

Report of Chief Officer, PPPU

**Report to Deputy Director, Learning Skills and Universal Services,
Children's Services**

Date: 22 October 2015

Subject: Request for approval of the proposed procurement route

Roundhay School Expansion Project



Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Roundhay	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

Approval of the procurement route is now required to enable the school expansion project to be progressed. The proposal is to use two separate routes to commission the works required. The Education Support Company (ESCO) will provide design services and construct enhanced car parking arrangements along with expansion to the existing dining facilities whilst the Leeds Education Partnership (LEP) will provide design services and construct the synthetic pitch, new pavilion building which includes enhanced changing provision for the school.

Roundhay secondary school forms part of the original 7 Schools PFI Project with services being delivered by The Education Support Company.

Roundhay through school was established in 2012, following the completion of a new primary school off-site. The first primary cohort of 60 pupils will move to the secondary school in 2019, the proposed scheme will enable an expansion from 250 to 300 pupils in Years 7 to 11 (a total of 1500 pupils in KS3 and KS4)

An initial Option Appraisal was prepared and a number of school expansion options were considered to meet the increased pupil numbers. (Appendix A). Option 1A (Traditional) was agreed with the School and Children's Services and includes extending the existing

dining room, providing new changing rooms to Sport England standard, increased car parking, a new synthetic pitch and a new pavilion building circa 3500m².

ESCO were consulted on the delivery of the overall proposed works and have been commissioned to carry out feasibility and detailed work on the extension to the existing dining block and the remodelling of existing parking facilities to create additional spaces. ESCO have confirmed they do not wish to deliver the new build pavilion accommodation or synthetic pitch. Therefore, the Council has discussed with ESCO a partial 'Surrender' of 2 defined areas of land from the existing PFI contract to enable the Council to construct a new pavilion and pitch. The report proposes that this element of the work will be designed and constructed by the LEP. The ESCO Board has confirmed they have no objection to the partial land surrender, subject to approval of the supplemental agreement and its associated interface and liability issues being identified and agreed.

Under the terms of the PFI contract ESCO have the exclusive right to carry out construction work (subject to some limits) including the works to the pavilion and the synthetic pitch but, as they do not wish to carry out this work, and have confirmed that they have no objection to the council using a third party to carry out the work we are satisfied that the council's delivery partner for secondary education projects, the LEP, can be commissioned through the terms of the Strategic Partnering Arrangement. The LEP have already been appointed using the "Additional Service Provision" to progress feasibility following approval granted by the Basic Need Programme Manager on 24 June 2015. Approval to use the LEP as the procurement route for the new building and pitch is required at this stage to enable an official request under the Strategic Partnering Agreement a 'new project procedure' request to be made to the LEP.

Due to the length of time the LEP and its partners will be expected to develop the design at risk the Council has agreed to underwrite a proportion of their pre-contract design fees totalling £462,428. These fees will become payable on submission of a detailed planning application for the works. It should be noted that this provides an equivalent position to that utilised with schemes procured through the YORBuild framework.

Therefore, it is proposed to deliver the project using a split procurement route, which will require:

- (i) ESCO to deliver the extension works to the existing dining Room and alterations to car parking. A 'Deed of Variation – Request for Authority Change for works and services' has been submitted to initiate this piece of work.
- (ii) – the Leeds Education Partnership (LEP) to deliver the new Pavilion building and Synthetic pitch under the Strategic Partnership Agreement via the New Projects Procedure.

It is intended that the works associated with the dining extension will be completed prior to the pavilion works commencing on site in order to avoid multiple contractors working in the same area. The amendments to the car park can continue during the pavilion works as they are situated at the opposite end of the school site.

Recommendations

The Deputy Director, Learning Skills and Universal Services, Children's Services is requested to:

- Note that Option 1A (Traditional) is the preferred option which includes extending the existing dining room, providing new changing room, increasing car parking, new synthetic pitch and a new pavilion building circa 3500m².
- Urgently approve the dual procurement route and commissioning of ESCO under the request for change variation procedure and appoint the LEP under a new projects procedure request to deliver the projects through to handover subject to Leeds City Council being satisfied the project offers value for money.
- That authority be given to expend pre contract design fees becoming payable on submission of detailed plans totalling £462,428
- Note that the Principal Development Officer allocated to this project is responsible for implementing the procurement strategy.

1 Purpose of this report

- 1.1 Approval of the proposed procurement route is now required to enable the school expansion project to be progressed using a dual procurement route with ESCO and the LEP.
- 1.2 Give authority to expend pre contract design fees totalling £462,428
- 1.3 Approval of the proposed procurement route along with associated fees to detailed design and planning submission stage is a Key Decision and will therefore be subject to call-in.

- 1.1 The current primary school population and birth cohort data are used to generate long term secondary school place projections. These show a rising demand until 2021/22, reflecting the steep rise in birth rates for those cohorts. This leads to a shortage of 200 year 7 places by 2016 and 375 by 2018.
- 1.2 A stakeholder event was held on 26 February 2015 to discuss the demand for pupil places in the area and to identify possible solutions. Roundhay through school, which is part of the '7 Schools PFI Project; was identified as a possible option for expansion to assist with the shortfall in the area.
- 1.3 Roundhay secondary school forms part of the original 7 Schools PFI Project with services being delivered by the ESCO.
- 1.4 Roundhay through school was established in 2012, following the completion of a new primary school off-site. Its first primary cohort will move into the secondary school in 2019. The feasibility study has identified a scheme which would enable an increase from 250 to 300 places in Year 7 to 11 (an overall total of 1500 pupils in KS3 and KS4) The school is currently the most oversubscribed secondary school in the city and is highly successful, with an outstanding Ofsted rating in both phases of provision.
- 1.5 In addition to the Basic Need programme approval by Executive Board in September 2014 this scheme was considered and supported by the Deputy Chief Executive and Director of City Development at the Basic Needs Project Board meeting on 8th September 2014. Consultation has also taken place with the appropriate Executive Members.
- 1.6 On 23 September Executive Board approved the proposal to increase the admission level of 250 to 300 in Year 7 to 11 from September 2017. A further report will be submitted to Executive Board on 21 October requesting approval to inject £13m into the capital programme for this scheme.

2 Main issues

- 2.1 The proposed procurement route requires approval to enable the school expansion to be delivered by June 2017.
- 2.2 An initial Option Appraisal was prepared and a number of school expansion options were considered to meet the increased pupil numbers. (Appendix A). Option 1A (Traditional) was agreed with the School and Children's Services and includes extending the existing dining room, providing new changing rooms, increased car parking, a new synthetic pitch and a new Pavilion building circa 3500m². The project team considered a number of contract structures including delivery by ESCO and incorporating the facilities into the existing PFI contract, engaging ESCO to build only and arranging for servicing and maintenance to be carried out by a 3rd party contractor and getting a 3rd party builder to carry out the construction works and a separate 3 party contractor to provide servicing and maintenance. The options considered for 3rd party builders included using the LEP, procuring through YORbuild and procuring through the open market. This is explained further at section 4.5 of this report.
- 2.3 ESCO were consulted on the delivery of the proposed works and have been commissioned to carry out the extension to the existing dining block and the remodelling of existing parking facilities to create additional spaces. ESCO have confirmed that they do not wish to deliver the new build Pavilion accommodation or synthetic pitch. Therefore, the council has discussed with ESCO a partial 'Surrender' of 2 defined areas of land out of the existing PFI contract to enable the Council to construct a new pavilion and pitch. The ESCO Board has confirmed that they have no objection to the partial land surrender, subject to approval of the supplemental agreement.
- 2.4 Under the terms of the PFI contract ESCO have the exclusive right to carry out construction work (subject to some limits) including the works to the pavilion and the synthetic pitch but, as they do not wish to carry out this work, and have confirmed that they have no objection to the council using a third party to carry out the work we are satisfied that the council's delivery partner for secondary education projects, the LEP, can be commissioned through the terms of the Strategic Partnering Arrangement. The LEP have already been appointed using the "Additional Service Provision" to progress feasibility following approval granted by the Programme Manager for Built Environments on 24 June 2015. Approval to use the LEP as the procurement route for the new building and pitch is required at this stage to enable an official request under the Strategic Partnering Agreement a 'new project procedure' request to be made to the LEP.
- 2.5 Therefore, it is proposed to deliver the project using a split procurement route, which will require:
- (i) ESCO to deliver the extension works to the existing dining Room and alterations to car parking. A 'Deed of Variation – Request for Authority Change for works and services' was submitted to formally initiate this piece of work.
 - (ii) – the Leeds Education Partnership (LEP) to deliver the new Pavilion building and Synthetic pitch under the Strategic Partnership Agreement via the New Projects Procedure.

It is intended that the works associated with the dining extension will be completed prior to the pavilion works commencing on site in order to avoid multiple contractors working in the same area. The amendments to the car park can continue during the pavilion works as they are situated at the opposite end of the school site.

3 Corporate Considerations

3.1 Consultation and Engagement

3.1.1 A stakeholder event was held on 26 February 2015 to discuss the demand for pupil places in the area and Roundhay Secondary School was identified as a possible solution. As part of the formal Statutory consultation process sessions were held with the Governing Body on 18 March, staff and student council on 23 March, and parents and members of the public on 14th, 23rd and 27th April. The proposal to expand the school was reported to Executive Board on the 22nd April 2015. Weekly meetings have been held with the school during feasibility and this will continue throughout the detailed design and construction stages. Ward Members will be briefed following the completion of feasibility and at key stages throughout the project. Executive Board approved the proposal to increase the admission level from 250 to 300 in Years 7 to 11 on 23 September 2015.

3.2 Equality and Diversity / Cohesion and Integration

3.2.1 An EDCI screening document will is attached.

3.3 Council policies and Best Council Plan

3.3.1 CPRs apply to this process and this Report confirms that the relevant CPRs have been adhered to.

3.3.2 Council Strategy includes “A key objective within the Best Council Plan 2013-2017 is to build a Child Friendly City with a 14/15 priority ‘ensuring sufficiency of school places’. The delivery of pupil places through Basic Need is one of the most baseline entitlements of a Child Friendly City and directly contributes to key outcomes identified within the Children and Young People’s Plan (CYPP) 2011-2015 such as our obsession to ‘improve behaviour, attendance and achievement’.

3.4 Programme and value for money

3.4.1 The approval of the procurement route will allow:

(i) ESCO to prepare a costed feasibility study and scheme design to enable submission of planning permission by the end August 2015 for the dining and car parking schemes. The planning submission will be submitted at risk before Executive Board final determination in order to meet the current delivery programme. However the level of risk associated with Executive Board objecting to the expansion is extremely low. The request to vary services will utilise the existing Change Procedure under the PFI Contract and this incorporates VFM assessments and cost benchmarking.

- 3.4.2 (ii) The LEP to be commissioned under the New Project Procedure to develop a full detailed scheme design and associated costings to enable submission of planning permission at the end of November 2015 and for the school to expand from September 2017. The design, project management and other professional fees quoted by the LEP have been assessed and are considered to provide value for money when compared against the fees charged by other organisations in the market. The appointment of the LEP will follow the New Projects Procedure this incorporates VFM assessments and cost benchmarking of the construction works. Market testing of work packages and sub-contractors will be carried out in stage 2 of the process, all as detailed in the Strategic Partnering Agreement between Leeds City Council and Leeds LEP Limited. The outcomes from the market testing will be shared with the Authority to ensure there is full transparency of costs. The council will not be obliged to proceed to award a contract for the construction of the new facilities by the LEP if it is not satisfied that the build cost that is submitted as part of the New Project Procedure is within the budget set at the outset of the process and that the required market testing has been carried out and that the works proposals satisfy the council's requirements.
- 3.4.3 An indicative budget estimate was initially prepared by NPS for all options (see Appendix A) the School and Children's Services preferred option is Option 1A (Traditional) with an approximate cost of £10.4m. However costs submitted at the end of feasibility have increased to £13m due to a number of reported abnormalities and constraints on site. These costs will be refined during each RIBA stage and once agreed will be included in the DCR for consideration by the Director of Children's Services. The approximate capital works split is ESCO works £1.1m and LEP works £11.9m (inclusive of construction costs, highways works, furniture/ICT and fees)
- 3.4.4 Due to the length of time the LEP and its partners will be expected to develop the design at risk the Council has agreed to underwrite a proportion of their pre-contract design fees totalling £462,428. These fees will become payable on submission of a detailed planning application for the works. It should be noted that this provides an equivalent position to that utilised with schemes procured through the YORBuild framework.

3.5 Legal Implications, Access to Information and Call In

- 3.5.1 Subject to approval of the procurement route, it is proposed that the existing SPV will carry out works 'and services' to deliver a dining extension and parking. This will be actioned under the Deed of Variation– Request for Authority Change for works and services'. As these two areas are intrinsically linked to the existing school buildings there would be contractual and operational issues if these new facilities were not constructed and subsequently maintained and managed by ESCO.
- 3.5.2 Several delivery proposals were considered for the pavilion building and synthetic pitch and the preferred option by ESCO, LCC and the school is to carve out 2 areas of land from the PFI contract.
- 3.5.3 It is anticipated that substantial operational savings will be made if the cleaning and maintenance of the pavilion and the pitch is carried out through a standalone

contract for services rather than through the PFI contract. As these facilities are “standalone” and are not directly linked to existing buildings it should (subject to negotiations with ESCO on access and liability issues) be possible to agree terms that allow a third party contractor to perform these services. If ESCO are not providing the operational services post build, it opens up the possibility of not using them for the construction work. Recent market experience suggests that using a third party contractor to carry out these works would result in the works being carried out for a price and programme that at least matches what ESCO could provide and is likely to improve on it.

- 3.5.4 ESCO were requested to provide an opinion on who should construct the pavilion and the synthetic pitch and have responded in writing confirming that they do not wish to carry out this work and have no objection to the council contracting with a third party to do so (a letter confirming this is attached at appendix B)
- 3.5.5 The Leeds LEP has exclusivity over secondary school construction projects under some circumstances. As ESCO have declined to carry out this work the LEP believes that it has the exclusive right to carry out this work. Council officers are satisfied that using the LEP to carry out this work under the terms of the Strategic Partnering Agreement is lawful. The LEP’s views on exclusivity and desire to carry out this work along with the programme constraints, the information that we have on the fees to be charged by the LEP (see paragraph 4.4.2) and the fact that the construction cost will be benchmarked and market tested (see paragraph 4.4.2) have persuaded officers that the LEP offers a value for money solution and that exploring the possibility of opening the project up to wider competition would not be a good use of time and resources on this occasion.
- 3.5.6 Access to the site – it is proposed that the dining and car parking works being delivered through ESCO are completed in advance of the LEP constructing the main pavilion building and pitch. The site plan (attached at appendix C) shows that access to the site of the pavilion and the synthetic pitch during the construction period can be achieved and will not involve construction traffic using the main school entrance or crossing the main school site.
- 3.5.7 Subletting of land – it is proposed that an area of land to the rear of the site is temporarily removed via a sub-letting agreement to facilitate the construction of the pavilion, site cabins and site access road. This will allow the LEP to secure the rear area of the site for construction purposes only and be completely segregated from the school. The land will be returned to the ESCO to maintain following reinstatement and completion of the LEP works.
- 3.5.8 This is a Key Decision and is subject to call in.

3.6 Risk Management

- 4.6.1 The project to deliver the expansion of Roundhay School is subject to Risk Management processes within the Project Programmes and Procurement Unit utilising PMLite best practice tools and techniques.

4 Conclusions

- 4.1 The Learning Places Project team and Children's Services have reviewed the scheme requirements and procurement routes available and are recommending approval of the dual procurement route, as set out in this report.

5 Recommendations

The Deputy Director, Learning Skills and Universal Services, Children's Services is requested to:

- Note that Option 1A (Traditional) is the preferred option which includes extending the existing dining room, providing new changing room, increasing car parking, new synthetic pitch and a new pavilion building circa 3500m².
- Urgently approve the dual procurement route and commissioning of ESCO under the request for change variation procedure and appoint the LEP under a new projects procedure request to deliver the projects through to handover subject to Leeds City Council being satisfied the project offers value for money.
- That authority be given to expend pre contract design fees becoming payable on submission of detailed plans totalling £462,428.
- Note that the Principal Development Officer allocated to this project is responsible for implementing the procurement strategy

6 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.