

CABINET

17 DECEMBER 2013

GATEWAY 1 PROCUREMENT COMMENCEMENT: WILL ADAMS PUPIL REFERRAL UNIT (PRU)

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

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

Author: Phil Tucker, Capital Project Manager
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Summary

This report concerns a works procurement and seeks permission to commence the procurement of the expansion of the Will Adams PRU as per Option 8 of the Outline Business Case that went to Cabinet on 29 October 2013 Decision number 168/2013

This Gateway 1 report has been approved for submission to Cabinet after review and discussion at Children and Adults Directorate Management Team meeting on 26 November 2013 and Procurement Board on 4 December 2013.

The Children's and Adult's Directorate Management Team has recommended that this procurement project be approved by Cabinet as a Category B High Risk procurement project at Procurement Gateway 1. This is because this procurement project is a Works Category B High Risk procurement where there are political implications and/or service sensitivities that Cabinet should be aware of.

These political implications and/or service sensitivities are the current shortage of places and facilities which were referred to in an Ofsted Report following the inspection on 6 September 2012.

1. Budget and Policy Framework

1.1 Service Background Information

Ofsted has criticised the Will Adams Pupil Referral Unit (PRU) and Medway Council, stating in its report that the quality of dedicated provision for some subjects, for example science, "is severely restricted by the amount of available space in the small building".

There is a severe pressure for places relating to the students excluded from mainstream secondary schools at Key Stage 4. As noted above the current facilities at Will Adams are currently deficient in a number of areas.

1.2 Council's Strategic Priorities, Core Values and Obligations

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 procurement requirement will deliver against the Core Value of 'Putting our customers at the centre of everything we do' through

- Providing more appropriate accommodation
- Enabling better curriculum delivery for pupils and improvements for learning and school management

Giving value for money

This procurement requirement will deliver against the Core Value of 'Giving value for money' through:

- Relocation of the facilities to a single site reducing the need to transport students offsite for some activities

Strategic Priorities

Safe, clean and green Medway.

This procurement requirement will deliver against the Strategic Priority of 'Safe, clean and green Medway' through:

- Relocation to a single site reducing environmental footprint through modernisation and reduction in transport use

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

This procurement requirement will deliver against the Strategic Priority of 'Children and young people having the best start in life in Medway' through:

- Improving PRU provision through meeting needs and better curriculum delivery
- Increased likelihood that students will achieve more through attendance at the new PRU

Adults maintaining their independence and live healthy lives.

This procurement requirement will deliver against the Strategic Priority of 'Adults maintaining their independence and live healthy lives through:

- Early intervention through PRU provision will increase opportunities for independence and healthy living

Everybody travelling easily and safely around Medway.

This procurement requirement will deliver against the Strategic Priority of 'Everybody travelling easily and safely around Medway' through

- Integration of two site into one, reduces transport costs

Everyone benefiting from the area's regeneration.

This procurement requirement will deliver against the Strategic Priority of 'Everyone benefiting from the area's regeneration' through bringing a site back into use.

1.3 Departmental and Directorate Service Plans

This procurement supports the Council's School Organisation Plan 2011-2016, approved by Cabinet on 1 November 2011 (decision number 143/2011). It also links into the Children & Adults Directorate Service Plan by supporting the development of 21st century education provision for all pupils.

The Council also has a statutory duty to provide school places for children resident in Medway as set out in the Education Act 1996. This project is required to enable the Council to discharge that duty.

2. Background

2.1 Project Details

2.1.1 This procurement is a Works/Construction procurement requirement.

2.1.2 This report seeks permission to commence a new procurement project with proposed contract duration of 18 months with no provision to extend.

2.1.3 The contract is proposed to commence on 12 March 2014 and conclude on 14 August 2015.

2.1.4 This procurement requirement is a standalone project with no linkage to any other procurement projects or procurement programmes.

2.1.5 This procurement requirement is required to fulfil Medway's statutory obligations. These are to provide school places for children resident in Medway as set out in the Education Act 1996.

Will Adams PRU currently have a roll of 40, (although from September 2013 the actual number on roll will be 43), based on 20 students in each Year Group (Year 11 & Y12). The PRU is currently geared to 6 and not 8 students per class, giving a teaching accommodation need of 8 classrooms.

The Department for Education publishes guidance for all categories of Educational premises to identify expected standards know as Building Bulletins. Building Bulletin 77 sets out standards for PRUs and when compared to this the current accommodation is inadequate in that they are deficient in many areas:

- The school only has 6 classroom spaces (which includes 1 classroom in the adjacent Youth Centre). This is insufficient resulting in the school currently leasing 2 minibuses and using staff cars to take students off-site for alternative provision.
- IT, music and Art are delivered in the current classroom spaces rather than in specialist accommodation.
- The Will Adams PRU relies on the availability of the youth club hall for their pupils to sit exams and on the use the youth club canteen for daily meals. Due to the need for the Youth Club to generate income these facilities are increasingly rented out to third parties and the PRU cannot always rely on these being available.
- Visiting professionals have to use either; the reception area, corridor, Senco or Head teacher's office for meetings.
- There is inadequate external space resulting in the use of the Youth Club's external area.
- On-site storage is limited with only a "shed" for off-site storage.
- The school rent 2 spaces from the adjacent Woodlands Academy for parking of the minibuses.

The PRU has never benefitted from purpose built accommodation and the current provision is the result of various building modifications over the years. This has included exchanging accommodation with Summit House at the rear of Woodlands Youth Club.

The Outreach Centre, which is located near to Will Adams PRU, has been recently vacated. There are also proposals to relocate the Duke of Edinburgh team who currently use Summit House. This provides an opportunity to not only address the current deficiencies but also allow for expansion, which will help to address the current pressure on places across Medway. A plan of the site is attached to this report identifying the area subject to these proposals.

In addition, the incorporation of part of the land to the rear of the site, previously the on-site playing field of Gillingham College, which closed in 2000, is proposed. This area is shown coloured grey on the plan. This will provide a safe and secure route between the buildings and an outside space for the students, together with parking for the minibuses.

The table below sets out the number of referrals made for the current and previous years by the Inclusion team, to Will Adams PRU, Silverbank PRU and other alternative curriculum providers:

	2011-12	2012-13
Genesis	16	
Octopus		45
Rowans Silverbank	12	26
Will Adams	13	18
Total	41	89

A budget has been identified to provide the additional accommodation required for the expansion of places.

2.2 Business Case

2.2.1 Procurement Project Outputs / Outcomes

As part of the successful delivery of this procurement requirement, 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?
Cost savings from utilities review	Running costs of school	Education Service	Quarterly/Annually
Cost savings on reducing need for out of area placements	Number of OOA placements	Education Service	Quarterly/annually
Single site – reduction in transport requirements	Reduced transport costs	Education Services	Quarterly/annually
Improved quality of accommodation and curriculum delivery	Better Ofsted report	Ofsted	Annually

2.2.2 Procurement Project Management

This procurement project will be resourced through School Organisation Team, who have the resources in place to act as Client Project Manager for the project. They will be supported by a full design team of external consultants appointed by Building and Design Services including an external project manager and will be led by a Building & Design Services Project Manager in order to prepare the specification and drawings. Category Management will support the procurement process.

2.2.3 Post Procurement Contract Management

The contract management of this procurement project post award will be resourced through the Building and Design Services Project Manager, who 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 regular meetings with the contractor, project reporting, monthly valuations, strict change control processes and risk reviews, with progress reports going to the Children and Adults Capital Programme Cabinet Advisory Group.

2.2.4 TUPE Issues

Further to guidance from Legal Services, Human Resources and the Strategic Procurement Team, it has been identified that TUPE does not apply to this procurement process. This is because this is a works procurement and not an existing services 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 this is a statutory requirement

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 Medway Council does not currently employ in-house contractors for construction.

3.3 Using another local authority to deliver procurement requirements

The option of using another local authority to deliver procurement requirements has been considered but is not a viable option because other local authorities do not currently employ contractors for these services.

3.4 Procurement via an EU compliant framework

No EU compliant frameworks have been identified from which Medway Council's procurement requirements can be satisfactorily delivered, within the budget.

3.5 Formal tender process in line with Contract Procedure Rules

The option of formally tendering this procurement requirement solely in line with Medway Council's Contract Procedure Rules has been considered because this procurement requirement 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 procurement requirement in line with EU Procurement Regulations is not appropriate because the value of the requirement is below the EU Procurement Threshold for Works of £4,348,350.

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 but no such opportunities exist.

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

- 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
- Not all contractors have paid to be on Constructionline, and therefore the market could be limited

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 use this service

Disadvantages

- External fees paid to utilise the framework

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

No other options have been identified.

3.11 Other alternative options

No alternative 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

The preferred option is 3.10, using the Kent County Council Select List, for procurement via a below EU threshold Select List.

4.2 Equality Act 2010

The preferred option includes a review of tenderers' equality policies for compliance to the Equality Act 2010 and therefore to Medway Council's equality policy. This review will have been undertaken as part of the process for inclusion on to the KCC Preferred List.

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. The procurement of the projects will be in accordance with all relevant health and safety legislation and will make improvements as required by current sustainability targets.

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. Measures to ensure the most efficient scheme at each school will be detailed as the design progresses.

5. Risk Management

5.1 Risk Categorisation

The following risk categories have been identified as having a linkage to this procurement project:

Procurement process	<input checked="" type="checkbox"/>	Equalities	<input type="checkbox"/>
Contractual delivery	<input checked="" type="checkbox"/>	Sustainability / Environmental	<input type="checkbox"/>
Service delivery	<input checked="" type="checkbox"/>	Legal	<input type="checkbox"/>
Reputation / political	<input checked="" type="checkbox"/>	Financial	<input checked="" type="checkbox"/>
Health & Safety	<input checked="" type="checkbox"/>	Other/ICT*	<input type="checkbox"/>

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) Procurement process	Council decision making process affects programme, resulting in programme delays and cost increases	B	II	Projects are planned with Procurement and Cabinet dates in mind to minimise delays
b) 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.
c) Service delivery	Lack of specified performance	E	III	A detailed specification with key milestones and performance indicators.
d) Reputation / political	Negative publicity as a result of poor communication	C	III	Project specific communications plan has been developed
e) Health & Safety	Construction works in close proximity to other site users, resulting in disruption, injury or worse	D	I	Contractor to provide clear & concise H&S procedures, with close liaison with other site users. CDM Co-Coordinator to review measures taken

f) Financial	Possibility of unforeseen costs identified	D	II	Detailed investigative work prior to the tendering of works undertaken to highlight any issues.
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6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

Consultation has already been undertaken as part of the feasibility process with the Schools Organisation Team, and with the head teacher of the PRU, and the Council's Inclusion Manager. This was to support the development of options to deliver the requirements for this project. There has also been internal stakeholder consultation with Medway Council's Planning department, Section 151 Officer and Strategic Procurement and the Monitoring Officer.

6.2 External Stakeholder Consultation

The following statutory external stakeholder consultation is required before the commencement of the procurement project in order to direct the specification:

- STG Building Control

In addition, and in order to aid the evaluation process the Unit staff and the School Organisation Team acting as the client manager will review the proposed schemes to ensure quality and best value for money. Parents and pupils will also be consulted as appropriate.

The Building and 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 regular meetings with the contractor, project reporting, monthly valuations and strict change control processes, along with regular progress reporting to Children & Adults Capital Programme Cabinet Advisory Group.

Regular consultation with the School Organisation Team will ensure any issues are managed efficiently and with little impact to the programmes, budgets and quality.

7. Procurement Board

- 7.1 The Procurement Board considered the report on 4 December 2013 and supported the recommendation set out in paragraph 9 below.

8. Financial and legal implications

8.1 Financial Implications

8.1.1 This procurement requirement and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendation at Section 9, would be met from the Capital Programme Basic Need Grant for 2013-14 and 2014-15. Detailed finance and whole-life costing information is contained within Section 2.1 Finance and Whole-Life Costing of the Exempt Appendix.

8.2 Legal Implications

8.2.1 Local education authorities have a statutory duty under section 19 Education Act 1996 to make arrangements for the provision of suitable education at school or in pupil referral units or elsewhere for children of compulsory school age who, by reason of illness, exclusion from school or any other reason, will not receive suitable education unless such arrangements are made for them.

8.2.2 This recommended procurement contract award per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendation at Section 9, has the following legal implications which the Cabinet must consider:

8.2.3 The current proposals include an assumption that vacant possession of currently occupied buildings will be available by the contract start date. The Council needs to ensure that it is physically able to relocate staff to identified alternative premises, currently occupied by a third party, within the proposed timescale. Officers should consider making contingency plans, should the third party not vacate these premises by the contract start date.

8.2.4 Access to the site is shared with at least three third parties including Woodlands Academy. The Council must ensure that its proposed works do not interfere with any legal rights granted to third parties or restrictions as to user. It would be prudent to carry out consultation with these third parties prior to finalising the specification, in order that any concerns such as noise or disruption to businesses can be considered and if necessary, provision made in the contract to alleviate this.

8.2.5 In respect of the playing field land to be incorporated within the proposals, whilst Gillingham College ceased to use the site in 2000, officers need to check that the playing fields have not been used by any schools at any point subsequently. In the event that they have, the Council will need to obtain consent from the Secretary of State to the proposed change of use.

8.3 Procurement Implications

8.3.1 This procurement requirement and its associated delivery as per the preferred option highlighted at Section 4.1 and recommendation at Section 9, has the following procurement implications - the refurbishment element of the capital works programme for Will Adams PRU is below the EU Works Threshold, which currently stands at £4,348.350. Albeit in principle the Public Contracts Regulations 2006 (as amended) do not apply to sub threshold contracts nonetheless, the award procedures for contracts must comply with the general principles derived from the

Treaty of Rome on the functioning of the European Union, as well as the Council's Contract Procedure Rules.

8.3.2 Category Management supports the client department's recommendation to undertake a formal tender as competition remains the main mechanism by which Medway Council can ensure both improvements in quality and innovation of service provision as well as value for money are achieved.

8.4 ICT Implications

8.4.1 ICT requirements should be considered before any major building works take place. This is to ensure that cabling requirements, data points, switch cabinets and network connectivity, if required, are planned and scheduled into the building works at the appropriate time of the project.

9. Recommendation

9.1 Cabinet is requested to approve the use of the Kent County Council Select List, for procurement via a below EU threshold Select List, as set out in paragraph 4.1 of the report.

10. Suggested reasons for decision(s)

10.1 The recommendations contained within Section 8 'Recommendations' above are provided on the basis that this option addresses most of the PRU's needs and allows for future development if and when additional funding is made available. This provides more effective use of the existing accommodation addresses the shortfall in current provision and provides flexibility for future expansion. This option also reduces the building costs and offers the most cost effective solution.

10.2 The Council has a statutory duty to provide school places for children resident in Medway as set out in the Education Act 1996. This project is required to enable the Council to discharge that duty.

Lead officer contact

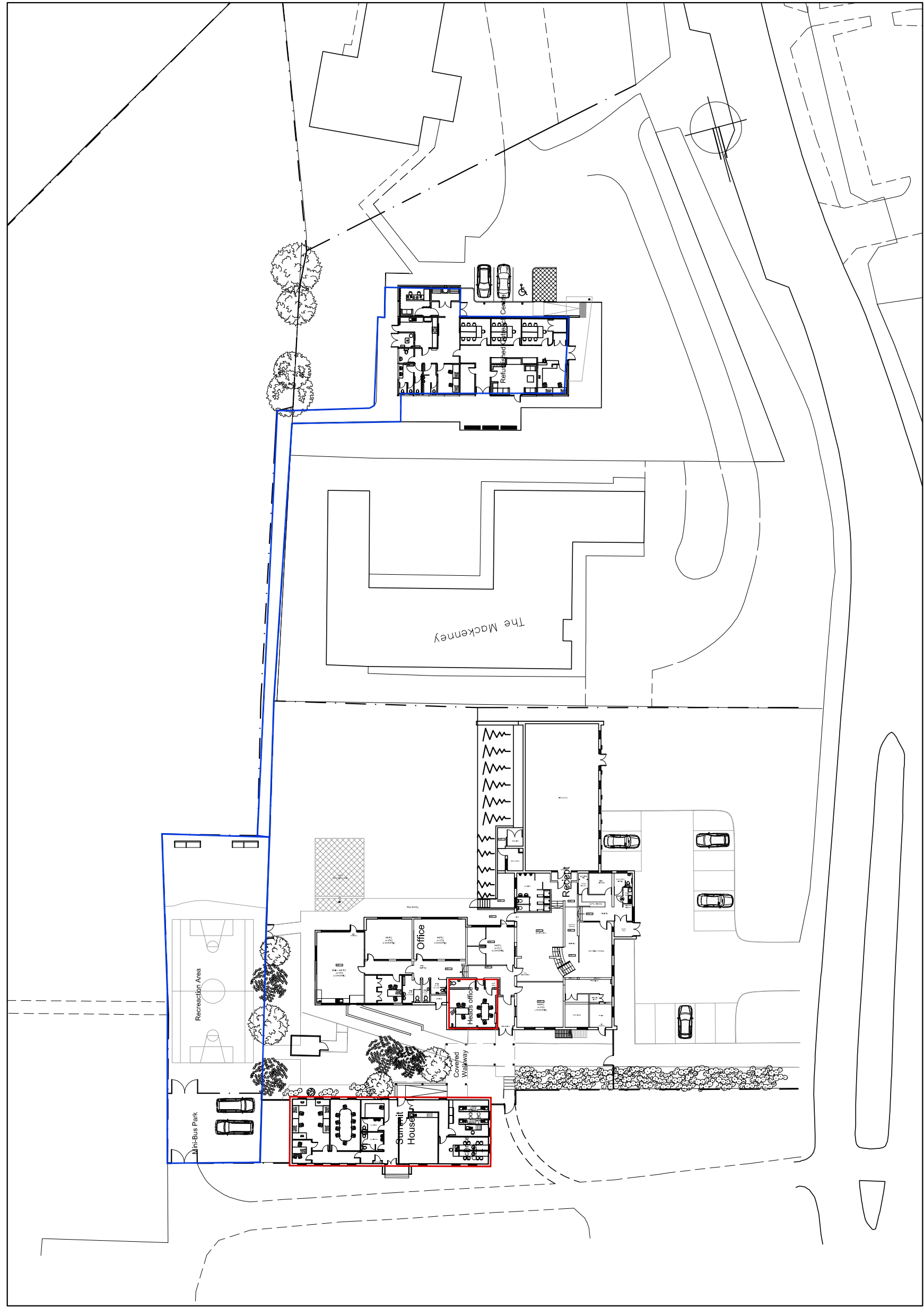
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Background papers

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

Description of document	Location	Date
Outline Business Case – approved by Cabinet 29 October 2013	http://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?IId=11513	29.11/13

WILL ADAMS CENTRE

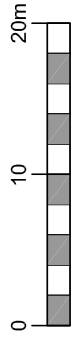


TITLE
OPTION 8

PROJECT
**WILL ADAMS CENTRE
WOODLANDS ROAD
GILLINGHAM
KENT ME7 2BX**

CLIENT
MEDWAY COUNCIL

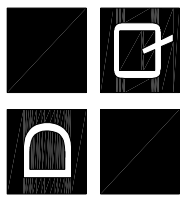
SITE LAYOUT PLAN

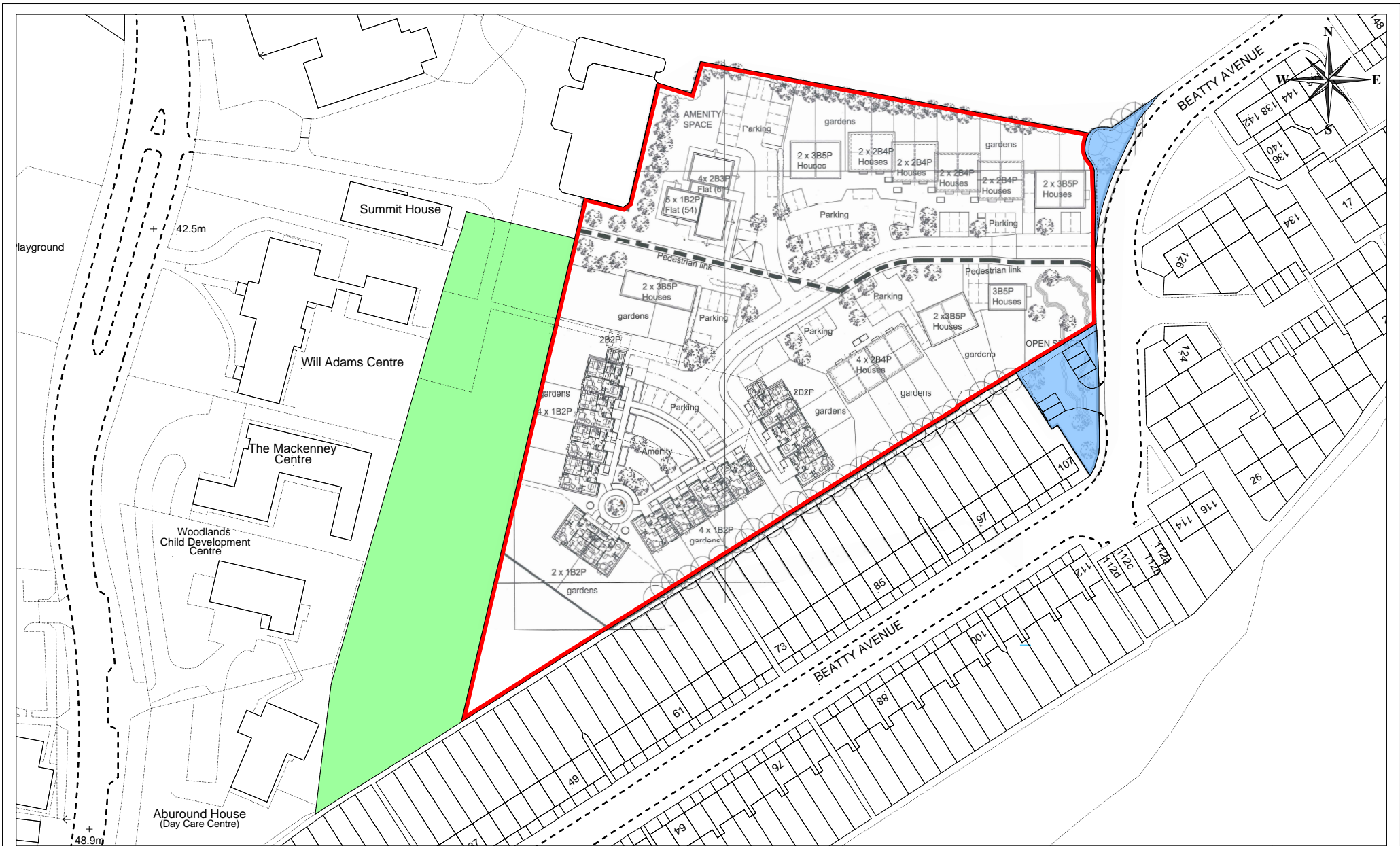


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Land r/o Beatty Avenue, Gillingham

4,135 m²

12,961 m²