

## **WIRRAL COUNCIL**

**CABINET – 25th NOVEMBER 2010**

### **REPORT OF THE INTERIM DIRECTOR OF CHILDREN'S SERVICES**

#### **BIRKENHEAD HIGH SCHOOL FOR GIRLS ACADEMY – CAPITAL WORKS, CONTRACT AWARD AND FINAL BUSINESS CASE SUBMISSION**

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#### **EXECUTIVE SUMMARY**

This report updates Cabinet in respect of the progress of the capital scheme under the National Academies Framework at Birkenhead High School for Girls Academy and seeks approval to award the contract valued at £12.125m to Willmott Dixon, under the national Partnerships for Schools (PfS) procurement framework. Cabinet is also asked to approve the Final Business Case which will be submitted to Partnerships for Schools. The draft Final Business Case is attached as Appendix 1. Sections 2, 5 & 6 of the draft Final Business Case which are commercially sensitive have been removed from Appendix 1 but form an Appendix in the exempt section of the agenda. It is intended that the final contract award to Willmott Dixon will not be made until the authority has Partnerships for School's approval of the Final Business Case and the funding is confirmed by PfS.

#### **1.0 Background**

- 1.1 Cabinet approved in principle the proposal to establish an Academy at the then Independent Birkenhead High School for Girls in June 2008. Further approval, with some reservations was given in January 2009. In July 2009 Cabinet approved the appointment of a Technical Adviser as required under the PfS Project Management and Technical Adviser Framework and Mott MacDonald was appointed. In November 2009, Cabinet approved the Outline Business Case for the capital investment at the school, agreed any funding gap would be funded by the council and approved the relevant Section 151 letter to be drawn up and submitted to PfS. The last report to Cabinet in June 2010 confirmed its approval for Willmott Dixon to be appointed as Preferred Bidder and for detailed contractual and design developments to continue.
- 1.2 Since the last report on the 24<sup>th</sup> June 2010 when Willmott Dixon was approved as the Preferred Bidder there have been two key developments:-
  - 1) Detailed Contractors Proposals were received from Willmott Dixon on the 8<sup>th</sup> November 2010 and have been scrutinised in detail by the full project design team including the academy sponsor and the academy to ensure compliance with the Authority's and Academy's requirements as defined during the Outline Business Case and Procurement stages.
  - 2) The PfS National Framework Agreement 2007 under which this Academy has been procured is due to expire at the end of the 2010 calendar year. The form of contract to be entered into with the Preferred Bidder is a Design & Build Batched Contract which gives the Authority the option, but not obligation, to include a second Academy without the need to enter into the full procurement process again. The PfS National Framework Agreement states that any Batched Contract has to be executed 3 months prior to its expiry on 31 December 2010. In order to comply with this time limit, the Batched Design & Build Contract was signed by Willmott Dixon and the Local Authority on 29 September 2010 for the demolition of the uniform shop building at the Birkenhead High School Academy for a nominal

contract sum. The main works for Birkenhead High School Academy will now be executed as a single Design & Build Contract under the future schools agreement contained within the Batched Contract. The future schools agreement is the mechanism for any future Academy capital projects to be included at the discretion of the Authority.

- 1.3 The project requires a Legal Development Agreement to be drawn up between the council, the Girls Day School Trust and the Academy to allow the works to progress. The council does not own any of the site currently, nor will it on completion of the works. This legal work is in progress.

## **2.0 Final Business Case**

- 2.1 As a requirement of the Partnerships for School Framework, the Final Business Case provides details of the Local Competition carried out, the affordability of the final solution and the arrangements in place for contract administration and monitoring. PfS will be required to approve the Final Business Case before the contract can be awarded and the funds for the Design and Build contract released by PfS. This then allows the Authority to commit contractually to the scheme with the Preferred Bidder Willmott Dixon before 22 December 2010.
- 2.2 The Final Business Case builds upon the Outline Business Case previously submitted by the LA to PfS in November 2009 which was subsequently approved by them.

- 2.3 Approval of the Final Business Case is expected in early December which is conditional on full planning consent and Cabinet approval. This document is at a draft stage at the server deadline for this report but will be available to members prior to the Cabinet date. The draft Final Business Case is attached as Appendix 1. Sections 2, 5 & 6 of the draft Final Business Case which are commercially sensitive have been removed from Appendix 1 but form an Appendix in the exempt section of the agenda.

## **3.0 Design and Build Contract**

- 3.1 The Design and Build (D&B) Contract Framework being used in this procurement falls within the Academies National Framework, which is administered and monitored by Partnerships for Schools.
- 3.2 The Contract Proposals give details of the methodology of programme delivery and the technical detail of the completed project. It is this detail which allows the design team to seek approval of the contract and to obtain permission from Partnerships for Schools via the Final Business Case to proceed to financial close.
- 3.3 The contractor's proposals are the culmination of months of discussion and development of the design between Willmott Dixon and their professional design team, the LA, Academy, Academy sponsors and the Authority's technical advisors in order to achieve the Authority's and Academy's requirements as defined during the Outline Business Case and Procurement stages for the Birkenhead High School Academy. The Contractor's Proposals and thus design will be fixed upon contract award with the exception of a small number of mutually agreed areas which will be developed post contract award. Particular care has been taken to ensure that the risk of any funding gap in the procurement of the works has been minimised and the scheme can be funded from the national capital grant.
- 3.4 Monitoring of the delivery of the Design & Build contract is undertaken by the Authority's representative (Technical Services Department). The Authority's

Representative is defined in the contract as a technically qualified person with a construction background and knowledgeable in Contract Administration. The Authority's Representative shall exercise the functions and powers of the Authority in relation to the Works as identified in the contract.

Progress meetings will be held on a monthly basis with additional meetings as requested and mutually agreed. Present at the meetings will be representatives from the contractor, Authority, Academy, Sponsor and Technical Advisor. Items for discussion at the meetings will include: progress of the design and/or construction, review of the Risk Register and any events impacting upon either the delivery or cost of the project, health and safety matters and valuations for payment.

The design group is considering the appointment of a Clerk of Works to ensure quality of work being undertaken by Willmott Dixon.

As part of their commission, the Technical Advisor (Mott MacDonald) will support the Authority's Representative, attend the monthly progress meetings, and undertake monthly valuations with recommendations for payment.

- 3.5 The phasing of this scheme is complex due to the nature of the site and building layouts and level of refurbishment involved. There will be continuing dialogue with the Academy and neighbours throughout the construction in order to minimise disruption to learning. The anticipated start on site is 13 January 2011 until contract completion on 11 July 2012.

#### 4.0 Financial Implications

- 4.1 The financial implications are described within the body of the report. Willmott Dixon has been made aware in the Local Authority's Invitation to Tender documentation and by PfS of the DfE capital grant of £12.125m being made available to the Council for this project. The intention remains to undertake the construction and refurbishment within the DfE grant via the Target Cost Contract.

- 4.2 The following table forms part of the Final Business Case and has been approved by the designated Quantity Surveyor.

<b>Category</b>	<b>Approved OBC Estimate</b>	<b>Cost of Solution from Selected Panel Member</b>	<b>Variance</b>
<i>Construction Costs</i>	6,792,167		
<i>External Works</i>	833,645		
<i>Abnormals</i>	600,928		
<i>Fees</i>	1,030,127		
<i>Furniture, fittings &amp; equipment</i>	436,545		
<i>ICT Infrastructure</i>	224,550		
<b><i>D&amp;B Contract sub-total</i></b>	<b>10,378,248</b>		
<i>Project Support Funding</i>	300,000		
<i>ICT Hardware *</i>	1,447,100		
<b><i>Total Original Allocation</i></b>	<b>12,125,348</b>		

\*£260,169 was approved as early draw down by PfS for ICT hardware.

- 4.3 The above table will be completed after contractor proposals have been agreed with the design group and will be fully detailed in the Final Business Case prior to submission to PfS. The impact of omission of cost information at this stage for consideration by Members is minimal due to the Target Cost contract agreed by the LA and Willmott Dixon.
- 4.4 The capital allocation allows for £300,000 from the DfE grant to be allocated to fee/development costs to meet internal and external architectural and other fee costs. This is a capped figure and additional fees incurred by utilising the required key project members amounting to approximately £100,000 are being met from the CYPD Capital Programme and have been previously approved.
- 4.5 Confirmation has been received from HMRC via PfS that VAT is recoverable by the Council for the design and build contract but not the VAT incurred in connection with the ICT Hardware funding element of £1,447,100. This will be taken into account within the administration arrangements of the scheme

## **5.0 Staffing Implications**

- 5.1 There are none arising directly from this report. As reported in the Cabinet report dated 27<sup>th</sup> November 2008 when an update of the national Building Schools for the Future Programme was given, the existing departmental Capital team have a full range of commitments to PFI, One School Pathfinder, Primary Capital Programme, Children's Centres, Extended Schools and a range of other capital works across an extensive programme and support services to schools. This project does place significant demands on existing staff.

## **6.0 Risk Assessment**

- 6.1 A Project Risk Register has been completed for this project and is being kept up to date by the Technical Advisors in addition to a Construction Risk Register which will be kept by Willmott Dixon. Both registers will be reviewed by the Design Group on a monthly basis.
- 6.2 As with any project, particularly one of this size, there are cost risks in the building and delivery of new and refurbished facilities, even with appropriate contingencies in place, as will be the case on this project. Clearly there will remain a theoretical financial risk to the Council which under the national PfS funding structure, the council must accept in order to receive the capital allocation. The use of a Target Cost contract is seen to minimise any financial risk to the Council.
- 6.3 A planning Application has been submitted. The indicative date for consideration is 1.12.2010. Approval is required by Partnership for Schools is part of the Final Business Case approved.

## **7.0 Equal Opportunities Implications/Health Impact Assessment**

- 7.1 Willmott Dixon has indicated in their tender submissions that they would look to source local labour and supplies and encourage their sub-contractors to do the same. A "meet the bidders" day is being arranged with LA officers and local business forums. Willmott Dixon is committed to providing learning opportunities for the Academy pupils during the build phase.

7.2 Willmott Dixon will be encouraged to enter into dialogue with the Council's Construction Employment Integrator team within the Regeneration Department, with the objective to agree target recruitment training hours in conjunction with this project.

## **8.0 Community Safety Implications**

8.1 There are none arising directly from this report. Comments on the designs from Community/Police Officers have been reflected in the design as it has developed.

8.2 The Willmott Dixon bid includes physical security measures and on site out of hours security presence during the build phase.

8.3 Due to the restricted access around the Academy, additional measures will be taken to reduce any possible congestion as a result of construction traffic and to give good guidance to the academy for the monitoring of parents cars particularly during the construction phase.

## **9.0 Local Agenda 21 Implications**

9.1 In their bid Willmott Dixon undertook to work with the LA to achieve the required BREEAM energy rating for the school. The scheme is currently rated "very good" on the BREEAM assessment scale. The design will also follow the DETR/DfE guidelines for "Energy efficient design of new buildings and extensions for schools and colleges."

9.2 Willmott Dixon is a member of the Considerate Contractor scheme and fully understanding of the need to liaise, inform and support the neighbours and school during the build phase of the project.

## **10.0 Planning Implications**

10.1 There are none arising directly from this report. Full Planning Application is currently lodged with the Council.

10.2 The site of the existing school buildings and the surrounding grounds is designed for Primarily Residential purposes, in the Council's Unitary Development Plan adopted in February 2000. Within this area, non residential uses such as new school buildings are subject to Policy HS15 of the UDP, which addresses the scale and impact of new development. New development at the Academy is in principle in conformity with Policy DP4 of the Regional Spatial Strategy (North West of England Plan RSS to 2021) The proposals are also in principle in conformity with Policy L1 of RSS, which is part of the development plan, alongside the UDP.

10.3 The design and siting of the building will require a process of pre-application discussions, some of which have already commenced, with Forward Planning, Development Control, Highways, Traffic Management, Road Safety, Building Control and Drainage. This will enable the design team to develop a sustainable and efficient design which meets local site constraints and challenges, the Council's developing planning guidelines on sustainability and increasingly rigorous and challenging Building Regulations standards, as well as the guidelines and regulations for New Schools imposed by the DfE.

## **11.0 Anti-Poverty Implications**

11.1 The change of status of the former Independent Birkenhead High School for Girls to a non fee paying Academy will allow access to the school by families that it previously

did not cater for, potentially allowing the raising of aspirations and potentially narrowing the attainment gap for vulnerable groups.

## **12.0 Social Inclusion Implications**

12.1 School reorganisation and transforming accommodation through the Academies and other Capital Programmes provides opportunities to promote joint agency work to promote co-ordinated solutions for pupils and their families. There is scope for community participation in the design process of any new school buildings, raising the school's profile within the community.

## **13.0 Local Member Support Implications**

13.1 Birkenhead High School Academy is in the Oxtan Ward. Pupils currently attend from across Wirral and beyond.

## **14.0 Background Papers/Access to Information Act**

14.1 The information used to compile this report, including the initial Willmott Dixon tender submission, Contractors Proposals, PfS and DfE documentation is held in project files in the Children and Young People's Department.

14.2 The scheme has been subject a number of committee reports and were presented to members on 23 July 2009, 26 November 2009 and 24 June 2010.

## **RECOMMENDATIONS**

### **That**

1. The LA's Final Business Case is submitted to Partnerships for Schools for approval.
2. That the relevant officers in the CYPD, Legal and Technical Services Departments be authorised to continue detailed contractual negotiations with Willmott Dixon, to achieve financial close on the project and to put in place the appropriate legal agreements between the council, the Academy and the Girls Day School Trust to allow the works to proceed.
3. That following the review of the Contractor's Proposals and confirmation that these proposals meet with the Authorities requirements and that the Funding Allocation and Final Business Case are approved by PfS, Willmott Dixon is awarded the contract to undertake the refurbishment and construction programme at Birkenhead High School Academy under the National Academy Framework.
4. The project be the subject of further reports as required.

**David Armstrong**  
**Interim Director of Children's Services**