

## **CABINET**

**14 APRIL 2015**

### **GATEWAY 1 PROCUREMENT COMMENCEMENT: EXPANSION WORKS AT CUXTON INFANTS & JUNIOR SCHOOLS**

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

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

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#### **SUMMARY**

This report seeks permission to commence the procurement of a contractor to carry out a single phase works at Cuxton Infants & Junior Schools, Bush Road, Cuxton, Rochester, Kent, ME2 1EZ. This Gateway 1 report has been approved for submission to the Cabinet after review and discussion at Children and Adults Directorate Management Team Meeting on 17 February 2015 and Procurement Board on 26 February 2015.

The Children and Adults Directorate Management Team has recommended that this project be approved as a high-risk procurement.

There are potential political and service sensitivities.

- The Council has a statutory duty to ensure that sufficient schools for providing primary education and secondary education are available for their area.
- The Council is bound by the terms of the Section 106 to spend the developer's contribution from the local Redrow Homes Development in this area.

#### **1. BACKGROUND INFORMATION**

##### **1.1 Budget & Policy Framework**

1.1.1 Proposals that flow from the School Organisation Plan 2011-16 and its subsequent annual reviews are consistent with the School

Organisation Plan Principles and with the Council Plan Priority of 'Children and young people having the best start in life'. The proposals will only be delivered through available funding; therefore this is a matter for Cabinet.

## **1.2 Service Background Information**

- 1.2.1 This project supports the School Organisation Plan 2011-2016, approved by Cabinet on 1 November 2011 (decision number 143/2011), and its 2013 annual review, which highlights the need for more pupil places in the Cuxton area. At this meeting in July 2013, under decision 113/2013, Cabinet approved the progression of proposals to expand primary provision in the Cuxton and Halling area.
- 1.2.2 The Council has a statutory duty to ensure that sufficient schools for providing primary education and secondary education are available for their area.
- 1.2.3 The Cuxton and Halling area, like the majority of areas in Medway, is seeing the demographic growth. The large development of 385 dwellings at St Andrews Park on the site of the former Halling Cement Works (equidistant between the Halling and Cuxton school sites) is and will continue to add to the growth in the coming years. Cuxton Infant and Junior Schools, now academies under the Primary First Trust, are popular schools with the infants being over subscribed in recent years. This trend is expected to continue as a result of local development and rising births.
- 1.2.4 The schools have sufficient capacity to accommodate 50 pupils per year group and the intention is to provide sufficient permanent capacity for a full 2 Forms of Entry i.e. 60 pupils per year group, which over time will provide education for an additional 70 children across the whole primary phase. An integrated nursery provision will also be included within the final design.
- 1.2.5 Some temporary capacity has been provided for the academic year 2014/15 and this will suffice for 2015/16 too. The project will aim to physically join the currently separate buildings creating a new single entrance, offices, staffroom and working areas etc, which will in turn release rooms within the current two schools to be converted into the required classrooms and teaching spaces to enable the full expansion to take effect.
- 1.2.6 Funding will come in the main from the developer contribution received from Redrow Homes, which will provide £961,624. The contribution was made under an obligation entered into by the developer pursuant to section 106 Town and Country Planning Act 1990. This money must be used "...towards the improvement of primary school facilities at Halling Primary School and/or Cuxton Infant and Junior School" and "...towards the provision of nursery school facilities in the locality of the site". Any additional funding requirement will come from the Children and Adults Capital Programme.

1.2.7 The outcomes will be the provision of sufficient local nursery and primary school provision in the area, ensuring that parental preference is met and that the teaching and learning environment is appropriate.

### **1.3 Urgency of Report**

1.3.1 Due to the need to complete the project by September 2016, it is necessary to complete the design and procurement procedures by summer 2015.

### **1.4 Funding/Engagement From External Sources**

1.4.1 This project will be funded in the main from Developer Contributions with any remaining funding coming from the Basic Need fund.

### **1.5 Parent Company Guarantee/Performance Bond Required**

1.5.1 A bond will be required.

## **2. PROCUREMENT DEPENDENCIES & OBLIGATIONS**

### **2.1 Project Dependency**

2.1.1 Building and Design Services will be tasked with the management of the project working with Category Management to procure a contractor.

### **2.2 Statutory/Legal Obligations**

2.2.1 This project is required to fulfil Medway's statutory obligations. These are set out in the legal implications section of this report (see paragraph 8.2).

### 3. BUSINESS CASE

#### 3.1 Procurement Project Outputs / Outcomes

3.1.1 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.

<b>Outputs / Outcomes</b>	<b>How will success be measured?</b>	<b>Who will measure success of outputs/ outcomes</b>	<b>When will success be measured?</b>
<b>1. Completion of works on time</b>	Successful completion of building works within the agreed programme and to the specified standard of quality	Building and Design Services	Monitored throughout the contract period and at handover and completion
<b>2. Completion of works within the specified budget</b>	Successful completion of the building within the budget available	Building and Design Services	Monitored closely throughout the contract period
<b>3. Provision of additional space</b>	The development of the space at Cuxton Community Infants and Junior Schools to provide sufficient permanent capacity for a full 2FE i.e. 60 pupils per year group, which over time will provide education for an additional 70 children across the whole primary phase. An integrated nursery provision will also be included within the final design.	Stakeholders	Post completion

## **3.2 Procurement Project Management**

3.2.1 Category Management will manage the procurement process working with Building and Design Services and the service department.

## **3.3 Post Procurement Contract Management**

3.3.1 Building and Design Services will project manage the works post procurement.

## **4. PROCUREMENT APPROACH**

### **4.1 Procurement Process Options Considered**

#### **4.1.1 Do Nothing**

The option of doing nothing is not a viable option as there is a commitment to provide these additional spaces in line with Developer Contributions by September 2016. This would also mean that there would be fewer places across Medway leading to inequality of choice and provision for pupils needs within the customer target area.

#### **4.1.2 Open Tender via the Kent Business Portal**

##### **Advantages**

This will encourage the greatest level of competition from the market and offer opportunities to local SMEs.

This will ensure fairness and transparency to the tendering process, and ensures the Council complies with its own Contract Procedure Rules and EU Regulations.

The procurement could attract suitable contractors from the local areas as there is not a suitable Kent framework.

A contract period of 10 months would be required to complete the project. This tender process would allow for this.

##### **Disadvantages**

Failure to follow this option could mean the Council breaches The Public Contract Regulations 2006 as it is a requirement of all Public tenders to apply the principles of transparency, equality and non-discrimination.

### **4.2 Evaluation Criteria**

4.2.1 It is proposed to use the 30% quality 70% price split to achieve best value.

## 5. RISK MANAGEMENT

### 5.1 Risk Categorisation

<b>1. Risk Category: Financial</b>	<b>Likelihood: Low</b>	<b>Impact: Critical</b>
<b>Outline Description:</b> Unforeseen expenditure outside the approvals, including inflation and any hitherto unknown land problems, excessive asbestos, ecological problems etc which could all add time and cost to the project.		
<b>Plans to Mitigate:</b> Building and Design services to work closely with the contractor to ensure any requirements for variations are considered before being approved. All relevant surveys effected at the earliest stage to identify any potential problems. The design will be targeted to manage costs within the budget.		
<b>2. Risk Category: Service Delivery</b>	<b>Likelihood: Low</b>	<b>Impact: Marginal</b>
<b>Outline Description:</b> Provision is not complete by September 2016		
<b>Plans to Mitigate:</b> Detailed procurement and project programme to be adhered to ensure deadlines are met and stakeholders are engaged throughout. Initial review of scope indicated the timescales are achievable.		
<b>3. Risk Category: Contractual Delivery</b>	<b>Likelihood: Low</b>	<b>Impact: Critical</b>
<b>Outline Description:</b> Contractor unable to meet the schedule of works		
<b>Plans to Mitigate:</b> Programme of works to be requested at the ITT stage; contractual financial consequences for delays		
<b>4. Risk Category: Health &amp; Safety</b>	<b>Likelihood: Low</b>	<b>Impact: Critical</b>
<b>Outline Description:</b> Possible risk of safety to pupils and staff during the works phase		
<b>Plans to Mitigate:</b> Due diligence carried out during the tender safe to ensure capability of contractor; contractor to provide clear health and safety procedures with close communication with the school; contractor or CDM Co-ordinator to carry out risk assessment of the work processes and site throughout the contract period.		
<b>5. Risk Category: Service Delivery</b>	<b>Likelihood: Low</b>	<b>Impact: Critical</b>
<b>Outline Description:</b> Risk that the Primary First Trust may want a grander scheme than the LA can provide		
<b>Plans to Mitigate:</b> Early engagement with the Trust to manage expectations		

## **6. CONSULTATION**

### **6.1 Internal (Medway) Stakeholder Consultation**

Category Management  
Building and Design Services  
STG Building Control  
School Organisation Stakeholders

### **6.2 External Stakeholder Consultation**

Cuxton Junior and Infant Schools and The Primary First Trust.

## **7. PROCUREMENT BOARD**

7.1 The Procurement Board considered this report on 26 February 2015 and supported the recommendation as set out in paragraph 11 below.

## **8. SERVICE IMPLICATIONS**

### **8.1 Financial Implications**

8.1.1 The procurement requirement and its associated delivery (as per the recommendations at Section 11), will be funded from the existing Capital Programme.

8.1.2 Further detail is contained within Section 2.1 Finance Analysis of the Exempt Appendix.

### **8.2 Legal Implications**

8.2.1 The proposed procedure is below the EU threshold and therefore an OJEU notice is not required.

8.2.2 The proposed procedure gives a high degree of confidence that the Council's primary objectives for procurement are met, as required by Rule 1.2.1 of the Council's Contract Procedure Rules ("the CPRs").

8.2.3 Under the Council's Contract Procedure Rules, the proposed procurement is a Category B high-risk procurement (Rule 2.4), and the process set out in this report meets the requirements for such procurements. The proposed procurement must also be advertised on the Kent Business Portal, in compliance with rule 3.3 of the CPRs.

8.2.4 As this is a high risk procurement, the decision to approve this process is a matter for Cabinet.

8.2.5 Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.

8.2.6 Section 14 Education Act 1996 provides that a local authority has a statutory duty to ensure that sufficient schools for providing primary education and secondary education are available for their area. Schools will not satisfy this requirement unless they are sufficient in

number, character and equipment to provide for all pupils the opportunity of appropriate education.

### **8.3 TUPE Implications**

8.3.1 This is a contract for works and therefore the TUPE regulations are not applicable.

### **8.4 Procurement Implications**

8.4.1 As per the Contract Procedure Rules under section 3.3.1: "All requirements above £100K must be advertised on the Council's Website, the Kent Business Portal and in the OJEU (where above the EU tender thresholds for goods, services or works)."

8.4.2 The value of this procurement means the works should be advertised to comply with these rules, and to support the Council's procurement strategy to provide best value.

8.4.3 The funds identified to cover the cost of the work are the maximum available and this must be considered when preparing the specification and tender documents, to ensure the budget is not exceeded. Once let, the contract must be carefully managed to ensure the works are delivered within the budget.

8.4.4 Contracts should only be extended where such provision for an exemption exists. The contract for the mainstream works ends September 2016, with no provisions to extend.

### **8.5 ICT Implications**

8.5.1 There may be significant impact on existing and additional ICT requirements. It is recommended that a project manager for ICT is appointed and this cost is included within the financial requirements, to ensure future ICT requirements for the school are scoped prior to building works taking place, and to ensure that the existing ICT services are not disrupted.

## **9. OTHER CONSIDERATIONS**

### **9.1 Diversity & Equality**

9.1.1 Every child should have the chance to make the most of their promise and potential.

9.1.2 We want Medway to be a place where all children enjoy learning and leave school with the qualifications, personal achievements, skills and motivation to exceed in their adult and working lives.



## 9.2 Social, Economic & Environmental Considerations

9.2.1 Children of primary age in Medway will have the much-needed provision to support their particular needs in a safe environment, without having to leave the boundaries of the authority.

## 10. OTHER INFORMATION

10.1 No further information to add.

## 11. RECOMMENDATION

11.1 The Cabinet is asked to agree the commencement of the procurement process via the Kent Business Portal, as set out in paragraph 4.1.2 of the report, to carry out the additional works at Cuxton Infants and Junior Schools.

## 12. SUGGESTED REASONS FOR DECISION

12.1 To ensure a sufficient supply of good quality school places in the Cuxton and Halling area.

## 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
2013 annual review of the School Organisation Plan 2011-16	<a href="http://democracy.medway.gov.uk/mgconvvert2pdf.aspx?id=20666">http://democracy.medway.gov.uk/mgconvvert2pdf.aspx?id=20666</a>	9 July 2013