

BRIDGEND COUNTY BOROUGH COUNCIL

JOINT REPORT TO CABINET

19 MARCH 2019

REPORT OF THE CORPORATE DIRECTOR – EDUCATION AND FAMILY SUPPORT AND THE INTERIM HEAD OF FINANCE AND SECTION 151 OFFICER

SCHOOL MODERNISATION PROGRAMME – BAND B

1. Purpose of report

1.1 The purpose of this report is to:

- seek approval to discontinue with the Cabinet decision made on 18 December 2018 in respect of pursuing Option 2 for the financial delivery of Band B of the School Modernisation Programme;
- apprise Cabinet of the change to the Welsh Government (WG) grant intervention rate for the Mutual Investment Model (MIM);
- seek Cabinet approval to pursue Option 3 for the financial delivery of Band B of the School Modernisation Programme, prior to submission to Council; and
- seek Cabinet approval for this Council's participation in the MIM procurement process.

2. Connection to corporate improvement objectives/other corporate priorities

2.1 This report relates to the following Corporate Improvement Plan priorities:

- **Supporting a successful economy** - we will take steps to make the county a good place to do business, for people to live, work, study and visit, and to ensure that our schools are focused on raising the skills, qualifications and ambitions of all people in the county.
- **Smarter use of resources** – ensuring that all its resources (financial, physical, human and technological) are used as effectively and efficiently as possible and support the development of resources throughout the community that can help deliver the Council's priorities.

2.2 On 3 March 2015, Cabinet approval was received for the Council to adopt revised principles as a framework for school organisation in Bridgend. Five key principles were set out to inform the organisation and modernisation of our schools. These are:

- commitment to high standards and excellence in provision;

- equality of opportunity, so that all pupils can access quality learning opportunities, regardless of which school they attend;
- inclusive schools, which cater for the learning needs of all their pupils;
- community-focused schools, where the school actively engages with its local community; and
- value for money.

2.3 The Policy and Planning Framework sets out 17 areas where these principles should be applied in practice.

2.4 The principles which are particularly relevant in the context of Band B are:

- the size of primary schools (to ensure that “all Bridgend’s primary schools are large enough to make the full range of necessary provision”); and
- value for money, efficiency and effectiveness (“narrowing the gap between the most and the least expensive provision currently”).

3. Background

3.1 School modernisation has been established as one of the Council’s main strategic programmes. The programme has been planned and implemented in accordance with the agreed policy and planning framework and has been matched to capital resources identified within the capital programme.

3.2 The programme was established to deliver on several objectives including:

- developing first-class learning environments;
- locating the right number of schools, of a viable size, in the best places to serve their communities;
- making schools an integral part of the life and learning of their communities;
- reducing surplus places and achieving best value for money; and
- make schools more efficient and sustainable.

3.3 In 2010, Cabinet approved the recommended schemes included in each of the four bands of the School Modernisation Programme (A-D) which were subsequently detailed in Bridgend’s 21st Century Schools Strategic Outline Programme (SOP). The SOP was submitted to WG in 2011 and ministerial ‘approval in principle’ was received, subject to the completion of the WG business case process.

3.4 A strategic review into the development and rationalisation of the curriculum and estate provision of primary, secondary and post-16 education undertaken in 2016 identified that there are revised Band B priorities from those identified within the 2010 SOP.

3.5 An updated SOP, which reflects the revised priorities, was submitted to WG in July 2017. Cabinet subsequently approved to discontinue the original Band B schemes identified in November 2010 and approved the revised list.

3.6 Cabinet approved the following schemes, based on the increasing demand for places, the requirement to promote the Welsh language and building condition:

- Bridgend North East (2 form entry (FE)) - capital grant
- Bridgend South East (2.5FE) - capital grant
- Bridgend Special School (270 places) – Mutual Investment Model
- Bridgend West – Welsh-medium (2FE) - capital grant
- Bridgend West – English-medium (2FE) - capital grant

In order to prepare for Band C of the programme, Cabinet also gave approval to undertake area reviews and options appraisal work during the Band B period.

- 3.7 In December 2017, WG 'approval in principle' was received for Bridgend's second wave of investment, which at this stage has an estimated programme envelope cost of £68.2m. Further costs, which are yet to be determined, may be required and these would be associated with additional infrastructure capacity.
- 3.8 In January 2018, Council approved in principle the financial commitment required for Band B of the School Modernisation Programme, subject to sufficient resources being identified and allocated to meet the match funding commitment. The overall programme was estimated to be in the region of £68.2m, of which, approximately £43.2m was anticipated to be capital funded (circa £23m funded by Bridgend County Borough Council (BCBC)), the balance proposed to be funded through the WG MIM ie whereby private partners build and maintain schools in return for a fee, and will cover the cost of construction, maintenance and financing the project. The WG MIM intervention rate at that time was 75% and paid to the local authority in the form of a revenue grant. The remaining 25% was to be met from the local authority revenue budgets over a 25-year contract period.
- 3.9 The local authority was required to meet 50% of the up-front capital costs for furniture, equipment and IT. At the end of a specified period of time, the asset would be transferred to the local authority. WG had advised that it will present packages of schemes to the market as design and build projects made up of a number of schemes within a geographical area (including across local authority areas) and be of sufficient monetary size overall in order to attract large companies (eg £100m).
- 3.10 In 2018 WG revised the approach to procuring MIM. A single Private Sector Delivery Partner (PSDP) would be procured to become the majority shareholder in a Welsh Education Partnership (WEP), with local authorities (LAs) and further education institutions (FEIs) together the participants; WG would hold the remaining shares. The WEP would be capable of delivering capital schemes, with the exception of Band B projects. WG's review of MIM identified that special schools were now considered unsuitable for delivery under that funding arrangement.
- 3.11 In November 2018 Cabinet reconsidered the funding options for the programme determining that, having compared the likely cost to the local authority over a 30-year period, delivering Band B via a combined capital and MIM route would make best use of Council's financial resources.
- 3.12 After the November Cabinet decision and prior to Council's meeting, WG announced that they had reviewed their capital grant intervention rate, increasing the rate from 50% to 75% for special school and pupil referral unit schemes, and from 50% to 65% for all other schemes; WG advised that the MIM intervention rate would remain set at 75%.

3.13 In December 2018 Cabinet abandoned the decision made in November (as detailed in 3.11 of this report), and gave approval to pursue an option whereby all schools within Band B would be funded via capital grant, subject to sufficient resources being identified and allocated to meet the match-funding commitment. Council approval to amend the capital programme was subsequently received.

4. Current situation

4.1 On 7 February 2019, WG advised that the Ministers of Education and Finance had made a change to the intervention rate for Band B MIM schemes. The revised MIM funding model will benefit from a 6% increase on the WG grant intervention rate ie from 75% to 81%.

4.2 Due to the change in rate, it is necessary to revisit the funding options available for the delivery of Band B. Officers have re-worked the figures based on the most up-to-date capital and borrowing information currently available; the financial implications of the funding options are detailed within the finance section of this report.

4.3 In progressing Band B MIM there is a requirement for WG to formalise the procurement of the PSDP and consequently WG have asked LAs to confirm their commitment.

4.4 As detailed in section 3.10 of this report, it is the PSDP that will form the Welsh Education Partnership (WEP) with WG and LAs/FEIs; the WEP will deliver Partnering Services under a Strategic Partnering Agreement (SPA).

4.5 The contract notice (which will be published via the Official Journal of the European Union), must stipulate the names of the LAs/FEIs that will be able to access partnering services. WG has indicated that beyond Band B it may be possible to deliver capital (ie design and build projects) via the WEP.

4.6 WG has advised that they will fund the public sector share of working capital in the WEP and therefore they have indicated that they do not anticipate that there will be any cost or risk associated with being named in the contract notice or signing up to the SPA.

4.7 WG has requested that LAs/FEIs consider the three following options available and sign a letter of intent (which has been drafted by WG), in respect of the preferred option, in order to formalise intentions and allow the contract notice and procurement documents to be drafted.

Option 1 Initial Programme Participants - those LAs/FEIs that have indicated as having schemes they wish to deliver via MIM.

Option 2 Potential Future Participants - given the SPA is intended to be 10 years in duration, with the option of a 5-year extension, WG has requested that any future need to utilise Partnering Services is also named in the contract notice. Therefore if this Authority wishes to use the Partnering Services in the future, it is necessary to confirm a willingness to be named in the contract notice and to either:

- commit to signing the SPA with the Initial Participants and the associated implications; or
- reserve the right to sign the SPA at some point in the future, noting that this may give rise to a potential procurement challenge.

Option 3 Non-Participation - where LAs/FEIs are convinced that there is no requirement for the Partnering Services offered by the WEP. A decision not to agree to be named in the Contract Notice means that LAs/FEIs will never be able to utilise the Partnering Services at any point in the future.

4.8 WG have set a deadline for responses to the preferred option of 31 March 2019 which will, to a certain extent, be influenced by the funding decision sought in this report.

4.9 Notwithstanding this, it is necessary for this Authority to be completely satisfied with WGs draft legal documentation in this regard. WG have been asked for sight of the documentation so that it can be reviewed, considered and approved from this Authority's perspective before entering into such a commitment.

5. Effect upon policy framework and procedure rules

5.1 There is no effect upon the policy framework or procedure rules.

6. Equality Impact Assessment

6.1 An initial screening has been undertaken for Band B. Once schemes have been sufficiently developed, they will be subject to a separate EIAs, as the detail will vary between projects. Equality reports on all proposals will be referred to as part of the individual Cabinet reports on each individual scheme.

7. Wellbeing and Future Generations Act (2015)

7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment provides a comprehensive summary of the outcomes expected from the implementation of the service.

Long-term	Supports the statutory duty to provide sufficient pupil places and promote the Welsh language.
Prevention	Councils have a statutory duty to ensure there are a sufficient supply of school places, and these schemes will safeguard the Council's position in terms of any potential legal challenge in this regard.
Integration	Providing sufficient places ensures that the curriculum can be delivered and meets social, environmental and cultural objectives.
Collaboration	The local authority works effectively with schools, Estyn and with the Central South Consortium (CSC), health, community councils and many internal and external partners to ensure that the building meets the short-term and future needs of the users and the community which it will serve.

Involvement This area of work involves the engagement of all potential stakeholders including Cabinet, members, governors, staff, pupils, community, internal and external partners which will include third sector organisations.

8. Financial implications

8.1 In December 2018 Council approved a programme envelope of £71.3 million, covering Band B new school builds of £68.2 million and potential highways works of £3.1 million. This decision was made following consideration of a number of funding options, as set out below:

Option	Consideration	Capital Grant	MIM
Option 1	Original funding scenario	4 primary schools	Special school
Option 2	All funded from capital grant	4 primary schools plus special school	No MIM schemes
Option 3	Swap 2 primary schools with 1 special school	2 primary schools plus special school	2 primary schools
Option 4	Swap 4 primary schools with 1 special school	Special school	4 primary schools

Council agreed to pursue Option 2, with all schemes funded from capital grant. Based on the increased WG capital grant intervention rate of 65% for the primary schemes and 75% for the special school scheme, this would be funded as follows:

	£
Capital:	
Welsh Government grant	44,784,000
Total BCBC capital contribution	26,516,000
Total capital cost	71,300,000

As indicated in the report in December, any highways works will have to be met in full by the local authority, there is no match funding from WG.

8.2 Since December, the Council has received its final local government settlement from WG, which included additional capital funding for 2018-2019 to 2020-2021. This, along with the recently announced increased intervention rate for MIM schemes, has led to a re-calculation of the financial impact of the different funding models for the proposed Band B schemes – namely, all funded from capital grant, or a combination of capital grant and MIM.

For reference, the table below is replicated from the previous report, outlining the differences between the two funding streams.

Table 1 Comparison of MIM and capital grant schemes

MIM Funded	Capital Grant
Funding	
WG Intervention Rate 81%	WG Intervention Rate 75% special school and 65% all other projects
BCBC recurrent contribution must be funded from revenue.	BCBC contribution can be funded from capital receipts, borrowing (revenue implications) or revenue contribution to capital.
Furniture and equipment funded on 75:25 – specials and 65:35 all other schemes from capital.	Furniture and equipment funded on 75:25 – specials and 65:35 all other schemes from capital.
BCBC responsible for 100% of any “abnormals” or additional design features	BCBC responsible for 100% of any “abnormals” or additional design features.
Design	
The private sector need to take design risk and to respond to an output specification therefore we cannot present a fully designed scheme to the strategic partner.	The Council can design the school in whichever manner it wishes, using whichever architects it wishes, either stand alone or through a design and build.
The approach to design is a standardised one in terms of standard room sizes. We will be able to choose the number and type of spaces you need to deliver a school provided that we adhere to the maximum size and funding criteria.	
We can request a particular architect but the strategic partner does not have to use them.	
Contract	
BCBC tied into a contract for 25 years - business needs change over time so there is the risk that the contract may become unsuitable for these changing needs during the contract life.	Contract period ends when building complete.
Scheme would be delivered via strategic partner procurement. Welsh Government would run a process to procure the private sector delivery partners and local authorities would enter into a project agreement with the ‘Special Purpose Vehicle’.	Scheme either designed by the Major Projects Team in Corporate Landlord and a construction contractor appointed via the South and Mid Wales Collaborative Construction Framework (SEWSCAP), or procured as a ‘design and build’ scheme via the same framework.
A long-term contract encourages the contractor and the Council to consider costs over the whole life of the contract, rather than considering the construction and operational periods separately This can lead to efficiencies through synergies between design and construction and its later operation and maintenance. The contractor takes the risk of getting the design and construction wrong.	The Council bears the risk of getting the design wrong, which could create additional costs further down the road. The Council will also bear additional lifecycle costs following construction which are not built into the original cost.

MIM Funded	Capital Grant
The contract includes provision of Hard Facilities Management services including building maintenance, including all systems eg mechanical and electrical and statutory testing, in addition to energy and utilities supply and management service including energy and water efficiency	These costs will all be the responsibility of the Council/governing body.
Variations may be needed as the public sector body's business needs change. Management of these may require renegotiation of contract terms and prices	Any variations to the build once constructed will also come at a cost.
Payment	
The unitary payment will include charges for the contractor's acceptance of risks, such as construction and service delivery risks, which may not materialise. This is a hidden overhead.	Any on-going charges required for borrowing to meet capital grant match funding will only include interest charges.
The unitary payment will not start until the building is operational, so the contractor has incentives to encourage timely delivery of quality service.	BCBC will start paying for the building as soon as the works commence – design through to construction.
The contract provides greater incentives to manage risks over the life of the contract than under traditional procurement. A reduced level or quality of service would lead to compensation paid to the public sector body.	Once the building is handed over, the Council does not have the same opportunities for compensation for poor performance of the facility.
The unitary charge is payable over the life of the contract (25 years). There is no opportunity to repay this early. This creates a revenue budget pressure on the Council which is committed for a 25-year period.	If the capital contribution is funded from capital, there is no ongoing pressure on the revenue budget. If it is funded from borrowing, there will be an on-going revenue pressure, but the Council has more flexibility to repay any loans early, borrow at reduced rates, as the opportunity arises.
Impact on capital and revenue programme	
The MIM does not impact upon the capital programme in any great way, other than the funding required for furniture and equipment. This could be met from either capital funding or revenue contributions. In contrast, the MIM places a fixed commitment on the revenue budget for a period of 25 years.	If funded via capital grant, the Council can choose to meet its match funding in the capital programme from capital receipts / S106 / revenue contributions or borrowing, so there is much more flexibility in both capital and revenue. If Council wants to fund other capital then there is always the option to borrow or use earmarked reserves to fund.

8.3 Using the recently announced increased intervention rate for MIM schemes (from 75% to 81%), the following table summarises the revised full revenue and capital

implications of each of the available funding options (option 1 has previously been dismissed by WG) .

	Option 2 £	Option 3 £	Option 4 £
Capital:			
Welsh Government grant	45,306,396	31,293,010	18,750,000
Total BCBC capital contribution *	25,993,604	18,349,324	11,507,742
Total capital cost	71,300,000	49,642,334	30,257,742
Revenue:			
BCBC revenue for borrowing	444,749	26,087	0
BCBC revenue for MIM	0	367,210	703,554
Annual revenue funding required	444,749	393,297	703,554

* includes funding for highways works.

It is important to note these costs are estimates based on information available at the current time, and MIM information received from WG, and will change in line with inflationary and interest rates rises

- 8.4 Since December the Council has managed to secure additional capital match funding through the final settlement and increased the capital earmarked reserve. The effect of this has been to reduce any potential borrowing requirement, and therefore impact on future revenue budgets. In reality, the Council would seek to use section 106 (s106) funding, receipts from the sale of school and other sites, and earmarked reserves prior to borrowing. The table is based on the maximum borrowing requirement, and therefore revenue cost, which, in the case of Option 2 could be reduced significantly were additional funding to be secured as outlined above.
- 8.5 The payments for MIM schemes are fixed per annum over the 25 year contract period and cannot be reduced, so the revenue costs of Options 3 and 4 are more rigid compared to Option 2. In addition, as well as being the highest revenue cost option, Option 4 would also present less flexibility in terms of future adaptations to buildings which are located within the areas of growth i.e. north east and south east of Bridgend. Consequently, Options 2 and 3 are the only viable options.
- 8.6 Further analysis of Option 2 and Option 3 is set out in the following table again for information, showing the direct advantages and disadvantages between both options.

	Option 2	Option 3
	All capital grant – no MIM, four primary and one special capital grant	Two primary MIMs, two primary and one special capital grant
Advantages	<ul style="list-style-type: none"> • Greater flexibility in terms of funding sources and repayment • Total flexibility relating to configuration and use of buildings • Can be completed within our own timeframes • Full control over design 	<ul style="list-style-type: none"> • Two buildings which are fully maintained for the 25-year term • Slightly higher intervention rate (81% compared to 65%) for the two MIM builds • Lesser ongoing facilities management commitment (marginal)
Disadvantages	<ul style="list-style-type: none"> • Reliant on individual school to maintain the building • Commitment on Council budgets for any capital works during the lifecycle of the building • Lower intervention rate (65%) for the primary builds 	<ul style="list-style-type: none"> • Still requires capital contribution for furniture and equipment (which is still only funded at 65%) • Fixed revenue commitment over the 25-year period (ie no opportunity for early repayment) • Less control over design of school

8.7 It is likely that Option 2 will require some borrowing to meet the capital commitment, which for Option 3 will be minimal, if at all. However, the annual repayment for the MIM schemes in Option 3 will require a fixed annual revenue commitment for the contract period. A summary of the total cost over a comparative 25-year period is set out below:

Option 2

Annual revenue cost for Option 2 = £444,749 maximum (based on borrowing over 25-years)

Plus additional annual revenue funding commitment for buildings maintenance (which we estimate around £250k per annum for the five new schools)

Option 3

Annual revenue cost for Option 3 = £393,297 maximum (all schemes over 25-years)

Plus additional annual revenue funding commitment for buildings maintenance (which we estimate around £150k per annum for the three non-MIM schools).

	Annual revenue cost	Buildings mtce	Total cost over 25-year period
Option 2	£444,749	£250,000	£17,368,725
Option 3	£393,297	£150,000	£13,582,425

Therefore, the difference over a 25-year period is estimated at £3.76 million with Option 3 being potentially less expensive. However, this is based on the caveat that no further capital funding could be generated, from s106, capital receipts or earmarked reserves, to reduce the borrowing costs in Option 2, and that the estimated annual building maintenance costs of £50,000 per non-MIM school per annum is realistic.

8.8 Whichever option is pursued will create pressure on the Council's capital and revenue budgets. The council is facing revenue budget cuts of around £36m over the next four years, so any additional revenue pressures from either borrowing, or following the MIM route, will only add to the level of savings required to be made.

9. Recommendations

Cabinet is recommended to:

- discontinue with the Cabinet decision made on 19 December 2018 in respect of pursuing Option 2 for the financial delivery of Band B of the School Modernisation Programme;
- note the change to the Band B WG grant MIM intervention rate;
- give approval to pursue Option 3 for the financial delivery of Band B, subject to sufficient resources being identified and allocated to meet the match-funding commitment;
- give approval for a report to be submitted to Council to amend the capital programme to reflect the above; and
- give the Interim Chief Executive authority to sign a letter of intent in respect of the MIM delivery model, subject to the outcome of Legal Services' review and agreement of the WG contract/agreement documentation in this regard.

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Background documents

Council Report (13 September 2006): “LEARNING COMMUNITIES – SCHOOLS OF THE FUTURE – STRATEGY, PRINCIPLES, POLICY AND PLANNING FRAMEWORK”

Cabinet Report (2 November 2010): “THE SCHOOL MODERNISATION PROGRAMME OVERVIEW AND BRIDGEND’S 21ST CENTURY SCHOOLS’ STRATEGIC OUTLINE PROGRAMME SUBMISSION TO WELSH ASSEMBLY “

Cabinet Report (1 September 2015): “STRATEGIC REVIEW INTO THE DEVELOPMENT AND RATIONALISATION OF THE CURRICULUM AND ESTATE PROVISION OF PRIMARY, SECONDARY AND POST-16 EDUCATION”

Cabinet Report (3 October 2017): “SCHOOL MODERNISATION PROGRAMME – BAND B (2019-2024)”

Cabinet Report (30 January 2018): “SCHOOL MODERNISATION PROGRAMME – BAND B”

Council Report (31 January 2018): “SCHOOL MODERNISATION PROGRAMME – BAND B”

Cabinet Report (20 November 2018): “SCHOOL MODERNISATION PROGRAMME – BAND B”

Cabinet Report (19 December 2018): “SCHOOL MODERNISATION PROGRAMME – BAND B”

Council Report (20 December 2018): “SCHOOL MODERNISATION PROGRAMME – BAND B”