

# BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO CABINET

18 OCTOBER 2022

### REPORT OF THE CORPORATE DIRECTOR – EDUCATION AND FAMILY SUPPORT AND THE CORPORATE DIRECTOR – SOCIAL SERVICES AND WELLBEING

#### SCHOOL MODERNISATION PROGRAMME – HERONSBRIDGE SCHOOL PROCUREMENT

##### 1. Purpose of report

1.1 The purpose of this report, subject to Cabinet's decision on 18 October 2022 in relation to the outcome of the statutory notice process in respect of the replacement Heronsbridge School, is to:

- seek Cabinet approval for the procurement strategy for the design and build of the replacement school;
- seek Cabinet approval to proceed with the procurement process;
- advise Cabinet that they will be presented with a future report regarding the outcome of an options appraisal in respect of Social Services and Wellbeing Directorate's residential and respite provision; and
- advise Cabinet that they will be presented with a future report prior to awarding the main construction contract, which sets out the position regarding project costs and budget.

##### 2. Connection to corporate well-being objectives/other corporate priorities

2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:

- **Supporting a successful sustainable economy** - taking steps to make the county borough a great 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 for all people in the county borough.
- **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

### **3. Background**

- 3.1 The Band B strategic outline programme (SOP) was submitted to Welsh Government in July 2017. In October 2017 Cabinet was presented with a report detailing the outcome of the Band B review and gave approval to discontinue the original Band B schemes identified in the November 2010 Cabinet report and approved the revised strategic outline programme.
- 3.2 On 6 December 2017, the Welsh Government Department for Education gave 'approval in principle' for Bridgend's second wave of investment, which at that stage had an estimated programme envelope cost of £68.2m. Further costs were to be determined, and these would be associated with additional infrastructure capacity.
- 3.3 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.
- 3.4 In January 2020, Cabinet was presented with the outcome of the extensive options appraisal relating to each of the approved projects.
- 3.5 In December 2020, Cabinet and Corporate Management Board (CCMB) agreed to progress the preferred 'Do maximum' option for Heronsbridge School' (that is, a new-build school for pupils with autistic spectrum disorder (ASD), severe learning difficulties and profound and multiple learning difficulties plus residential provision). The school would be sized to accommodate 300 pupils. The existing Heronsbridge School and the Pencoed College sites, which had been approved for further consideration in January 2020, would no longer be considered, and work would focus on the privately owned site at Island Farm. This was reflected in the strategic outline case, which was subsequently submitted to Welsh Government for consideration.
- 3.6 In December 2020, Council approval was received to include funding in the Capital Programme to deal with payments associated with securing the land.
- 3.7 In March 2021, Ministerial approval was received in respect of the Strategic Outline Business Case for a replacement 300-place Heronsbridge School, plus residential provision. Although no capacity calculation is available for special schools, an assessment of existing teaching spaces based on a notional 5m<sup>2</sup> per pupil (that is, less area per pupil than is specified in the Building Bulletin area guidelines) highlighted the significant overcrowding issue that exists at the school, producing a capacity of circa 180 pupils. Currently, there are 236 pupils on roll.
- 3.8 Although every effort has been made to make best use of the building, the unprecedented increase in the number of learners with ASD requiring an education suited to their needs has resulted in an increased demand for places, which simply cannot be accommodated. The existing school has a range of specialised facilities. However, it is not fit-for-purpose. There are significant issues with regard to the size of teaching and non-teaching spaces.

Storage and circulation space is extremely poor, and given the needs of the learners, (many of whom require walking aids/wheelchairs), this causes issues in managing safe movement around the school. The overall condition of the school is grade C (poor - exhibiting major defects and/ or not operating as intended) and the backlog maintenance costs (assessed in October 2020) is £1,248,200.

- 3.9 Ministerial approval of the Welsh Government Outline Business Case was received in November 2021.
- 3.10 The outcome of the feasibility study to consider the development of the school on privately owned land at Island Farm, Bridgend was reported to Cabinet on 8 March 2022 and approval was received to commence a statutory consultation process to make regulated alterations to Heronsbridge School to increase the number of pupils for whom the school makes provision to 300 and to relocate the school from its current location at Ewenny Road, Bridgend to Island Farm, Bridgend. The proposed new school would open from the beginning of autumn term 2025 (that is, September 2025).
- 3.11 In June 2022, Cabinet was informed of the outcome of the statutory consultation process and gave approval to publish the consultation report and statutory notice in respect of the proposal.
- 3.12 On 14 June 2022, the consultation report was published on the Council's website and stakeholders were informed accordingly. The statutory notice was published on 30 June 2022 for a period of 28 days and formal written objections were invited during this time. No objections were received in respect of the proposal. Since that time, an in-depth review of the project delivery programme has been undertaken. To ensure there is meaningful stakeholder engagement, Cabinet approval has been sought on 13 September 2022 to modify the proposal so that the school opens at the beginning of the spring term 2026.
- 3.13 The Remodeling Children's Residential Services Project was formed in 2017-2018 as part of the Remodelling Children's Services Programme. The remit of the project was to review current residential provision (to include residential homes and out-of-county placements) and to develop a proposed new residential and accommodation model. As part of the remodelling programme, Harwood House was secured on the current Heronsbridge School site, and a refurbishment was completed to meet regulations and enable registration with Care Inspectorate Wales.

#### **4. Current situation/proposal**

- 4.1 Cabinet has received a report on 18 October 2022 regarding the outcome of the statutory process to make regulated alterations to Heronsbridge Special School to increase the number of pupils for whom the school makes provision to 300 and to relocate the school from its current location at Ewenny Road, Bridgend to Island Farm, Bridgend. Subject to the decision in this regard, the Council will need to progress the procurement of the team to deliver the project. The Council is being advised and supported in this process by AECOM, whose director has provided the following expert advice.

- 4.2 Due to the specialist nature of Heronsbridge School and the need for meaningful stakeholder engagement the recommendation is to appoint a multi-disciplinary design team utilising a recognised framework (for example, SEWTAPs, Crown Commercial Services, Eastern Shires Purchasing Organisation) to develop the design of the school through to the end of Royal Institute of British Architecture (RIBA) Stage 2. The appointed team, (which will include architects, mechanical and electrical, and structural and civil designers) will undertake the necessary consultation, brief development, and design development under a professional services contact (PSC).
- 4.3 Upon satisfactory conclusion of this stage, it is recommended that the local authority would procure a design and build contractor to take the scheme forward via a two-stage tender. The scheme would be tendered as a mini competition under Lot 10 of the South East Wales and Mid Wales Collaborative Construction Framework (SEWSCAP4). The contractor would be appointed under a New Engineering Contract (NEC) PSC for the remaining design of the project (that is, RIBA Stages 3 and 4), with an option for the design team to be novated across to the contractor. The main contract (that is, the build) would be carried out under an NEC 4: Engineering and Construction Contract (ECC).
- 4.4 The construction industry is seeing unprecedented levels of uncertainty in the supply and delivery of construction projects, impacted by several external factors including leaving the European Union, supply and labour shortages and more recently, the war in Ukraine and the increase in energy costs. All of these issues are contributing to price increases and main contractors are unable to get sub-contractors to hold their costs for extended periods.
- 4.5 AECOM is working with a number of clients across several sectors, including local government and education and this is now the 'norm' with projects. Projects of this value are predominantly a two-stage tender process utilising the NEC Option A (that is, a priced contract with an activity schedule) and because of the market conditions, closing out the second stage is taking longer than usual with contractors struggling with capturing the pressures around:
- inflation;
  - supply chain resilience; and
  - sub-contractors pricing.
- 4.6 In March 2022, the Consumer Price Index (CPI) hit a 30-year high. Currently, the CPI rate is 10.1 percent, its highest level since 1982.
- 4.7 Material prices have begun rising and coupled with rising labour costs, this is set to push up tender prices sharply. In response, the approach will need to be both agile and strategic in managing the impact of a complex, fast-moving and highly inflationary environment.
- 4.8 Working across the sectors, AECOM are aware that current industry workload and pipeline remains strong with the local workstream very strong. Contractors have their own relevant corporate governance to negotiate to get projects

approved and they are less willing to accept risks in relation to the current market forces. Inflationary pressures will need to be carefully managed.

- 4.9 These issues mean that to ensure a successful project, a truly collaborative approach is required across the procurement, design, and delivery phases.
- 4.10 In 'normal' circumstances AECOM would recommend taking Option A as they believe that this provides clients and contractors with certainty in terms of cost and programme (subject to relevant mechanisms, for example, compensation events). Option A is still considered a viable option, but AECOM advise that a more stringent approach is required as to how issues around inflation are dealt with.
- 4.11 The clear advantage of Option A is that at the outset of the project, all parties have agreed what cost the contractor will deliver the agreed scope for. Unless there is change (which should be managed through the compensation event procedures set out in the contract) the price agreed is the price that will be paid by the client. However, the current challenges make it more difficult to get to an agreed cost that the contractor will deliver for, specifically around price increase due to the factors previously mentioned. This means that a slightly different approach is now recommended to manage these pressures.
- 4.12 Traditionally, clauses within the NEC that entitle contractors to price uplifts due to inflation have not been included. These have been omitted, which reflected the stability of the market at the time. It is widely accepted that contractors would have normally priced risk into their final settlement figure but they are now not willing to carry this risk, or if they did then the allowance may be considered to be unreasonable and delay or actually stop reaching a financial settlement.
- 4.13 AECOM propose that Option A is a viable option to select. However, they recommend that the contract includes Secondary Option X1 – price adjustment for inflation. To support this approach, they also recommend identifying a suitable client adjustable sum (CAS) to deal with potential inflationary costs and manage in partnership with the contractor via an open book approach. The CAS needs to be developed based on current and forecast indices to make it as robust as possible. The CAS will be a pre-agreed amount that will sit 'Client side' throughout the contract and will be, in effect, a contingency amount to address the market issues with regards to material price inflation, costs associated with the instability in the labour market along with the increases in the energy supply market. It will support the approach in terms of managing the client/contractor share of risk, enabling the contractor to price a fair and reasonable level at the point of signing the contract without unduly transferring the risk to the client in the form of excessive allowances. The contractor will determine the allowance for inflation that they have included in the price as part of the lump sum (Option A) across the build programme (baselined at the point of agreeing contract sum) linked to published indices including Building Cost Information Service indices, with the CAS then covering any further inflationary changes that occur over and above this allowance. This approach will require the Client's advisers to assess the additional inflationary amount due under Secondary Option X1

and, once agreed, raise the necessary compensation event under the requirements set out in the ECC form of contract, resulting in a change to the price without necessarily changing the programme.

- 4.14 Alternatively an NEC 4 Option C contract could be used (that is a target cost contract), which is generally appropriate when the anticipated contractor's risks are relatively high such that a contract under Option A could lead to many changes. It is also appropriate when the exact nature and extent of services to be provided cannot be fully defined. This should not be applicable to the Heronsbridge School development, as the school will be designed to Building Bulletin 104 (that is, the area guidelines for special schools)
- 4.15 Option C is also known for the high level of administration required in relation to the financial element of the contract, as contractor's invoices and costs have to be checked on an ongoing basis. This will be reflected in the fees associated with the project manager and cost manager who will sit client side and look after the Council's interest in the project.
- 4.16 While Option C is a possibility, in terms of addressing the issues around inflationary pressures within the sector, AECOM do not consider it to be particularly beneficial over an Option A contract. Consequently, Option A is the officer recommended preferred procurement approach to pursue (with the contract including Secondary Option X1 – 'price adjustment for inflation' as outlined in 4.13 above).
- 4.17 The Social Services and Wellbeing Directorate has mitigated the need to place some children out-of-county as they have access to Harwood House which is located on the current site of Heronsbridge School. However, there are significant benefits for the home to be co-located alongside the replacement Heronsbridge School. Limitations currently experienced at Harwood House in terms of the physical aspect of the property (that is, being unable to accommodate wheelchair users which restricts the service accommodating children and young people with a profound physical disability), would be remedied in a new build.
- 4.18 During the design development stage for the replacement school, officers from the Social Services and Wellbeing Directorate will work with the Education and Family Support Directorate to consider costed options to relocate the residential and respite service alongside the replacement school. The outcome of this process will be reported to a future Cabinet meeting. As the design and build will be a two-stage process, minimal costs in terms of design will be incurred and there would be no commitment to go through to the second stage (that is, build).
- 4.19 As Cabinet will be aware, the Corporate Landlord Department is in the process of acquiring the Island Farm site for the proposed school. It is important to note that there is an element of risk in respect of this process. This matter has been considered by the School Modernisation Strategic Programme Board (Board) and the level of risk is considered to be low. However, should this transaction not proceed, this matter would be reported to

a future Cabinet meeting and approval would be sought to abandon the proposal as published.

- 4.20 Notwithstanding the above, it is the Board's recommendation that the design process for the replacement school commences and runs concurrently with concluding the site transaction process. Should the transaction not proceed, any abortive design fees/costs would have to met by Council revenue budgets.

## **5. Effect upon policy framework and procedure rules**

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

## **6. Equality Act 2010 implications**

- 6.1 An initial Equality Impact Assessment (EIA) screening has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh language. It is therefore not necessary to carry out a full EIA on this policy or proposal. There have been positive impacts identified, including disability and gender.

## **7. Well-being of Future Generations (Wales) Act 2015 implications**

- 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	The scheme fulfils the Council's statutory duty to provide sufficient pupil places and will allow teaching and learning to take place in a building and site which is suited to the needs of the pupils and staff.
Prevention	The Council has a statutory duty to ensure there are a sufficient supply of school places, and this scheme will safeguard the Council's position in terms of any potential legal challenge in this regard.
Integration	Providing sufficient places at Heronsbridge School, ensures that the curriculum can be delivered and meets the social, environmental, and cultural objectives of pupils and the community it will serve. This scheme will promote inclusion. Community use of facilities will be explored and, where appropriate, will be incorporated into the design. Construction will be competitively tendered, via a mini competition through the SEWSCAP4 Framework Agreement or potential future iterations of the framework. This will potentially provide opportunities for local companies to engage with the main contractor for inclusion in their supply chain, via 'Meet the Buyer' events. This would support economic activity in the area. Community benefits will be maximised.

Collaboration	The Council will work effectively with the school, Estyn, Central South Consortium, health, town and 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. Officers will work with an external design team in developing the scheme to ensure that the building design is sustainable and energy efficient and delivers on the decarbonisation agenda.
Involvement	This scheme was subject to a long list of education and site options. These were systematically evaluated and have been reduced from a long list to a short list to confirm the preferred option. Further work involved the engagement of all potential stakeholders including Cabinet, members, governors, staff, pupils, community, internal and external partners during the consultation exercise. A public consultation process has been undertaken, according to the Welsh Government School Organisation Code 2018. Further meaningful stakeholder engagement will take place, and this will inform the design of the replacement school.

As a result of the assessment, it is considered that there will be a positive impact upon the achievement of well-being goals/objectives.

## **8. Financial implications**

- 8.1 In December 2018, Council approved a programme envelope of £71.3m, covering Band B new school builds of £68.2m and potential highways works of £3.1m (the cost of highway works will have to be met in full by the Council, as there is no match funding from Welsh Government). Following subsequent amendments to the capital programme, the updated position was that there were budgets of £49.504m for works and £3.4m for all Band B schools highways infrastructure within the capital programme, with the remaining Band B school build schemes funded via the revenue funded Mutual Investment Model (MIM).
- 8.2 £25m had been allocated within the overall £49.504m Band B capital budget for this project. In June 2022, Cabinet was advised that contractor inflation and the impact of COVID-19 and 'Brexit' will have a detrimental impact on the scheme costs. Cabinet was informed that Welsh Government had issued revised cost standards to local authorities, which address price increases and also cover decarbonisation and the commitment to deliver 'net zero carbon' schools. The impact of the revised cost standards was reported to Council in July 2022, and approval was received to increase the Council's overall Band B capital budget from £49.504m to £64.966m. The funding matrix detailing this funding increase has since been submitted to Welsh Government, and clearly sets out the additional Welsh Government funding required for the scheme at the 75% intervention rate. The cost of the scheme will continue to be reviewed regularly throughout the course of the project. Any changes to the total cost of the scheme or council contributions will be reported back to Cabinet and



Council as appropriate. There is no funding currently ringfenced or approved for the relocation of the residential and respite service alongside the replacement school in the current Capital Programme.

- 8.3 Any revenue implications resulting as a consequence of moving sites, including increases to the schools' delegated budget to cover a larger premises areas, and any potential increases in school transport costs, will not be known until the scheme is developed further.
- 8.4 Social Services and Wellbeing Directorate officers are in the process of submitting a capital bid for design and build of a new residential and respite centre through the regional housing with care capital funding. The design element can be claimed retrospectively if successful. It must be noted that should funding be granted, the Council will also be required to match-fund an element of the overall cost (approximately 42%) and a proposal would need to be progressed for Cabinet's consideration before seeking Council approval for any BCBC match funding to be provided through the Capital Programme. If the regional bid is unsuccessful the design costs will be underwritten by a Social Services and Wellbeing Directorate earmarked reserve.
- 8.5 As detailed in paragraphs 4.19 and 4.20 of this report, any abortive design fees/costs associated with the development would have to be funded by Council revenue budgets. Should this be required, this will be reported back to Cabinet in due course.

## **9. Recommendations**

- 9.1 Subject to Cabinet's decision on 18 October 2022 in relation to the outcome of the statutory notice process in respect of the replacement Heronsbridge School, Cabinet is recommended to:
- approve the preferred procurement strategy as set out in paragraphs 4.2, 4.3 and 4.16 in respect of the appointment of a design team and main contractor for Heronsbridge School;
  - give approval to proceed with the procurement process;
  - note that Cabinet will be presented with a future report regarding the outcome of the options appraisal in respect of Social Services and Wellbeing Directorate's residential and respite provision; and
  - note that Cabinet will be presented with a future report prior to awarding the main construction contract which sets out the position regarding project costs and budget.

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### **Background documents**

Equality Impact Assessment initial screening, Community Impact Assessment, Welsh Language Impact Assessment