

**TO: SCHOOLS FORUM**  
**DATE: 8 DECEMBER 2011**

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**PRIORITY SCHOOL BUILDING PROGRAMME**  
**(Director Children Young People & Learning)**

**1. PURPOSE OF REPORT**

- 1.1. The purpose of the report is to consult Schools Forum about future participation by Bracknell Forest in the new DfE Priority School Building Programme.

**2. RECOMMENDATION**

- 2.1. That Schools Forum gives feedback on the future participation by Bracknell Forest in the new DfE Priority School Building Programme.

**3. SUPPORTING INFORMATION**

Background

- 3.1. Following acceptance of the majority of the recommendations contained within the James Review, in July 2011 Partnerships for Schools (PfS) announced a new PFI school building programme.

Priority School Building Programme

- 3.2. The new Priority School Building Programme (PSBS) follows in the wake of the cancelled Building Schools for the Future and Primary Capital Programmes, and is intended to address those schools in the worst condition. Ministers may also take into account pressing cases of basic need for the creation of new school places. The programme will:
- a) cover the equivalent of building or re-building approx 100 secondary schools.
  - b) include a mix of secondary, primary, special schools, sixth form colleges and alternative provision.
  - c) deliver 20% of the agreed school programme each year with the first schools scheduled to open in the 2014/15 academic year.

Eligibility

- 3.3. To be eligible to participate, it would be required to be demonstrated that:
- a) Identified need for condition works should be in excess of 30% of the notional cost of rebuilding the whole school.
  - b) the School has not received major investment to more than 50% of the existing buildings in the last 15 years.
  - c) there is sufficient long term pupil demand
  - d) there is certainty that the LA or school holds title to all the land
  - e) the proposed development is either wholly New Build or the refurbishment element is less than 30% of the gross internal floor area

- f) there is a commitment to continued testing for 'Value for Money' throughout the approval process. It is stated that schools will be removed from the programme if this is not proven to be the case.
- g) All schools selected must provide a signed statement from the Headteacher, governing body and LA (for maintained schools) that they accept the terms & conditions.
- h) There are also criteria around listed buildings which would only apply to a small minority of schools.

#### Private Finance Initiative (PFI)

- 3.4. Projects undertaken through the PSBP will be subject to funding through the Private Finance Initiative (PFI), which is a highly complex and sometimes contentious procurement route. Its main benefit is that the significant initial capital investment is paid for by the provider, but the significant disadvantages are comparatively high ongoing revenue costs with limited choices and control over outcomes.
- 3.5. PFI schemes require engagement of a private sector contractor to design, build, finance and operate the school, including providing facilities management, maintenance and lifecycle services for the life of the contract, which is typically 27 years. As no money is paid by the procuring body until construction is complete, the contractor borrows the capital needed to construct the facilities from commercial lenders and then, once the school is operational, earns a monthly fee (referred to as a 'unitary charge'). The contractor uses this to repay the commercial debt and cover the cost of operating the facility. It may in addition earn a profit.
- 3.6. The scope of PFI school providers is normally limited to the site, buildings and facilities and does not normally include the teaching staff. There is however a requirement for the school to engage with the PFI provider over the day to day management of the school, acting as the Client for the services provided by the provider.
- 3.7. This new programme is being advertised as "PFI Light", which has a faster procurement process based on standardised designs and contract documentation. This means there will be less scope for design input from the LA or the school/s but the negotiation of the final agreed price will be simpler, based on the common practice arising out of previous PFI projects.
- 3.8. Key features of the PFI model include:
  - a) **Transfer of risk from the LA/School.** The procuring body pays nothing to the contractor until the build is completed to the standards set out in the contract, which also ensures a high degree of certainty as to the time of completion.
  - b) **Maintenance (often referred to as 'hard FM') services** are provided by the contractor throughout the life of the agreement, and the LA/School withholds payment to the contractor if parts of the school accommodation are not available for use.
  - c) **Cleaning, security and grounds maintenance** (often referred to as 'soft FM') services are typically provided by the contractor. The soft services may include other services such as catering, pest control and waste management.
  - d) **Participating schools have to contribute** to the annual revenue e.g. for FM and maintenance anticipated to be around £55 per m<sup>2</sup> and £15 per m<sup>2</sup> for utilities, per year, for the life of the contract. Schools would usually also continue to pay for utilities and rates.

- e) **There is ongoing management of the contractor's performance**, which is linked to their ability to 'earn' the full amount of the unitary charge every month. This is governed by a performance regime which measures availability of areas within the school and performance against set standards. Performance issues and spaces not being available can lead to deductions being made from the unitary charge, which incentivises the contractor to rectify problems early and ensure a good level of service.
- f) **This would be a long-term arrangement** with contracts typically lasting 27 years and, with little opportunity for early exit. Schools need to be aware that this represents a long-term commitment.
- g) **Handback**. The contractor is required to hand the school back in good condition to the public sector procurer at the end of the contract term, thus ensuring that the school is well maintained and designed to last.
- h) **Participating schools become part of a larger project**. To deliver economies of scale and value for money schools will be batched together and procured in groups across LA boundaries to create a viable contract. This creates incentives to contractors to take on the programmes, but may restrict the opportunity for significant input from individual LAs and schools who may end up sharing service provision with whichever schools they are batched with.
- i) **Ongoing Value for Money**. Becomes an issue with the provision of FM services, which are effectively procured under large contracts with major providers and paid for through the equivalent of a mortgage. Contracts do allow for market testing at intervals throughout the term of the agreement, but ongoing FM costs at PFI sites may be higher than at non PFI sites. The LA and school are effectively locked into a legally binding contract to buy FM services benchmarked at a higher standard than they might otherwise set.
- j) **Flexibility to make future changes is reduced**, and it is difficult to predict the requirement for school places and specific accommodation needs planning in advance for the 27 year lifespan of the contract. There is risk that if accommodation needs change significantly to meet unforeseen circumstances, re-negotiation of changes to contracts may be difficult and expensive.
- k) **There are normally no capital costs up front**, although the LA/school may be liable for the cost of any additional items over and above what the central body is providing. Conversely the **revenue costs associated with PFI can be significant** because the capital cost of design and construction is re-paid for through the monthly Unitary Charge over the life of the contract.
- l) **The procurement will be based on standardised designs** (subject to site constraints, planning and some local choice). As a consequence schools/LAs may have limited opportunity to engage through the design process. Currently the new Academy design process for ITT is 6 weeks, and this could be adopted for the PFI programme. The levels of input by the LA, the school and the governing body for the Garth Hill project would not be possible under a PFI regime, and achieving stakeholder alignment and buy-in may be more difficult.
- m) **Procurement would be by a new central body**. Although the LA or individual schools would be the contracting party, the contracts themselves would be procured by a central body – PfS (or other if PfS is no longer in existence at the commencement of the programme). LAs/schools would again have only limited input into this process.
- n) **Ongoing contract management arrangements are unclear**. It is not yet known how much of the ongoing contract management role would be carried out centrally or by the

school or by the LA. This uncertainty creates risk to Bracknell Forest Council and to schools. Currently, and without a change in legislation regarding the basis of the ownership of the assets of school buildings, the LA is the only 'legal entity' in respect of LA maintained provision and thus the 'owner of the assets' (except where the LA has entered into a leasing agreement for a site from a third party).

- o) **VA schools would be required to make a financial contribution to the programme.**

#### Initial Bids - Expressions of Interest

- 3.9. Bracknell Forest Council as the LA is responsible for collating and submitting applications for all the schools in our area (including VA, VC and foundation). The whole school estate has been evaluated with the Council's managing partner EC Harris against the PfS eligibility criteria. Whilst there are no Bracknell Forest schools that match all of the criteria the Council has identified the following schools which constituted the closest match:
- a) Kennel Lane Special School, which was subject of a masterplan under Building Schools for the Future for a phased rebuild on the existing site.
  - b) The Brakenhale secondary school, which was also subject of a masterplan under Building Schools for the Future for a phased rebuild on the existing site.
  - c) Holly Spring Infant & Junior Schools which are currently subject of expansion by one form of entry under the Primary Capital Programme.
  - d) Meadow Vale Primary School which is also currently subject of expansion by one form of entry under the Primary Capital Programme.
  - e) The Council has also identified a future requirement for a new secondary school to be built in North Bracknell, subject to the approval of future housing development.
- 3.10. In order to meet the PfS deadline for expressions of interest in October 2011 the Council has submitted bids in respect of the above schools on a no obligation basis. It is difficult to predict the likelihood of any of these projects being taken up by PfS. They have acknowledged our interest and requested further information about condition need, but none of the above schools' condition need exceeds 30% of the notional rebuild cost, which is a key criterion for inclusion in the programme.
- 3.11. The Diocesan Authorities have been consulted and there are currently no bids in respect of Bracknell Forest VA schools on the programme.
- 3.12. Academies are also eligible to apply for the programme on their own behalf.

## **4. ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 4.1. The information provided by PfS so far does not give any clarity on the intended contractual roles of the Authority or Governing Bodies, and does not identify the Contracting Authority. Doubtless Governing Bodies will be keen to establish what these roles will be, and to understand any Options appraisal carried out by PfS.

### Borough Treasurer

- 4.2. The Borough Treasurer is satisfied that no significant financial implications arise at this bid stage. The cost of meeting annual revenue payments are expected to be a charge against

individual school budgets. The Schools Forum will need to agree to fund PFI schemes before any commitments are entered into.

#### Equalities Impact Assessment

- 4.3. Equalities Impact Assessments would be undertaken on a project basis.
- 4.4. All new build construction works would be fully accessible to disabled people.

#### Strategic Risk Management Issues

- 4.5. The various risks associated with PFI procurement are included in the main body of the report however these can be summarised as follows:
- 4.6. Risk of achieving and maintaining stakeholder alignment throughout a PFI project is assessed as LOW due to past experience with PFI. Robust and ongoing stakeholder management would need to be a key feature of any decision to proceed with PFI.
- 4.7. Risk of achieving a totally satisfactory outcome is assessed only as MEDIUM due to the LA and schools having only limited ability to influence the project which will be managed by a central body.
- 4.8. Affordability risk is split. For capital the risk is VERY LOW because all the capital investment is paid for by others. However, the revenue affordability risk is assessed as HIGH because the School/LA will be tied into a contract to pay back the costs of borrowing and ongoing FM arrangements over which it will have only limited ability to control.
- 4.9. General Planning and Construction Risks are no different through PFI than they are from design & build procurement. It will be for the contractor to obtain planning permission and undertake the build.
- 4.10. The likelihood of bids from Bracknell Forest being accepted by PfS is assessed only as MEDIUM because the PSBP can only accommodate a limited number of projects and need is likely to be greater in other, particularly inner city LAs.

### **5. CONSULTATION**

- 5.1. There was insufficient time to review the whole school estate review then consult with individual schools prior to the deadline for receipt of applications on 14<sup>th</sup> October 2011.
- 5.2. The current approach, endorsed by the Council's Corporate Management Team, has been to submit bids for those schools which were judged to have the best chance of success when measured against the eligibility criteria. We would then initiate detailed consultation with any schools whose bids were taken up.
- 5.3. The Council is under no obligation at the initial bidding stage and can walk away from a project if after consultation, or following more detailed scrutiny it proves to be undesirable.
- 5.4. Detailed consultation would include Headteachers, Governing Bodies and the wider school community.
- 5.5. The Diocesan Authorities have been consulted and there are currently no bids in respect of Bracknell Forest VA schools on the programme.

#### Background Papers

None

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