

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

6 September 2016

JOINT REPORT OF THE CORPORATE DIRECTOR – EDUCATION AND FAMILY SUPPORT AND SECTION 151 OFFICER

SCHOOL MODERNISATION – GARW VALLEY SOUTH

1. Purpose of Report

The purpose of this report is to:

- 1.1 Seek approval to proceed with the Garw Valley South scheme at a revised overall project budget not exceeding £11.2 million.
- 1.2 Subject to Cabinet's approval above, note that the Chief Executive intends to make a revision to the Capital Programme
- 1.3 Delegate authority to the Corporate Director – Education and Family Support to conduct negotiations, if necessary, with the lowest priced tenderer, in accordance with procurement legislation
- 1.4 Subject to the successful outcome of any such negotiations, delegate authority to the Corporate Director – Education and Family Support to award a contract, the terms to be finalised in consultation with the Corporate Director – Operations and Partnerships and the s151 Officer.
- 1.5 grant approval to modify the decision made by Cabinet on the 1st September 2015, in respect of the proposal to make a regulated alteration to Ysgol Gynradd Gymraeg Cwm Garw, by varying the opening date of Ysgol Gynradd Gymraeg Cwm Garw from September 2018 to January 2019.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 This report supports the following priorities in the Corporate Plan 2016 - 2020:
 - Supporting a successful economy, and
 - Smarter use of resources.
- 2.2 The Council aims to help all young people to thrive and make the best of their talents. One of the barriers to achieving this aim that the Council has identified is a serious need to modernise our schools.

2.3 In March 2015, the Council set out 5 key principles to inform the organisation and modernisation of our schools:

1. Commitment to high standards and excellence in provision
2. Equality of opportunity, so that all pupils can access quality learning opportunities, regardless of which school they attend
3. Inclusive schools, which cater for the learning needs of all their pupils
4. Community focussed schools, where the school actively engages with its local community
5. Value for money

3. Background

- 3.1 On the 16th September 2014 Cabinet agreed to participate and be a signatory to the South East Wales Schools Capital Procurement Framework (SEWSCAP Framework) for a four year period, commencing April 2015.
- 3.2 On 31st March 2015 Cabinet agreed to proceed with a replacement of Betws Primary School on land which has been used as the playing fields of the existing school site, and which is also an area of public open space. On 1st September 2015 Cabinet approved the proposal to relocate Ysgol Gynradd Gymraeg Cwm Garw to the existing Betws Primary School site with effect from September 2018.
- 3.3 A planning application for the new schools (reference P/15/791/BCB) was submitted on 25th November 2015.
- 3.4 On 16th February 2016, Cabinet approved the publication of a S122(2A) Local Government Act 1972 Notice to consult on the appropriation of land at Betws Primary School in order to change the use from public open space to educational purposes.
- 3.5 As the JCT Standard form of Contract with Quantities had been omitted from the SEWSCAP Framework, on 15th March 2016 Cabinet approval was received to undertake a separate OJEU compliant tendering exercise for the construction of the Garw Valley South schools.
- 3.6 In addition, and on the same date, subject to the successful appropriation of land at Betws Primary School and obtaining of appropriate planning permission in respect of the planning application, approval was given to issue an invitation to tender for the construction of the new schools.
- 3.7 Upon completion of the consultation process in relation to the appropriation of land at Betws Primary School, Cabinet approval was received on 12th April 2016 to change the purpose of the land held from a leisure function to educational purposes.

- 3.8 Planning approval in respect of the scheme was received on 5th May 2016.
- 3.9 In July 2016, Cabinet delegated authority to the Corporate Director, Education and Family Support to award a contract in future to the bidder who would submit the most economically advantageous tender, subject to the tender price being acceptable to the s151 Officer and subject to receipt of Welsh Government funding approval.

4. Current Situation

- 4.1 Prices for the construction of the school were submitted by five of seven contractors who were invited to tender. Unfortunately, the construction costs received from each of the tenderers were initially higher than the available budget, ranging in price between £9.7 million and £12.65 million, against a construction budget of £8 million.
- 4.2 Due to concerns regarding the costs of the scheme and level of funding available which would have resulted in the inability to complete the scheme, Legal and Procurement advice was sought and the tender process was re-run, this time with a reduced specification, with the budget figure being made known to potential tenderers and allowing alternative proposals.
- 4.3 Revised tenders have now been received, based on a budget of £9.1 million. These are currently being considered by technical officers in the evaluation team to ensure that any proposals will meet design requirements, the available budget and Welsh Government funding conditions. Should officers consider that a contract cannot be awarded on the basis of the tenders under consideration, Cabinet's approval is sought to negotiate with the lowest priced tenderer, without further advertisement, in accordance with Regulation 32 (2) (a) of the Public Contracts Regulations 2015, which states as follows:
- (2) The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases: -
- (a) Where no suitable tenders....have been submitted in response to an open or restricted procedure.....provided that the initial conditions of the contract are not substantially altered and that a report is sent to the Commission where it so requests'
- 4.3 Officers have approached the Welsh Government capital funding team to explain the budget situation. Welsh Government officials have agreed in principle to officers seeking permission from Council to vire £1.2 million of the £1.5 million budget which is currently allocated against specialist provision for children with autism in the capital programme under the 21st Century Schools Programme, Band A, to the Garw Valley South Scheme to meet the shortfall in funding.

- 4.4 The £1.5 million scheme was initially conceived to provide specialist autistic spectrum places in a base in a mainstream school. Since then, following discussions with Head teachers, this provision was actually incorporated into the Bryncethin development and now forms part of Ysgol Bryn Castell.
- 4.5 Having established the provision in Ysgol Bryn Castell, a revised Strategic Outline Plan (SOP) was submitted to Welsh Government in respect of the specialist scheme. The revised SOP, which addressed the additional need to increase places in Heronsbridge, has recently received Welsh Government approval in principle.
- 4.6 With the proposed remaining funding, design work is currently being progressed to increase the number of places at Heronsbridge Special School. The estimated £300,000 cost of the scheme would be funded from the balance of the specialist provision funding within the 21st Century Schools Programme. Should any additional funding be required this would be met from school surplus balances which were earmarked at the end of 2015/16. This will be reported and approvals sought once the scheme has been established in detail. Construction will commence in July 2017 and the funding has been set aside for this. This mezzanine development will provide two additional teaching spaces in Heronsbridge Special School. Development beyond the mezzanine is not considered to be appropriate for the current Heronsbridge Special School due to limitations of the site overall.
- 4.7 In order to resolve the budget issues for Garw Valley South, work undertaken by the design team and contractor proposals which, coupled with the additional funding vired from the specialist provision scheme to Garw Valley South should result in the scheme being viable. Should a decision be taken not to proceed with the project with a revised budget of £11.2 million, it will be necessary to undertake a full review of the scheme which will result in the Council having to undertake a potential re-design and a further full procurement exercise and this would put the match funding from Welsh Government at serious risk. A revised scheme may not be achievable at all within Band A of the 21st Century Schools Programme.
- 4.8 Viring the funding between projects will not change the overall funding envelope of the Band A schemes. Formal approval from Welsh Government to vire the monies will need to be received in order to revise the allocations and this will be progressed.
- 4.9 Due to the urgency and the potential risk of losing Welsh Government funding in 16-17, it is necessary to resolve the funding issue in a timely manner. Therefore, should Cabinet approve the recommendations below, in view of the fact that the next full Council meeting is not until October, approval will be sought from the Chief Executive to vire the funding as detailed within this report and to revise the Capital programme accordingly, as an urgent matter in accordance with the Council's Scheme of Delegation. The matter will subsequently be reported at the next full Council meeting.

- 4.10 As a result of the retendering process, there has been a delay to the project programme. Should Cabinet approval be given to proceed with the project with the revised budget, then the contractor will commence construction later than originally planned and this will impact on the planned completion dates for both schools.
- 4.11 As the relocation of Ysgol Gynradd Gymraeg Cwm Garw was subject to a statutory notice, it is necessary for Cabinet to modify the decision made by Cabinet on the 1st September 2015, in respect of the proposal to make a regulated alteration to Ysgol Gynradd Gymraeg Cwm Garw by relocating the school to a new school building on the Betws Primary School site. It is considered that the school opening date will need to be modified from September 2018 to January 2019 as the delay in commencing construction means that the original school opening is considered no longer achievable.
- 4.12 Cabinet is requested to note that there is an exempt report on this matter to follow. The report is exempt by virtue of paragraph 16 of Part 4 of Schedule 12a of The Local Government Act 1972 as it contains legal advice. Therefore a decision cannot be made until that exempt item has been considered.

5. Effect upon Policy Framework & Procedure Rules

- 5.1 This report has no effect on Policy Framework and Procedural Rules.

6. Equality Impact Assessment

- 6.1 The Council's Equalities Impact Assessment Toolkit has been utilised which indicates that the proposal would have no impact on specific equality groups.

7. Financial Implications

- 7.1 The anticipated cost of the new Garw Valley South Schools will be funded by the Council and Welsh Government under the 21st Century Schools Programme for which the Authority has received '*approval in principle*'. The project is included within the Council's Capital Programme as approved most recently by Council in May 2016. The total approved budget for the Garw Valley Scheme is £10 million, comprising £9.6 million for the school and £400,000 for highways works. The financial profile for the scheme has been revised and approved in principle by Welsh Government to reflect the construction programme. Should approval be granted to vire the funding from the Heronsbridge Special School allocation, the revised project budget for the two replacement schools will be £11.2 million. The funding envelope for the overall 21st Century Schools Programme would remain unchanged.

8. Recommendation

- 8.1 Cabinet is recommended to:
- 8.1 grant approval to proceed with the Garw Valley South scheme at a revised overall project budget not exceeding £11.2 million.

- 8.2 Subject to Cabinet's approval of 8.1 above, note that the Chief Executive intends to make a revision to the Capital Programme to reflect the increased budget for the proposed Garw Valley South scheme and a corresponding reduction in the capital budget for the ASD scheme within the Band A funding envelope of the 21st Century Schools Programme and note that a report shall be presented to the next Council meeting in October detailing the revision to the Capital programme
- 8.3 Delegate authority to the Corporate Director – Education and Family Support to conduct negotiations, if necessary, with the lowest priced tenderer, in accordance with procurement legislation
- 8.4 Subject to the successful outcome of any such negotiations, delegate authority to the Corporate Director – Education and Family Support to award a contract, the terms to be finalised in consultation with the Corporate Director – Operations and Partnerships and the s151 Officer.
- 8.5 Grant approval to modify the decision made by Cabinet on the 1st September 2015, in respect of the proposal to make a regulated alteration to Ysgol Gynradd Gymraeg Cwm Garw by varying the opening date of Ysgol Gynradd Gymraeg Cwm Garw from September 2018 to January 2019 and serve the appropriate notices.

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Background Papers:

Cabinet Report, 16th September 2014 "CONTINUED SUPPORT OF THE SCHOOUTH EAST WALES SCHOOLS CAPITAL PROCUREMENT FRAMEWORK (SEWSCAP)"

Cabinet Report, 31st March 2015 “SCHOOL MODERNISATION PROGRAMME: GARW VALLEY SOUTH SCHEME (BETWS PRIMARY SCHOOL AND YSGOL GYNRADD GYMRAEG CWM GARW)”

Cabinet Report, 1st September 2015 “SCHOOL MODERNISATION PROGRAMME: OUTCOME OF PUBLIC NOTICE ON PROPOSAL TO MAKE A REGULATED ALTERATION TO YSGOL GYNRADD GYMRAEG CWM GARW BY RELOCATING THE SCHOOL”

Cabinet Report, 12th February 2016 “ SCHOOL MODERNISATION PROGRAMME PROPOSAL TO CONSULT ON APPROPRIATION OF LAND FOR EDUCATION PURPOSES AT BETTWS ROAD, BETTWS”

Cabinet Report, 31st March 2016 “SCHOOL MODERNISATION – GARW VALLEY SOUTH, INVITATION TO TENDER”

Cabinet Report, 12th April 2016 “SCHOOL MODERNISATION PROGRAMME: OUTCOME OF CONSULTATION ON APPROPRIATION OF LAND FOR EDUCATIONAL PURPOSES AT BETTWS ROAD, BETTWS”

Cabinet Report, 26th July 2016 “SCHOOL MODERNISATION – GARW VALLEY SOUTH, ACCEPTANCE OF TENDER AND CONTRACT AWARD”