



Report of the Cabinet Member for Education Improvement, Learning and Skills

Cabinet – 18 October 2018

21st Century Schools Programme - Contract Award and Capital Programme Authorisation for New Build for Education Other Than At School (EOTAS) at Cockett

Purpose:	<ul style="list-style-type: none">• To approve the scheme for the new build for Education Other Than At School (EOTAS) at Cockett subject to confirmation of grant and contract with Welsh Government.• To seek authorisation to award the Contract for the works to Tender No. 2, subject to confirmation of grant and contract with Welsh Government.
Policy Framework:	<ul style="list-style-type: none">• The Revenue and Capital Budget as reported to and approved by Council on the 6 March 2018• QEd Programme and Strategic Outline Programme for Band B of the 21st Century Schools Programme• Corporate Priority 1 - Safeguarding people from harm• Corporate Priority 2 - Improving Education and Skills• Corporate Priority 3 – Transforming our Economy and Infrastructure• Corporate Priority 4 – Tackling Poverty• Corporate Priority 5 - Transformation and Future Council development• One Swansea Plan• Asset Management Plan 2014-17
Consultation:	<ul style="list-style-type: none">• Parent / Carer/ Learner engagement sessions April 2016• Stakeholder workshop May 2016• Access to Services, Finance, Legal & Corporate Property Services
Recommendation(s):	<p>It is recommended that:</p> <ol style="list-style-type: none">1) Cabinet award the Contract for the design and construction of a new build for Education Other Than At School (EOTAS) on land in the ownership of the Council at Cockett Road to Tender No. 2, subject to confirmation of grant and contract with Welsh Government.

2) The capital scheme as detailed together with the financial implications is approved, subject to confirmation of the grant and contract with Welsh Government.

Report Author: Louise Herbert-Evans

Finance Officer: Ben Smith

Legal Officer: Debbie Smith

Access to Services Officer: Rhian Millar

1. Introduction

- 1.1 Cabinet on 15 December 2016 gave their approval for the City and County of Swansea to extensively overhaul its entire EOTAS service to provide a sector leading practice. The objective is to reconfigure the service to build on existing good practice, transforming the provision to support vulnerable children and their families and to meet the requirement to provide suitable full time education, in a timely manner, to those children and young people who need to be educated other than at school. This must also be seen in the context of emerging national policy, including the recent report from Estyn (June 2016) as well as the continuing national and local budget pressures.
- 1.2 Recommendations presented in December 2016 included the proposed restructure of Swansea Pupil Referral Unit into three strands educated in new, fit-for-purpose learning environments. The aim whenever possible is for those learners accessing the central provision return to a mainstream school.
- 1.3 PRU A: a nurture provision for young people with significant mental health difficulties encompassing the provision currently available through the Step-Ahead Centre.
- 1.4 PRU B: a provision for young people with social, emotional and behavioural difficulties (SEBD) encompassing the key stage 4 Education Centre, Brondeg House and the Education Centre at Arfryn.
- 1.5 It was also agreed that this new environment should also include PRU C a 'halfway' house model and a multi-agency approach so that the needs of the majority of learners with social, emotional and behavioural difficulties (SEBD) are met through mainstream education with central provision only being made for those learners with the most severe SEBD needs.

2. Consultation Feedback

- 2.1 Consultation sessions were held with stakeholder groups early in the spring term in order to obtain their opinions on the proposed future direction of travel as agreed by Cabinet in December 2016. The Head of Learner Support Services gave presentations to stakeholder groups and all feedback was recorded and further reported to Cabinet in July 2017.

3. Progress

- 3.1 Cabinet in July 2017, approved the progression of the design of a new new build for the EOTAS service on land at Cockett Road and the submission of a detailed planning application.
- 3.2 Planning Consent for the demolition of 3 buildings on the site and the construction of a 3500m2 purpose built facility was approved in March 2018.
- 3.3 The proposed new facility will be accommodated within one building which has distinct provision for each PRU with appropriate separation from each other with suitable access to inner courtyards. Externally each will have access to its dedicated recreational space, with sufficient vehicular pick up and drop off points. Within the building there will also be suitable agile working office accommodation for the Behaviour Support and Home Tuition teams thus providing more effective on site support.
- 3.4 The facility is being designed in accordance Building Bulletin 104(BB104) (SEND special education needs and disability) and alternative provision: area guidelines, but also considering the ability to future proof it, so that if required it can be provide the flexibility to meet the changing needs.
- 3.5 In January 2018 Welsh Government approved a joint Strategic / Outline Business Case for the development of the new build project for EOTAS.

4. Procurement

- 4.1 A construction tender process was conducted during July and August 2018
- 4.2 The Responsible Officer is satisfied that the tender process has been conducted in accordance with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules and the award is recommended for approval on that basis.
- 4.3 All tenders have been evaluated in line with Contract Procedure Rules.
- 4.4 The contract award will need to be approved by Cabinet in accordance with CPR 13.10.
- 4.5 Any contractual liabilities/obligations with the successful tenderer will be covered by appropriate contract documentation to be prepared and approved by the Chief Legal Officer.
- 4.6 Fixed contract sums for all the works required are now available for scrutiny and will require Cabinet approval in order to comply with Financial Procedure Rule 7 and Contract Procedure Rules - see Part B of this report.

5. Finance

5.1 Capital

- 5.1.1 The total development cost forecast detailed in the Capital Budget as reported to and approved by Council on the 20 July 2017, and also included in the Band B approved Strategic Outline Programme was £11.831m.
- 5.1.2 The final cost at Full Business Case stage having completed the detailed design and the single stage tender is £8,743,527.93.
- 5.1.3 The forecast saving against the original cost forecast contained in the Band B approved Strategic Outline Programme will remain within the Band B Strategic Outline Programme envelope.
- 5.1.4 This is outlined below;

	Cost breakdown	£
1	Construction	7,188,152.21
2	Surveys and external fees*	683,934.00
3	Fixed /Loose Furniture	205,000.00
4	Additional Traffic Measures	60,000.00
5	CBPS Fees	240,000.00
6	Education Fees	80,000.00
7	Digital Learning	75,000.00
8	Decant	40,000.00
	Total	8,572,086.21
11	Optimism bias @ 2%	171,441.72
	Total	8,743,527.93

* - This figure includes £423,075.00 of Contractor's fees included in the submitted tender

- 5.1.5 Subject to Welsh Government approval of the Full Business Case and grant award, the funding of the project will be on the basis of 50% funding by Welsh Government and 50% by the Council.

5.2 Revenue

- 5.2.1 The range of options and revenue implications for the new service delivery were reported to Cabinet in December 2016.
- 5.2.2 To support the new service model the new accommodation will continue to require the existing revenue budget to manage the building running and day to day maintenance costs of of £129,000 per annum and also an additional £72,500.00 p.a given the revised rateable assessment for the new building, rates payable, and increased running costs.

5.2.3 To offset the increase it is anticipated that the new model will provide staffing and transport savings in the region of £526,978 p.a.

6. IT/System Implications

6.1 The IT infrastructure requirements for the new build have been identified in the employers requirements. The new building will have both hard wired and wireless infrastructures throughout.

7. Staffing Implications

7.1 The Head of PRU is planning for the occupation of the new build including staffing requirements consistent with the expected delegated budget. There is at present no staffing implication.

7.2 Property Implications

7.3 The site is within the settlement boundary in both the extant UDP and the emerging LDP.

7.4 The planning consent for the EOTAS site, more specifically the proposal in respect of access and egress provision to the site serves to prohibit meaningful development of the Councils adjoining retained land as it severs the site. As such this is likely to substantially reduce its commercial value to potentially a nominal figure. Investigations are ongoing to establish alternative options ,however, if alternative options are identified which could ensure a commercial value on the land then these options would not be considered if they were to have a detrimental impact on the operation of the new EOTAS facility.

8. Equality and Engagement Implications

8.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

An Equality Impact Assessment (EIA) screening form has been completed with the agreed outcome that a full EIA was required. The full EIA has now been drafted and has been recently reviewed, the proposals are found to be relevant to the following characteristics:

- *Children/Young People* - The proposed changes will see the quality of the provision improved. The proposed new setting will provide learners with a fit for purpose environment and the introduction of a half-way house will make it easier for learners to return to their designated school as soon as possible.
- *Any other age group* - The proposed changes will provide staff with a fit for purpose environment to deliver these much needed services. The new management structure will also allow staff to develop to provide the best possible service to their learners.
- *Disability (Additional Learning Needs)* – 41 of the current cohort of EOTAS pupils have a statement of special educational needs. Once again the proposed provision of new fit for purpose buildings will ensure that every learner receives the service in a fit for purpose location under the leadership of an improved team.
- *Pregnancy and maternity* - This group is currently catered for by the EOTAS service. The change will provide this group of young people with a safer more inclusive environment.
- *Sex* - The proposed changes will see the quality of provisions for both boys and girls maintained if not improved.
- *Welsh Language* - Welsh speaking pupils are not a big user of this service currently. Individual arrangements have been made in the past and will continue to be made should the need arise.
- *Carers* - All young carers will continue to have the same access to this service as they have done in the past.

In April 2016 engagement sessions were held with parents, carers and learners at all the various settings. Discussions were held on what kind of provision they would like to see under the EOTAS service. Following these sessions a visioning workshop was held in May 2016 with a wide range of stakeholders to start shaping what the future service could look like.

Following the approval by Cabinet (January 2017) of the direction of travel further sessions were held with parents, carers and learners (February 2017) before delivering the agreed action plan.

The views expressed during these sessions can be seen in Section 2.

All stakeholders will continue to be involved as plans are developed for the new setting and as the wider plans for the service are delivered.

9. Legal Implications

- 9.1 The various permutations will necessitate the legal implications to be reviewed and updated on a regular basis. Highways, planning property and contracts/procurement legal advice will need to be obtained as the proposals progress.
- 9.2 The Education (Pupil Referral Units) Application of Enactments) (Wales) Regulations of 2007 and 2015 stipulate what aspects of primary and secondary legislation which exist in relation to mainstream schools are also applicable to pupil referral units. These statutory requirements will need to be in place whichever future iteration of provision is established and should be in place for the current pupil referral unit provision. Examples include the need for a school development plan, a written statement in relation to sex education and policies to promote good discipline and behaviour on the part of its pupils.

- 9.3 Part 1 of the Staffing of Maintained Schools (Wales) Regulations 2006 applies (subject to modifications) to pupil referral units as it would to mainstream schools. Should the proposals involve the appointment of new staff then legal advice should be sought as to the applicability of these regulations. Legal advice should be sought on an on-going basis in relation to the employment law implications should the proposals being developed include a restructure of staff resources.
- 9.4 The Education (Pupil Referral Unit) (Management Committees etc.) (Wales) Regulations 2014 and the accompanying guidance will need to be followed to ensure that any future provision has an appropriately constituted management committee and instrument of government. Advice should be sought on the implication of these Regulations when the future provision is identified.
- 9.5 It is a requirement for pupil referral units to be registered with Welsh Government. Depending on the model and site preferred, this registration may require updating or resubmitting to ensure ongoing compliance.
- 9.6 While not directly applicable to pupil referral units, the School Organisation Code 2013 provides guidance as to the considerations to be had when making changes to school organisation. It is recommended that if there is a significant change proposed such as a change to the school site or a reduction in school places then the guidance in the Code is considered. The Code also provides guidance in relation to ensuring quality and standards in education and assessing the impact of proposals on quality and standards which would provide officers with a helpful benchmark for deliberations.

Part B - Appointment of contractor to carry out further detailed design and construction works.

10. Procurement/Tender Process

- 10.1 This scheme was procured through a one-stage procurement process utilising the South West Wales Regional Framework via a mini competition.
- 10.2 A mini tendering exercise was undertaken through the e-tender portal for the Pupil Referral Unit scheme, inviting eight bidders from the SWWRCF Contractor Framework. Four Framework contractors declined the invitation to tender, the remaining four contractors expressed a wish to tender
- 10.3 The Tender Evaluation Report of 19 September 2018 sets out the tendering procedure.
- 10.4 All four tenders were returned and opened in accordance with the Authority's Contract Procedural Rules on 7th September, 2018.

11. Tender Values

Tenderer No. 1 - £9,546,106.00
Tenderer No. 2 - £7,611,227.21
Tenderer No. 3 - £8,413,904.00
Tenderer No. 4 - £7,714,837.00

- 11.1 Tenderer No. 2 has been approved by the Tender Evaluation Panel, and recommended for Contract Award by the Responsible Officer and Heads of Finance, Legal and Procurement in accordance with the Council's Contract Procedure Rules.

12. Financial Implications

- 12.1 The overall project budget is £8,743,527.93 with a construction works budget of 7,611,227.21.
- 12.2 The Contract cost, inclusive of Works, Contractor Design Fees and Services, can be met from the approved budget for the scheme. Any variations to the contract that arise will have to be funded by reducing other elements of the scope of works.
- 12.3 Until the Authority receives the offer of grant from WG the contract for the works will not be signed and actioned.

13. Legal Implications

- 13.1 The South West Wales Regional Framework led by Carmarthenshire County Council has been established in accordance with EU legislation. The Contract Award is recommended for approval in accordance with the Council's Contract Procedure Rules.
- 13.2 Any contractual liabilities/obligations with the successful tenderer will be covered by appropriate contract documentation to be prepared and approved by the Head of Legal, Democratic Services and Procurement.
- 13.3 The contract and offer of grant funding from Welsh Government will contain conditions which are legally binding. The Council will need to ensure that these conditions are reasonable and that it is able to comply with the same.

Background Papers:

Cabinet Report 15 December 2016
Cabinet Report 20 July 2017

Appendices

Appendix A - Financial Implications: Summary