

**To: THE EXECUTIVE**  
**Date: 18<sup>th</sup> June 2024**

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**Creation of Additional School Places for SEMH and SRP Provisions Within the Borough**  
**Executive Director: Communities**

**1. Purpose of Report**

- 1.1. To recommend the Strategic procurement approach to commission the building works to create a new SEMH school and an SRP provision, to address the insufficient specialist places within the Borough.

**2. Recommendation(s)**

- 2.1. That the Executive approves this Strategic Procurement Plan to tender the appointment of two separate main contractors under 2 separate JCT Building Contracts, to create additional SEMH and SRP provision across 2 sites within the borough (subject to securing planning approval).
- 2.2. That the Executive delegate authority to the Executive Director, Communities and the Executive Member for Children, Young People and Learning, to award the works contracts to the providers meeting the requirements of the contract. Subject to sufficient resources.

**2.3. Advertising**

In order to meet the Council's Contract Standing Orders, the construction projects will be delivered using a compliant framework, where the contractors will be required to submit an expression of interest for the three projects. The Council will then select one contractor for each project to develop elements of the technical design and carry out the construction works.

- Performance Specification, drawings and the contract documents will be prepared by the Council's Managing Partner
- The works will be contracted in accordance with a JCT Building Contract 2016

The Crown Commercial Service (CCS) Construction Works and Associated Works Framework will be accessed, via Lots. The Framework Lots are divided based upon project value. Each Lot requires that a mini competition be carried out where all suppliers within the appropriate Lot are invited to bid, therefore 2 separate mini competitions will be conducted. The Framework allows for the allocation of multiple industry standard contracts therefore, the Council must be clear with bidders that JCT terms will be used from the available pool.

**2.4. Tender Evaluation**

The tenders will be evaluated, based on a 50/50 cost/quality split. This split allows for the contract to be awarded to the best all round bid for quality, rather than just cost alone, preventing a situation where the lowest tender may outweigh a poor-quality submission.

### 3. Reasons for Recommendation(s)

- 3.1. It is a requirement of the contract standing orders, that the Executive approve any strategic procurement plan with a value more than £1m. This decision seeks approval for the procurement process.

### 4. Alternative Options Considered

- 4.1. Consideration has been given to seek contractors through a 2-stage restricted procurement process, but this would require a minimum period of 16 months to conclude and secure a contractor. Therefore, this would not be a viable solution and would delay the delivery of school place being available as required.

### 5. Supporting Information

- 5.1. To deliver the Councils Safety Valve construction programme, which includes 4 projects, Bucklers Park, All Saints, Sandhurst and Edgbarrow. The latter 3 schemes are to be funded by Bracknell Forest and Council approved their inclusion in the capital programme at its meeting in January 2024.
- 5.2. For the Bucklers Park new Autism School, the Council submitted a self-delivery business case in February 2024, seeking to ensure a firm delivery date was programmed. Whilst the initial feedback from the DfE was supportive, the risk profile associated with this approach was not felt to be in the Council's best interests. It has therefore been agreed, in consultation with the Executive Members during April 2024, that the DfE will lead delivery of the project as originally expected, in collaboration with the Council. Therefore, the procurement of the main contractor will be under-taken by the DfE through the DfE framework of contractors, with support from the Council.
- 5.3. The procurement of the main contractor, for the new 25 place SRP at Sandhurst, will be funded from the Safety Valve capital grant allocation. This procurement is below the threshold to seek approval from the Executive and the procurement approach is excluded from this paper.
- 5.4. The procurement approach for Edgbarrow and All Saints are shown in the timetable below.
  - Edgbarrow SRP provision Procurement approach – fully designed by BFC's Managing Partner, single Stage traditional tender.

| <b>Milestone</b>                                  | <b>Approximate Date</b>    |
|---|----------------------------|
| Publish EOI for supplier to express interest      | October 2024               |
| Agree list of organisations to be invite a tender | October 2024               |
| Tender period                                     | November/December 2024     |
| Prepare award report and sign off                 | December 2024/January 2025 |
| Contract Award                                    | February 2025              |
| Mobilisation Period                               | March 2025                 |
| Contract Start Date                               | March 2025                 |
| Completion Date                                   | November 2025              |

- All Saints Warfield SEMH new school –. Procurement approach – designed by BFC’s Managing Partner to the end of RIBA 3, single stage Design & Build tender.

| <b>Milestone</b>                                  | <b>Approximate Date</b>         |
|---|---------------------------------|
| Publish EOI for supplier to express interest      | September 2024                  |
| Agree list of organisations to be invite a tender | September 2024                  |
| Tender period                                     | October/November 2024           |
| Prepare award report and sign off                 | November/December 2024          |
| Contract Award                                    | January 2025                    |
| Mobilisation Period                               | January 2025                    |
| Contract Start Date                               | February 2025 (incl D&B Design) |
| Completion Date                                   | November 2026                   |

## 6. Background

- 6.1. The DfE recognised in 2019 that significant cost increases in SEND services were being experienced in many local areas, taking spending above funding provided through the Dedicated Schools Grant (DSG). At the end of 2018/19, around half of all education authorities were experiencing DSG overspends, totalling at that time around £250m. Through a consultation issued in October 2019, the Government proposed changes to accounting arrangements to ensure that “DSG deficits should not be covered from general funds but that over time they should be recovered from DSG income”. At the time, the Government’s belief was that the additional funding that had been announced, would help local authorities bring their DSG accounts into balance in a fairly short period.
- 6.2. Following the consultation, revisions were made to the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, introducing a requirement for the 2020/21 to 2022/23 financial years that any school budget deficits that arose during that period should be charged “to an account established solely for the purpose of recognising deficits in respect of school budgets”. Essentially, the regulations overrode general accounting practice by directing that a “negative reserve”, the Dedicated Schools Grant Adjustment Account, be created in councils’ accounts. Further regulations have recently extended this arrangement to the end of the 2025/26 financial year.
- 6.3. With this highly unusual approach not offering a long-term resolution to DSG deficits, the DfE introduced its Safety Valve Intervention Programme in 2020. To qualify for an agreement, it is necessary to:
- Demonstrate how the current deficit will be controlled and an in-year balance achieved as quickly as possible (the expectation is normally within 5 years).
  - Explain what financial support is required from the DfE to eliminate the historic deficit and implement the proposals (the DfE will not fund all the costs and will expect the local authority to be clear how it will fund its share).
- 6.4. Bracknell Forest received an invitation to participate in the Safety Valve programme in July 2023 and the Council’s proposal was formally approved by the Department for Education in March 2024. The key reason for the Council’s spending on SEND services increasing in recent years is a large growth in pupils with Education Health Care plans (EHCPs), that has been faced across the country, with the local implication of placing significant reliance on expensive provision outside the Borough.

- 6.5. A key element of the Council's strategy to address the needs of local pupils and young people while reducing spending to a more sustainable level over time will be to create more local capacity.
- 6.6. Council approved in January 2024 capital funding from sources including capital grants, developer contributions, and asset disposal to deliver a 50 place SEMH provision at the All Saints site in Warfield. A new 25 place SRP provision at Edgbarrow school will be funded from the Safety Valve capital grant application that has been approved by the Department for Education.

6.7. **Timescales**

As detailed above.

6.8. **Financial Analysis**

There are no new financial implications arising from this report, with funding for the projects that are the subject of this report having previously been approved by Council.

6.9. **Contract Award**

For each of the two projects, the award of contract will be approved via a report to the Executive Director of Delivery and the Executive Member for Children, Young People and Learning during the timelines as shown above.

This will be a Key decision.

7. **Consultation and Other Considerations**

Legal Advice

- 7.1. The proposed contracts will be procured using a Framework. A compliant framework must be identified for each contract and appropriate checks carried out. The rules of the Framework must be followed and the JCT Contracts properly completed in order to ensure compliance with PCR.

Financial Advice

- 7.2. Comments have been incorporated into the body of the report.

Procurement Advice

- 7.3. The Council is operating under a highly accelerated timescale in order to meet the deadlines for school opening agreed with the DfE. The All Saints and Edgbarrow sites in themselves are Above Threshold, therefore collectively an Above Threshold procurement is required. Accounting for construction time, the Council must have awarded contracts no later than January 2025. This precludes any bespoke tender, meaning the Council must access a Framework in order to complete these projects in time. It should be noted that some of these timescales are highly ambitious given the scope of the related projects, and even if a Framework is accessed it may be challenging to complete the builds by the required deadlines.

3 potential frameworks were identified, with;

- The London Construction Partnership (LCP) Major Works
- The Crown Commercial Service (CCS) Construction Works & Associated Services
- A framework operated by the Improvement & Efficiency Self Enterprise (iESE)

We have had difficulty obtaining framework documentation for the iESE framework, so Corporate Procurement have advised this option should be discarded as the Council needs certainty in how to proceed immediately.

Therefore, the CCS Framework is the only compliant route to market that can be completed in the time available and within the budget available to the Council.

Subsequent to the preparation of this paper, as referred to in the covering report, it has been agreed with the DfE that the Buckler's Park school be delivered in collaboration with the Council and the DfE, with the Council providing subject matter expertise, support and project management. The overall lead will be the DfE and the procurement of the main contractor will be managed by the DfE, via the DfE contractors framework, therefore the Council will not be managing the procurement internally as it will no longer require approval through our governance process.

#### 7.4. Other Consultation Responses

Strategic Commissioning and Procurement Group

### 8. **Equalities**

#### 8.1. Equalities Impact Assessment

Shown in Appendix B

#### 8.2. Equalities Monitoring

### 9. **Strategic Risk Management Issues**

| Issue             | Risk   | Comment   |
|-------------------|--------|---|
| Capital Cost Risk | Medium | Affordability Risk is MEDIUM, taking account of the market uncertainty in the construction sector. In order to help mitigate this cost will be updated during each stage design development to ensure the project remain with the agreed budget envelope.   |
| Procurement Risk  | LOW    | The construction works will be procured used using a compliant Framework.   |
| Programme Risk    | MEDUIM | Programme Risk is assessed as MEDIUM. As the projects will Planning Approval, any delay in the decision process will impact on the timeline for delivery. In order to help mitigate this risk, detailed design is required to be undertaken as soon as possible. The projects are currently on target to achieve the key dates. |

**10. Background Papers**

None

Contact for further information

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