with: -
 - South Thames Gateway Building Control
 - Planning Department
 - Head Teacher and School Governing Body
- 6.2.2 During the procurement process in order to aid the evaluation process the Building Design Services, Project Manager, in collaboration with the Client Project Manager and Design Team will undertake full management and monitoring of the project to ensure the work is progressing on time and within budget and providing quality assurance for the process. Outputs of this process will include gateway reviews including performance monitoring with the contractors and all parties to the delivery process. There will be monthly valuations and strict change control processes along with regular progress reporting to Children's & Adults Capital Programme Cabinet Advisory Group.

There will be regular consultation with staff at the school.

7. Procurement Board

7.1 The Procurement Board considered this report on 15 October 2013 and supported the recommendations as set out in paragraph 9 below.

8. Financial and legal implications

8.1 Financial Implications

8.1.1 The exempt appendix sets out the financial implications of the project and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, which the Cabinet must consider. This includes detailed finance and whole-life costing information.

8.2 **Legal Implications**

8.2.1 This project and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following legal implications which the Cabinet must consider:

This project involves the procurement by the Council of temporary buildings, which will be sited on land that is not in the Council's possession. Such buildings, once procured, will be subject to either a lease or a hire agreement with the provider of the buildings dependent upon which tender is accepted. The Academy is in physical possession of the land and will be responsible for complying with the covenants or hire conditions regulating its use and occupation of the temporary building. Furthermore, the lease to the Academy from the Council requires the Council's consent to the erection or addition of any buildings, therefore the appropriate licence will need to be granted by the Council before any works commence. If the temporary buildings are likely to be required for a period in excess of two years, this will be reflected in the tender documents.

Planning permission may be required for the temporary buildings.

8.3 **Procurement Implications**

This project and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following procurement implications which the Cabinet must consider:

The preferred option for the procurement and delivery of this project is the OJEU compliant Government Procurement Service framework RM875 for Modular Building Systems. The framework covers the option to hire the modular building system as well as the associated enabling works, delivery and removal costs. Due to not having a suitable site to store the modular building when not in use, the best option on this occasion is to hire the building. There will be a further competition within Lot 8 Educational Units Lease/Hire. The further competition is required to obtain the total price for the project including 2 year hire of the standard double classroom modular building and the necessary enabling works, delivery and removal costs. Use of these type of frameworks has allowed a swifter turnaround of tender than traditional methods. The tender will be issued to the entire hire lot of 7 suppliers.

8.4 ICT Implications

This project and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9 'Recommendations', has the following ICT implications which the Cabinet must consider:

There are no direct ICT implications but any construction works planned must take into account the need to ensure the current ICT service delivered via the Medway Grid for learning can continue to be delivered. A budget IT figure is included as part of the cost breakdown in the exempt appendix.

9. Recommendations

9.1 Cabinet is requested to approve this Gateway 1 High Risk Report for progression to Gateway 2 of the procurement process for the further competition/mini tender within the Government Procurement Service

Framework RM875 Modular Building Systems as set out in paragraph 4.1 of the report (preferred option).

10. Suggested reasons for decision(s)

- 10.1 The recommendations contained within Section 9 'Recommendations' above are provided on the basis of the advantages set out below:
 - Greater choice and flexibility.
 - A quicker route to market.
 - Procurement with confidence through a fully EU compliant offering.
 - Reduced procurement costs and resources.
 - Full compliance with building regulations including "part L/Section six" conservation of fuel and power.
 - Up to sixty years design life with minimum maintenance costs.
 - Covers both the hire of the modular building and the appropriate enabling or connection works.

Lead officer contact

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Background papers

The following documents have been relied upon in the preparation of this report:

Description of document	Location	Date
Saxon Way Primary School – Business Case for Expansion to 2 Forms of Entry	http://democracy.med way.gov.uk/mgconvert 2pdf.aspx?id=20917	Report to Cabinet 6 August 2013
Risk Register		11/09/2013
Government Procurement Service Framework RM875 Modular Building Systems Guide	http://gps.cabinetoffice .gov.uk/contracts/rm8 75	27/09/2011