

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 29 July 2019</b>
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Whitmore High School - Acceptance of Stage Two Tender
Purpose of Report:	To seek Cabinet approval to enter into a contract for the new build works at Whitmore High School as part of the Councils 21st Century Schools Programme.
Report Owner:	Cabinet Member for Education and Regeneration
Responsible Officer:	Paula Ham, Director of Learning and Skills
Elected Member and Officer Consultation:	<p><b>Officers Consulted</b></p> <p>Trevor Baker: Head of Strategy, Community Learning and Resources  Jane O'Leary: 21st Century Schools Programme Manager  Carolyn Michael: Operational Manager, Accountancy  Victoria Davidson: Operational Manager, Legal Services</p>
Policy Framework:	This is a matter for Executive decision by the Cabinet.
<p><b>Executive Summary:</b></p> <ul style="list-style-type: none"> <li>On 15 October 2018 Cabinet approved the appointment of Morgan Sindall Construction and Infrastructure Ltd to undertake the new build works at Whitmore High School following a competitive two-stage tender exercise utilising the South East Wales Schools and Capital Funding (SEWSCAP) contractor framework.</li> <li>A Professional Services Contract was executed for design and procurement services, as well as initial site surveys. The design has now been finalised and will be considered by the Council's Planning Committee on 31 July 2019.</li> <li>Morgan Sindall Construction and Infrastructure has now submitted their final cost plan to undertake the full new build works.</li> <li>A Project Bank Account would be established by the contractor in accordance with Welsh Government funding requirements.</li> </ul>	

## **Recommendation**

1. That Cabinet notes this report and considers it in connection with the Part II report later in the agenda.

## **Reason for Recommendation**

1. To allow Part I and II reports to be considered together.

## **1. Background**

- 1.1** The 21st Century Schools and Education Programme is a unique collaboration between the Welsh Government and Local Authorities. It is a major long term strategic capital investment programme with the aim of creating a generation of 21st Century Schools in Wales.
- 1.2** In July 2017, the Council submitted its Strategic Outline Programme (SOP) to Welsh Government, identifying the projects included within the Band B programme.
- 1.3** On 10 November 2017, the Education Secretary Kirsty Williams announced that the Council's proposals met Welsh Government's investment objectives and subject to approval of the individual business cases, Welsh Government is committed to supporting all of the projects presented. This was confirmed in writing on 6 December 2017.
- 1.4** On 22 January 2018, Cabinet approved the proposed Band B phase of the 21st Century Schools Programme (minute C199). Funding for the projects was based on an anticipated Welsh Government intervention rate of 50% funding for non-faith school schemes and 85% funding for Voluntary Aided faith school schemes.
- 1.5** On 21 November 2018 Welsh Government and WLGA issued a joint statement announcing a change to the Welsh Government intervention rate for the 21st Century Schools Programme. Welsh Government funding for non-faith school schemes would increase from 50% to 65%. A new intervention rate was introduced for facilities for those pupils with additional learning needs and those in pupil referral units at 75% Welsh Government funding.
- 1.6** Due to the above policy change, on 7 January 2019 Cabinet approved an amended Band B 21st Century Schools Programme to take into account emerging new priorities. A further report on 15 July 2019 detailed further amendments to the Band B 21st Century Schools programme and that report was approved by Cabinet for further submission to Welsh Government.

## **2. Key Issues for Consideration**

### **Appointment of Contractor**

- 2.1** A two stage tender process was utilised to appoint a contractor to undertake the new build works at Whitmore High School. The Council used the South East

Wales Schools and Capital Funding (SEWSCAP) Contractor Framework. The SEWSCAP Framework was established for Local Authorities and public bodies with regard to procurement of schools and public buildings. The two stage tender process ensures the contractor is involved prior to the completion of all the information required to enable a total build price to be established. All Band A projects were tendered under this framework which is endorsed by Welsh Government.

- 2.2** The design and programme of works has now been finalised and will be considered by the Council's Planning Committee on 31 July 2019. Morgan Sindall Construction and Infrastructure Ltd have now submitted their final cost to deliver the programme of works.
- 2.3** The overall project cost is within the project cost of £30,500,000 included within the Council's capital programme.
- 2.4** Further details of the Council and AECOM's stage two evaluation are outlined in the Part II item on this agenda.
- 2.5** On 25 April 2019, the Council submitted the full business case to Welsh Government for the Transforming English and Welsh Medium Education in Barry project. On 5 June 2019, the Council was notified that the business case had been approved by the Minister for Education. £22,622,000 was requested from Welsh Government for the Whitmore High School project, with the additional £7,878,000 being funded by the Council. The £7,878,000 is included within the Council's capital programme.

### **Project Bank Accounts**

- 2.6** Welsh Government is committed to ensuring that sub-contractors involved in the delivery of public sector contracts in Wales are treated fairly. Previous experience suggests that payment practices have been historically poor throughout the supply chain and has led to cashflow pressures, which can have a greater effect on smaller companies further down the supply chain.
- 2.7** In order to improve this situation and to provide greater certainty of payment through the supply chain and to optimise payment periods to minimise financing charges, Welsh Government procurement policy requires Project Bank Account (PBA) arrangements to be used for publicly funded construction/infrastructure projects. PBAs are considered as best practice in the adoption of fairer payment practices and ensuring certainty and quicker payment through the supply chain. Welsh Government has therefore requested that a Project Bank Account is set up as a vehicle to making payments under the design and build contract for this scheme.
- 2.8** PBAs are ring fenced bank accounts with trust status which act solely as a receptacle for transferring funds from the client to the lead contractor and its sub-contractors. PBAs allow simultaneous payments to all levels of the supply chain.
- 2.9** As the PBA has trust status, monies can only be paid to the named beneficiaries of the PBA. These would be the lead contractor and other sub-contractors within

the project's supply chain. The Vale of Glamorgan Council and the lead contractor would both be trustees of the account, however the account would be set up by the lead contractor.

- 2.10** As this project is part funded by Welsh Government, a PBA would be required. The Project Bank Account would be set up by Morgan Sindall Construction and Infrastructure Ltd and payments would be authorised by the Council.
- 2.11** Before implementing a PBA, consideration has to be given to its compliance with the Council's Treasury Management and Investment Strategy. The Council will only place its funds with institutions which have a credit rating of A- or higher if they are domiciled in the UK. The PBA would therefore need to be opened with an institution which meets this minimum requirement.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The Well-being of Future Generations Act 2015 (“the 2015 Act”) requires the Council to think about the long-term impact of their decisions, to work better with people, communities and each other and to prevent persistent problems such as poverty, health inequalities and climate change.
- 3.2** To make sure we are all working towards the same purpose, the 2015 Act puts in place seven well-being goals on the Council. The 2015 Act makes it clear the listed public bodies must work to achieve all of the goals, not just one or two, these being:
- A prosperous Wales
  - A resilient Wales
  - A healthier Wales
  - A more equal Wales
  - A Wales of cohesive communities
  - A Wales of vibrant culture and Welsh Language
  - A globally responsible Wales
- 3.3** This proposal contributes to achieving the wellbeing goals by:
- Improving sustainability of school buildings through the creation of BREEAM Excellent accommodation.
  - Ensure an efficient supply and demand of school places across the Vale of Glamorgan through effective forecasting of future demand.
  - The new school would be designed to better meet the needs of pupils. The new building would provide break out/wellbeing areas for students with additional learning needs.

- A key objective of the 21st Century Schools Programme is to Increase the level of community access and interaction through the use of the school’s educational facilities whilst meeting the needs of the school.
  - Supporting contractors to deliver a programme of community benefits that aims to reduce unemployment through increased apprenticeship opportunities.
- 3.4** The 2015 Act imposes a duty on all public bodies in Wales to carry out “sustainable development”, defined as being, "The process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals." The action that a public body takes in carrying out sustainable development includes setting and publishing well-being objectives, and taking all reasonable steps in exercising its functions to meet those objectives.
- 3.5** Previously completed Band A projects have contributed to improving the economic and environmental wellbeing of Wales as follows.
- Over 70% of project spend has been within Wales.
  - Over 90% of the workforce has been recruited from within Wales
  - A minimum of 80% of waste has been averted from landfill and recycled.
- 3.6** The 2015 Act sets out five ways of working needed for the Council to achieve the seven well-being goals, these being:
- The importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs.
  - Considering how the Council’s objectives impact upon each of the wellbeing goals listed above.
  - The importance of involving people with an interest in achieving the well-being goals and ensuring that those people reflect the diversity of the area which the Council services.
  - Acting in collaboration with other persons and organisations that could help the Council meet its wellbeing objectives.
  - Acting to prevent problems occurring or getting worse.
- 3.7** The Council has committed as part of the Corporate Plan 2016-20 to achieving a vision of ‘Strong Communities with a Bright Future’. This plan is reflective of the Welsh Government’s Well-being of Future Generations Act and is comprised of a number of Well-being objectives to deliver this vision.
- 3.8** Well-being Outcome 3, ‘An Aspirational and Culturally Vibrant Vale’ is specifically linked to education with a number of objectives contributing to the 21st Century Schools programme. We have prioritised the need to raise standards of achievement as one of our well-being objectives. We are proud of the Vale of Glamorgan and our place in Wales and that the use of the Welsh language is growing in the Vale. We respect and value diversity within our communities and recognise the importance of promoting equality of opportunity. We also

appreciate our unique heritage and culture and the importance for people of all ages to enjoy a range of activities and to have opportunities to be creative. We have therefore identified valuing culture and diversity as one of our eight well-being objectives.

**3.9** Details of the objectives that the 21st Century Schools Programme supports and contributes to are outlined below.

**Well-being Outcome 3: An Aspirational and Culturally Vibrant Vale**

- All Vale of Glamorgan citizens have opportunities to achieve their full potential.

**Objective 5: Raising overall standards of achievement.**

- Improve standards of achievement for pupils through sharing excellence between schools and the targeting of resources.
- Secure improved outcomes for groups of learners at risk of underachievement, such as those entitled to free school meals.
- Increase the learning opportunities for disadvantaged individuals and vulnerable families.
- Reduce the number of young people not in education, employment or training.
- Improve outcomes for post 16 learners through greater cooperation between schools, training providers and businesses.
- Secure aspirational outcomes for learners with additional learning needs through early intervention and effective collaboration in line with the proposed Additional Learning Needs Bill.

**3.10** The construction would be undertaken in line with the five ways of working, promoting collaboration and ensuring all stakeholders are involved throughout the development of the project.

## **4. Resources and Legal Considerations**

### **Financial**

- 4.1** The capital cost for the new build works at Whitmore High School is £30,500,000. This amount is currently included within the Capital Programme.
- 4.2** The project is jointly funded by the Council and Welsh Government, through the 21st Century Schools Programme. Welsh Government have approved the Council's full business case for £22,622,000 funding. The remaining £7,878,000 is included within the Council's capital programme.

### **Employment**

- 4.3** All staff would transfer to the new school building upon completion on existing terms and conditions.

### **Legal (Including Equalities)**

- 4.4 It will be necessary to enter into formally executed contracts with the successful bidder.
- 4.5 A Trust Deed would be required to establish the PBA and sub-contractors would join the PBA through the completion of a Deed of Adherence. As a trustee, the Council would be required to execute these deeds.
- 4.6 There are no Equal Opportunities implications for this report.

### **5. Background Papers**

- 21st Century Schools Programme - Band B Update and Current Position, 7 January 2019 (Cabinet minute C539)
- Whitmore High School - Acceptance of Tender, 15 October 2018 (Cabinet minute C457)
- Project Bank Account (PBA), 27 February 2018 (Audit Committee minute 725)
- 21st Century Schools Programme - Band B, 22 January 2018 (Cabinet minute C199)