

Report of the Head of Programme (Technical) (PPPU)

Report to Built Environment Programme Manager, Children's Services

Date: 26 April 2016

Subject: Decision Report on the Temporary Modular Accommodation for Bulge Primary Schools - Pre-Construction Agreement



Scheme Number: 59327 BAS PPP

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Access to Information' Procedure Rules 10.4 (3)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Children's Services have budgeted to deliver a number of schemes to provide additional accommodation during 2016 as part of a 'bulge' programme which provides an extra 21FE of accommodation. These schemes will form part of the overall Learning Places programme, and individual capital spending approval requests will be brought forward in due course when design and cost information has been fully developed. The 2016 Bulge Schemes will expand through a combination of internal remodelling and installation of modular units on sites to accommodate the extra pupils.
2. The Schemes which require the installation of modular units will be delivered through Direct Selection via the YORbuild2 Framework in line with the Learning Places Procurement Strategy which was approved on 18 February 2016. Clugston Construction Ltd. was selected and formally appointed via this route on 29 February 2016, and has commenced design work on the Schemes.
3. Approval is required for a Pre-Construction Agreement so that the Council have an appropriate contractual position and partnership working arrangement with Clugston Construction Ltd. The agreement will provide the contractor with assurance that they will be reimbursed for costs incurred for surveys and costs incurred should any

Schemes be cancelled, and provide the Council with assurance of agreed fixed design fees for work prior to the main contract.

4. This report also seeks approval from the Built Environment Programme Manager to underwrite the liability up to a maximum of £75,000 to enable the Scheme designs to be developed prior to contract award in May 2016 and liability up to a maximum of £85,000 to pay for required site surveys.

Recommendations

5. The Programme Manager Built Environment is requested to approve:
 - entry into a Pre-Construction Agreement with Clugston Construction Ltd to develop designs relating to the installation of modular accommodation on 9 Primary Schools with a liability up to a maximum £75,000 for bid, design and Building Control fees should the Council decide to cancel all of the Schemes prior to signing construction contracts and a liability up to a maximum of £85,000 to pay for required site surveys.
 - underwriting the potential expenditure up to a maximum of £75,000 to cover the liability should the Council cancel all 9 Schemes and up to a maximum of £85,000 to pay for required site surveys.

1. Purpose of this Report

1.1 The purpose of this report is to approve:

- entry into a Pre-Construction Agreement with Clugston Construction Ltd to develop designs relating to the installation of modular accommodation on 9 Primary Schools with a liability up to a maximum of £75,000 for bid, design and Building Control fees should the Council decide to cancel all of the Schemes prior to signing construction contracts and a liability up to a maximum of £85,000 to pay for required site surveys.
- underwriting the potential expenditure up to a maximum of £75,000 to cover the liability should the Council cancel all 9 Schemes and up to a maximum of £85,000 to pay for required site surveys

2. Background Information

- 2.1 As a consequence of the increasing birth rate in Leeds, it is necessary to provide extra modular accommodation at Primary Schools in Leeds as part of the 2016 Bulge Programme. The expansion to provision at these Primary Schools is planned to be available from September 2016.
- 2.2 These Schemes will be completed under the City Council's Learning Places 2016 Bulge Programme which aims to ensure its statutory duties are met with respect to ensuring a school place for every child within the city and was approved by Executive Board in December 2014.
- 2.3 The proposal for the extension to these schools forms part of the on-going work to address capacity and sufficiency across all of Children's Services, which includes provision for primary and secondary school places, early years, as well as specialist provision. These proposals form part of the Council's Learning Places Programme that embeds the 'one council' approach that has achieved shared ownership of proposed solutions.
- 2.4 A total of 9 school sites were initially identified as requiring additional modular accommodation to allow an extra intake of pupils (bulge) from September 2016, based on pupil numbers and demographic predictions known in Jan 2016. Following examination of parental preferencing data during March 2016, Childrens Services decided they would confirm 7 Schemes and cancel 2.

3 Main Points

3.1 Proposal

- 3.1.1 A total of 9 school sites were initially identified as requiring additional modular accommodation to allow an extra intake of pupils (bulge) from September 2016, based on pupil numbers and demographic predictions known in Jan 2016. This initial list of school sites (1st Tranche) has been provided in the Pre-Construction Agreement for design development by Clugston Construction Ltd.
- 3.1.2 The Council reviewed the temporary modular accommodation bulge requirements during **March 2016** following receipt of Primary Application

Parental Preferences and decided that 7 of the identified 1st Tranche Schemes would be confirmed as progressing and the other 2 would be cancelled. The Council also reviewed the need for any new 2nd Tranche Schemes and decided that there was no further need for schemes requiring temporary modular units. The contractor was formally informed of the Confirmed Schemes on 11 April 2016.

- 3.1.3 There is the potential however for further cancellation of Schemes between 26 April 2016 and contract award on 23 May 2016 if for instance appeals make a significant change to school place requirements in one or more demographic areas.
- 3.1.4 A Pre-Construction Agreement is required so that the Council have an appropriate contractual position and partnership working arrangement prior to main contract signature and to ensure the Schemes can be developed and completed in line with the programme. The Agreement will allow the contractor to develop designs for the Schemes with assurance that they will be reimbursed for costs incurred for surveys and costs incurred should one or more Schemes be cancelled prior to the main contract award. It will also provide the council with assurance of agreed fixed design fees for work prior to the main contract.
- 3.1.5 During the Pre-Construction Agreement, the contractor will develop the designs for the Schemes resulting in the following outputs:
 - 3.1.5.1 Submission of Outline Tenders for each Scheme (1st and 2nd Tranche)
 - 3.1.5.2 Submission of Detailed Tenders for each Scheme (Confirmed 1st and New 2nd Tranche)
- 3.1.6 Following submission and agreement of the Detailed Tenders, one or more contracts will be awarded between 23 May and 03 June 2016.
- 3.1.7 Although the maximum liability under the Pre-Construction Contract for cancellation of all 9 schemes after full design development is £65,000 plus £10,000 for Building Control fees, the probability is that the cost for cancellations will be much lower. The number of schemes cancelled is likely to be somewhere between 0 and 4, and cancellation is more likely to occur sometime before the Schemes are fully developed. Taking this into consideration, the cancellation cost is anticipated to be in the region of between £0 and £14,000.
- 3.1.8 A copy of the Pre-Construction Agreement can be found in Appendix A.

3.2 Programme

3.2.1 The key milestones to achieve this programme are detailed below:

Clugston Construction selected via Direct Selection	09 - 29 Feb 2016
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1 st Tranche Outline Tender Submission	Draft: 22 Mar - 01 Apr 2016 Final: 07-14 Apr 2016
1 st Tranche Detailed Tender Submission	Draft: 28 April 2016 Final: 03 -10 May 2016
Letter of underwriting	03 May 2016
2 nd Tranche Outline Tender Submission	Not applicable
2 nd Tranche Detailed Tender Submission	Not applicable
Contract/s awarded	23 May 2016
Start on Sites	16 June – 21 July 2016
Project completion	30 August 2016

3.2.2 A copy of the initial programme is contained within the Pre-Construction Agreement at Appendix A.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The proposed Schemes and associated works have been the subject of consultation with Children's Services Officers leading on the bulge programme, Corporate Finance and representatives from the schools' leadership team and Governing Bodies.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The recommendation within this report does not have any direct nor specific impact on any of the groups falling under equality legislation and the need to eliminate discrimination and promote equality. A screening document was prepared and is submitted at Appendix B. The approved screening document was sent to the Equality Team to be published and held on file.

4.3 Council Policies and Best Council Plan

4.3.1 This scheme is to be delivered under the City Council's Learning Places Programme and is required to fulfil the Local Authority's statutory responsibility to provide sufficient school places.

4.4 Resource and Value for Money

4.4.1 All Schemes have been procured in accordance with Leeds City Council's contract procedure rules.

- 4.4.2 The Council has used its best judgement based on demographics, projections and discussions with schools before deciding which 2016 Bulge Schemes to procure in order to try and minimise the costs incurred due to the potential for some schemes to be cancelled. However the timing of Primary Application Parental preferences means that changes to overall pupil numbers or planning areas where extra classes are required, may arise after work has started to develop the Schemes. To remain flexible and responsive, the Council need to be able to cancel Schemes where required so that further costs are not incurred in creating places which are not required or used and create new ones if necessary to provide the sufficient places in the right areas of the city.
- 4.4.3 The liability under the Pre-Construction Agreement for cancellation of 9 schemes is a maximum of £75,000 for design costs, bid costs and any Building Control fees. Any associated cancellation fees will not be eligible to be capitalised and would need to be met from the Children's Services revenue budget. For schemes which go ahead these costs will be funded from the capital scheme. It is most likely however, that the number of Schemes cancelled will be somewhere between 0 and 4, and cancellation is more likely to occur sometime before the Schemes are fully developed. Taking this into consideration, the cancellation cost is more likely to be between £0 and £14,000.
- 4.4.4 Other liabilities under the Pre-Construction Agreement are for site surveys which amount to a maximum of £85,000. These surveys will be paid on submission of the survey report and are a valuable asset to the Council whether or not the Schemes go ahead.

4.5 Legal Implications, Access to Information and Call-In

- 4.5.1 This report constitutes a Significant Operational Decision and as such will not be subject to 'Call-In'.
- 4.5.2 The Built Environment Programme Manager has the authority to make this decision under powers granted within part 3 of the Council's Constitution and specifically under the Director of Children's Services Sub-Delegation Scheme.

4.6 Risk Management

- 4.6.1 Risk for this project is being managed through the application of 'best practice' project management tools and techniques via the City Council's Project Management methodology. Procurement resource has been allocated from within the Projects Programmes & Procurement Unit and a risk log is maintained for the schemes throughout the project lifecycle. Escalation of procurement related issues is via the Head of Programme, PPPU, with general bulge programme issues being escalated to the Built Environment Programme Manager.
- 4.6.2 Prior to the Primary Application Parental Preferences being assessed during March 2016, Procurement has commenced on 9 Schemes as part of the 2016 Bulge Programme which aims to ensure the Council's statutory duties are met with respect to ensuring a school place for every child within the city by September 2016. If the Council had not commenced the procurement in February 2016, there would have been a risk that the Schemes will not be

complete by September 2016, resulting in insufficient school places being available.

- 4.6.3 Whilst the Council has used its best judgement based on demographics, projections and discussions with schools before deciding which Bulge Schemes to procure to try and minimise the possibility of Schemes being cancelled and cost incurred, it needs to remain flexible and responsive to the outcome of Primary Application Parental Preferences. If the Council did not account for the outcome of these preferences in their positioning of Bulge Schemes, there is a risk of pupils not having access to places at the right schools in the right areas.

5 Conclusions

- 5.1 The Council has commenced a procurement through YORbuild in order to ensure delivery of the 2016 Bulge Primary School places by September 2016. In order to regularise the contractual arrangement and account for the possibility of Schemes being cancelled by the Council after Primary Application Parental Preferences, a Pre-Construction Agreement has been prepared. It is recommended that the Council enter into the Agreement and accept the risk of cancellation fees and surveys in order to maintain progress which will ensure that sufficient Primary places are in place for September 2016.

6 Recommendations

- 6.1 The Programme Manager Built Environment is requested to approve:

- entry into a Pre-Construction Agreement with Clugston Construction Ltd to develop designs relating to the installation of modular accommodation on 9 Primary Schools with a liability up to a maximum £75,000 for bid, design and Building Control fees should the Council decide to cancel all of the Schemes prior to signing construction contracts and a liability up to a maximum of £85,000 to pay for required site surveys.
- underwriting the potential expenditure up to a maximum of £75,000 to cover the liability should the Council cancel all 9 Schemes and up to a maximum of £85,000 to pay for required site surveys.

7 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.