



London Borough of Hammersmith & Fulham

CABINET REPORT

5 JANUARY 2015

DELIVERING THE SCHOOLS CAPITAL PROGRAMME

Report of the Cabinet Member for Education : Councillor Sue Macmillan

Open Report

A separate report on the exempt agenda provides exempt information relating to the procurement of the contract for the Burlington Danes Academy Primary School development.

Classification: For Decision

Key Decision: Yes

Wards Affected: All

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1. EXECUTIVE SUMMARY

- 1.1. This report builds on the previous reports set out in the School Organisation Strategy for Hammersmith & Fulham 2012/13. It makes recommendations for additional capital funding decisions in support of the Council's key educational priorities, in relation to the establishment of a new 2-form primary schools at Burlington Danes and the commission of a feasibility study into reinvestment in the estate of Phoenix High School and enhancement of the facilities and educational offer.

2. RECOMMENDATIONS

2.1. That approval be given to the procurement decisions, capital allocations, and appropriate delegations where required to develop the priority schemes at the following schools:

a) **Burlington Danes Primary**

To appoint Lakehouse Contracts Ltd as the Main contractor for the contract sum of £5,073,342.00 (+ £142,951 Construction Contingency) following a competitive tender exercise as set out in the body of the report. .

b) **Phoenix High School**

To allocate the sum of £185,000 to Phoenix High School (PHS) to allow for the completion of an evaluation study on the feasibility of the redevelopment of the existing PHS site for education purposes by 3BM and to include partial disposal, development of new accommodation and potential inclusion of additional community facilities.

3. REASONS FOR DECISION

3.1. The recommendations listed above will contribute to the Council meeting its identified key educational priorities.

- To meet the Council's statutory responsibility to provide school places to meet demand

4. INTRODUCTION AND BACKGROUND

4.1. Recommendations in this report relate to the provision of sufficient places to meet increasing demand for primary places in the north of the borough and addresses the issue of condition in schools. Since the cancellation of the Building Schools for the Future programme DfE funding has targeted Basic Need, i.e. the provision of sufficient school places over the condition of existing school buildings. What funding that has been made available for condition has been targeted at specific schools "in immediate danger of collapse" rather than providing sufficient capital to allow authorities to invest in the upkeep of their schools.

4.2. In Hammersmith & Fulham, condition surveys were last undertaken in 2011-12 and identified a 5 year programme of necessary works, subject to the availability of funding. The SCHOOLS ORGANISATION STRATEGY 2012/13 agreed at Cabinet in January 2013 allocated £7.77m of the LA 2012-13 Additional Basic Needs grant to address a number of condition issues across the school estate. This allocation was in addition to the £5.02m maintenance grant that the authority has received since 2012 which has been used on priority issues since then. Of the £1.48m Maintenance Grant received for 2014-15 £800k has been set aside to fund essential

Asbestos works, the remainder is used for essential Health and Safety works.

- 4.3. Without access to the necessary funds to maintain the school estate the condition of schools in the borough has deteriorated. 2 former Council-maintained schools: Fulham College Boys; and the Alternative Provision School in Findlay Street; have both benefited from funding through targeted capital programmes provided by the EFA but only aimed at academies.

5. PROPOSAL AND ISSUES

- 5.1. The funding that is available to meet new commitments is approximately £8m.

5.2 Burlington Danes

- 5.2.1 The 2012/13 School Organisation Strategy, agreed by Cabinet in March 2012 agreed the creation of Primary Provision at the Burlington Danes Academy Provision of 1FE primary provision, future-proofed to enable expansion to 2FE if future demand is demonstrated.
- 5.2.2 In April 2014 the Cabinet approved the Council undertaking the role of Contracting Authority for the establishment of new-build construction at Burlington Danes subject to confirmation that the construction qualifies for zero-rating for VAT purposes.
- 5.2.3 Notwithstanding the complexity of the project, there are no implications for the council's VAT position as the project is a new-build scheme that would qualify for a zero-rating VAT rate. The zero-rating status is dependent on the school being used 95% for educational/charitable use and the school providing the Authority with a certificate to this effect. Under these circumstances the Council is willing to act as contracting authority.
- 5.2.4 The scheme is estimated to cost approximately £6.3m. The EFA establish a budget envelope for these type of schemes and have calculated a budget of approximately £4.8m which is supported by an increase in Free School Grant. Whilst the grant does not cover the entire costs, the £1.5m difference is less than previously provided for within the budget.
- 5.2.5 3BM, the former-employee led mutual is contracted to manage the schools' estate on the Council's behalf and ran a procurement exercise on behalf of the Council to appoint a contractor for the proposed works.
- 5.2.6 The contract was evaluated on the basis of the most economically advantageous tender and Lakehouse Contracts Ltd scored the highest in the tender evaluation process. Accordingly, the Tender Acceptance recommendation is to appoint Lakehouse Contracts Ltd as the Main contractor for the contract sum of £5,073,342.00. The Tender Acceptance report is appended to the exempt report as Appendix 1.

5.3 Phoenix High School

- 5.3.1 Phoenix High School have received a condition allocation of £575k, against the total condition need of £2,479k identified in the condition survey carried out by EC Harris in 2011. This was to enable the school to address urgent health and safety works without any conflict with the school's future school vision as a longer term strategy.
- 5.3.2 Phoenix High School been encouraged to explore possibilities of generating sufficient capital funding from within their existing estate to replace existing school buildings, the majority of which are time-expired. The school has commissioned 3BM to undertake some initial exploratory work . The proposal is to allocate £185,000 for the school to commission 3BM to do far more detailed designs to support the development of this initiative.

6. OPTIONS AND ANALYSIS OF OPTIONS

- 6.1. As part of the funding decision making process, projects considered for funding under this draft strategy have been discussed at Cabinet Member briefings, and the schools in question have been visited by Cabinet Members and/or Council officers to appraise the merit of the projects for funding.
- 6.2. Any redevelopment, including partial disposal, of land at Phoenix High School will have to have consideration to planning policies including the protection of land for Education use.

7. CONSULTATION

- 7.1. There is no external consultation involved in the allocation of funding to these projects.

8. EQUALITY IMPLICATIONS

- 8.1. The proposals relating to projects within this report were considered for funding under the Schools Organisation Strategy 2012/13 approved by Cabinet 10th December 2012. As such, these projects are incorporated in the Equality Impact Assessment for that report.
- 8.2. Funding and delivery of the projects proposed within this report, is part of the Councils strategy to deliver its schools of choice agenda. This will have a positive impact on all the residents of Hammersmith and Fulham, with children of school age, as it is an integral part of an all-encompassing strategy for all learners in the borough. The new opportunities that these new and expanded schools will provide will improve the choices for more local children to attend local schools, regardless of race, gender, disability, sexual orientation or religious belief.

9. LEGAL IMPLICATIONS

- 9.1 It is noted that the tender exercise in relation to the appointment of Lakehouse Contracts Ltd was carried out by 3BM on behalf of the Council. The procurement process undertaken is set out in Appendix 1.
- 9.2 In relation to the proposed appointment of 3BM to carry out the feasibility study at Phoenix School, this would be in the compliance of the Contract Standing Orders and procurement legislation as the appointment is covered under the Contract Notice that was published by the Council when creating the employee-led mutual.
- 9.4 Implications completed by: Kar-Yee Chan, Solicitor (Contracts), 020 8753 2772.

10. FINANCIAL AND RESOURCES IMPLICATIONS

- 10.1. The schools capital programme as at quarter 2 of 2014/15 already has an allocation of £6.2m for Burlington Danes Primary. This report is seeking approval to appoint Lakehouse Contracts Limited as the main contractor for the contract sum of £5.073m. This contract sum can be contained within the budget allocation for Burlington Danes Primary.
- 10.2. The financial standing of the company Lakehouse Contracts Limited has been examined. The Council has been advised that in the light of the information available as at 2nd December 2014, the overall financial performance of the company is considered to be sound.
- 10.3. The unallocated budget provision for schools capital programme as at Q2 2014/15 was £8.17m. This report also seeks approval for an of £0.185m to Phoenix High School for feasibility studies, making a total of £1.235m. This would leave a total of £7.85m to be allocated.

VAT Implications

- 10.4. Except in special circumstances, the Council is only able to reclaim VAT relating to capital expenditure on Community Schools. Where projects relate to other schools the Council must be mindful of this. With specific regard to Voluntary Aided schools the HMRC have issued revised guidance which will need to be complied with.
- 10.5. In addition, where leases of land and buildings are involved as part of the project, or there are complex streams of funding (for example contributions from schools or third parties), the VAT implications must be explored due to the potential impact on the Council's partial exemption. The potential impact is determined by the nuances of each project and the nature of the consideration and therefore this should be reviewed on a case by case basis.

- 10.6. The VAT implications in respect of the Burlington Danes project are set out in 5.2.3, namely that the project will be zero-rated providing the school is used 95% for education/charitable purposes. To put it another way, this means that commercial usage (charging for activities etc.) cannot exceed 5%. It is incumbent on the school to provide a certificate to this effect. The zero-rating is also dependent on the full cost of the project being met by the local authority as the contracting authority. If the school were to make any contribution (no matter how small) this would change the nature of the supply to VAT exempt which would adversely impact on the Council's partial exemption calculation.
- 10.7. Comments provided by: Christopher Harris, Head of Corporate Accountancy and Capital, tel 0208 753 6440

11. RISK MANAGEMENT

- 11.1. The Children's Services department remain responsible for the management of risk associated with the proposals including management of contractor risk. Capital Works form part of the Councils strategic risk register and as such positively contribute to a number of risks identified on the register. Where there are Health and Safety implications these form part of the Council's statutory duty to provide a safe working environment and are monitored through the shared Health and Safety risk register reviewed quarterly by the Bi-borough Corporate Safety Team and Bi-borough Risk Manager.
- 11.2. Comments provided by: Michael Sloniowski, Bi-borough Risk Manager 020-8753-2587.

12. PROCUREMENT AND IT STRATEGY IMPLICATIONS

- 12.1 The report seeks approval for two procurement-related recommendations, both of which involve *3BM* acting on behalf of the Council and/or schools in the borough. The direct commissioning of *3BM* by either the Council or schools in the borough to undertake a wide range of educational related matters is provided for in section VI.2 of the contract notice posted in the Official Journal of the European Union (OJEU) prior to the creation of *3BM*. In short, legally permissible under the Public Contracts Regulations 2006 (as amended).
- 12.2 Where H&F is the contracting authority and *3BM* are acting on the Council's behalf as technical agents in carrying out a procurement, *3BM* need to ensure compliance with the 2006 Regulations where they apply, as well as the Council's Contracts Standing Orders.
- 12.3 The specific procurement implications of each of the three main recommendations are given below.

Phoenix High school

- 12.4 The direct commissioning of *3BM* by Phoenix High School to undertake a more detailed study on the feasibility of redeveloping the existing site is permissible under the terms of the OJEU notice mentioned above.

Burlington Danes (BDA)

- 12.6 Cabinet on 7th April 2014 Cabinet agreed that the Council would act as the contracting authority for the building works at Burlington Danes, for reasons explained above in section 10 of this report, and that *3BM* should project manage the procurement of these works.
- 12.7 As the pre-tender estimate valued the work at BDA above the EU threshold, requiring a fully regulated competition, *3BM* advertised the contract opportunity in the OJEU in June 2014, and ran the competition transparently through the Council's e-tendering system. Following pre-qualification, six organisations were invited to tender, and three of these returned bids. Following a like-for-like assessment, Lakehouse Contracts Ltd. submitted the highest scoring bid, taking into account the combined marks available for quality and price. The Director of Procurement and IT Strategy supports the recommendation to award the contract for the works at BDA to Lakehouse Contracts Ltd.
- 12.8 Comments provided by: John Francis, Principal Consultant, H&F Corporate Procurement. 020-8753-2582.

LOCAL GOVERNMENT ACT 2000

LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	The Schools Organisation Strategy 2012/13	Dave McNamara Ext. 3404	Children's Services