

<b>Committee/Meeting:</b> Cabinet	<b>Date:</b> 4 <sup>th</sup> August 2010	<b>Classification:</b> Unrestricted	<b>Report No:</b>
<b>Report of:</b> Corporate Director Development & Renewal  <b>Originating officer(s)</b> Ann Sutcliffe, Service Head, Building Schools for the Future		<b>Title:</b> <b>Update on Building Schools for the Future Programme (authorisation to enter into contracts)</b>  <b>Wards Affected:</b> All	

<b>Lead Member</b>	Cllr Sirajul Islam - Lead member for Regeneration & Employment Cllr Shiria Khatun – Lead member for Children Schools and Families
<b>Community Plan Theme</b>	Prosperous Communities
<b>Strategic Priority</b>	Supporting lifelong learning opportunities for all; Refresh and rebuild all of our secondary schools.

## 1. **SUMMARY**

- 1.1 This report provides Members with an update on the Building Schools for the Future (BSF) programme; outlines the Design and Build contracts to be entered into over the next 2 months at a total value of £52,287,167 excluding ICT.

## 2. **DECISIONS REQUIRED**

Cabinet is recommended to:-

- 2.1 Authorise the acceptance of the final tenders from Tower Hamlets Local Enabling Partner (The LEP) for the Design and Build Contracts for Swanlea and Harpley PRU, together with such ancillary services incidental to the BSF schemes, the terms of each agreement or document to be agreed by the Corporate Director of Development and Renewal provided and conditional upon each scheme being within the target cost figure of: Swanlea £16,345,518 and Harpley £6,626,924. (see paragraph 3.1)
- 2.2 Authorise the Corporate Director of Development & Renewal to accept the final tenders for Raines Foundation and Bowden, due to be agreed during August 2010, as long as they are contained within the funding envelope of £20,341,600 and £8,968,720 respectively. (See paragraph 3.2)
- 2.3 Authorise the Corporate Director of Development & Renewal to enter into Design and Build contracts and any other ancillary agreements, undertakings and obligations incidental the BSF Scheme with TheLEP for each of the above projects outlined in paragraph 2.1 and 2.2 above; subject

to final approval of all the contractual documents by the Assistant Chief Executive ( Legal Services) .

### **3. REASONS FOR THE DECISIONS**

3.1 Cabinet acceptance of the final tenders for Design and Build Contracts (Swanlea and Harpley), Facility Management Agreements (Harpley only) with the Tower Hamlets Local Enabling Partner on Swanlea School, Harpley Pupil Referral Unit to ensure contracts are signed early August 2010, with an immediate start on site.

3.2 Approval to accept estimates on Raines Foundation School and Bowden House in order for the Council to maintain its programme and to ensure the investment into the schools is secured.

3.3 The LEP have submitted their final Stage 2 New Project Proposals (final price) for Swanlea School and Harpley PRU on 25<sup>th</sup> May 2010. Final Business Cases for each scheme have been submitted to Partnerships for Schools to secure the funding and formal approval is expected on 22<sup>nd</sup> July. Bowden House and Raines Foundation are due to be submitted to PfS by the 22<sup>nd</sup> July with a contract close scheduled for the end of August 2010. The target (maximum) costs for each scheme are listed below:

- Swanlea £16,345,518
- Harpley PRU £6,626,929
- Raines Foundation £20,346,000
- Bowden House £8,968,720

3.4 It should be noted that these values above are contained within the overall capex for the programme of £300m.

3.5 A detailed technical review by the BSF technical advisers has been carried out on the proposals submitted by the LEP on Swanlea and Harpley PRU. This review included an assessment of the following items:

- Design and architectural solution
- Mechanical and electrical solution
- ICT solution
- Hard Facilities Management solution
- Meets the Authorities Requirements and is compliant
- Demonstrate value for money and affordability.

#### **4. ALTERNATIVE OPTIONS**

- 4.1 Tower Hamlets' BSF programme was procured in accordance with the Public Contracts Regulations 2006 using the Competitive Dialogue procedure. An OJEU was issued on 22 February 2007 and the Authority shortlisted three bidders to progress to the Invitation to Submit Detailed Solutions (ISDS) phase, beginning 14 September 2007. Following submission of an initial and final bid, Bouygues Partnership for Education and Community (BPEC) was appointed as Selected Bidder to the programme on the 9 September 2008.
- 4.2 The Authority and BPEC achieved contractual close on 21 January 2009, thereby enabling formation of THE LEP and progression to the operational phase of the BSF programme. The LEP is the strategic delivery vehicle for the BSF programme in Tower Hamlets and as such should a 'no action' option be adopted this will mean that the programme to deliver the BSF capital investment into the borough's secondary schools will not proceed.

#### **5. BACKGROUND**

- 5.1 The authority has been informed that the funding for the Wave 5 schools is confirmed and remains unaffected. The Secretary of State, Michael Gove, on Monday 5<sup>th</sup> July 2010 confirmed this position in his announcement to Parliament; and most recently confirmed by the DfE on the 8<sup>th</sup> July 2010.
- 5.2 This now requires the authority to proceed in a timely fashion to conclude contract and final tender submission in line with the agreed programmes, and where possible, to improve upon them.
- 5.3 On 30 July 2008, Cabinet endorsed the appointment of Bouygues Partnership for Education and Community (BPEC) a consortium led by Bouygues UK. The Council were able to complete dialogue with BPEC and awarded the contract for the Tower Hamlets BSF programme on the 21<sup>st</sup> January 2009. This established the partnership know as THELEP, which has the responsibility for delivering the whole programme of investment.
- 5.4 Tower Hamlets was part of the Partnership for Schools (PfS) national BSF funding waves 3 and 5. The Wave 3 schools include St Paul's Way Community School and Bethnal Green Technology College, Wessex 6<sup>th</sup> Form Centre and are the Authority's sample schools with construction works having begun at each site as of January 2009; and the Wessex Centre opening on the 18<sup>th</sup> September 2009.
- 5.5 With Wave 3 schools established within the BSF programme the remaining schools (classed as non-sample schemes) and part of Wave 5 will be delivered in a series of four batches. The first batch of non-sample schools to enter the BSF programme were Morpeth, Sir John Cass Foundation and Redcoat, Oakland's School and Ian Mikardo School. Ian Mikardo School was

approved as part of Wave 3. The following schools are included within the Wave 5 OBC:

Batch 1

- Morpeth (on site – January 10)
- Oaklands (on site – April 10)
- Sir John Cass (on site – April 10)
- Ian Mikardo ( Wave 3 school – on site – April 10)

Batch 2:

- Bowden House
- Harpley PRU
- Swanlea
- Raines ( Wave 3 school)

Batch 3

- Central Foundation Girls School
- Langdon Park
- Phoenix
- Stepney Green

Batch 4

- Bow Boys
- George Green
- New School
- Beatrice Tate

5.6 For the Wave 5 schools the Authority has submitted an Outline Business Case to PfS. The purpose of this OBC was to outline the Authority's proposed approach to investment of the BSF funding allocation for the Wave 5 schools.

This was also confirmed in the Government announcement on BSF funding on Monday 5<sup>th</sup> July 2010.

5.7 The following key milestones have been met and approvals secured against the schemes for Swanlea and Harpley PRU:

- Planning approval has been secured on Swanlea on 4<sup>th</sup> May 2010 and for Harpley PRU on 16 June 2010.
- Signed Governing Body Agreements from each school on the Design and Build solution received from both Swanlea and Harpley PRU.
- Education Act Section 543 Relaxation of Playing Fields Standards (expected for Swanlea on 8 July)
- Facilities Management Solution for PRU (through the LEP)
- Independent Facilities Management Agreement with Swanlea
- Proceed to agree with the LEP commercial terms and price on Design & Build, Hard Facilities Management (Harpley PRU only)
- Develop and submit a Final Business Case to PfS for approval.

5.8 Cabinet are asked to note that planning approval for Bowden House (submitted on 15 January 2010) was rejected by Lewes District Council. LBTH is to launch an appeal against the decision by 9<sup>th</sup> July 2010. Once this appeal is submitted it may take between 16 – 30 weeks for an outcome.

## **6. CURRENT POSITION**

6.1 As reported to Cabinet (4<sup>th</sup> November 2009) PfS have confirmed their approval of the Wave 5 OBC subject to conditions. The Capital allocation associated with this approval is £208,831,885 excluding funding for ICT for design and build of the Wave 5 schools. Members are requested to note that this figure represents an increase of £9,335,916 on the BSF Wave 5 Capital allocation reported to Cabinet in October 2008 of £199,495,969. This increase is a result of adjustments to the PfS funding allocation model.

6.2 The Authority's Wave 5 programme also includes a new school with a capital allocation of £36 million. Discussions are under way with colleagues across the authority over potential sites for the location of this new school, with Bow Lock and Southern Grove being considered.

6.3 The Wave 5 OBC also includes two ICT-only schools (Mulberry School, Bishop Challoner) with no capital works through BSF investment. For avoidance of doubt, the OBC does not address these schemes and approval for these will be sought through additional business case(s) which will be developed at a later date.

6.4 The scope of THE LEP's operation will also include an integrated approach to delivering both Information Communication Technology (ICT) and Facilities Management (FM) services. The BSF programme provides the opportunity to transform Tower Hamlets into a connected campus wide learning community. ICT will deliver educational transformation through personalised learning and the promotion of innovation in teaching and learning.

## **7. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

7.1 The report provides an update for Members on the Building Schools for the Future programme in light of the Coalition Government's July announcement, which confirmed available funding of up to £209million for continuation of the programme in Tower Hamlets.

7.2 Recommendations 2.1 to 2.3 of this report seek Members approval to progress the Building Schools for the Future schemes for Swanlea School, Harpley PRU, Raines Foundation School and Bowden House subject to tenders being within their respective funding limits, which total £52.3million. Those limits are in total some £400k (0.8%) in excess of agreed capital estimates for the four projects. This is not unusual given the scale of the overall programme, but Members should note that overprovision in any aspect of the total programme will require compensatory savings from elsewhere.

- 7.3 These four Wave 5 schemes will be wholly funded via the Partnership for Schools BSF grant mechanism.

## **8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 8.1 This report is concerned with the continuation of the BSF programme commenced by an OJEU notice and was conducted using the Competitive Dialogue procedure in accordance and in compliance with the Public Contracts Regulation 2006. The Council having established a LEP which has the sole responsibility of delivering the BSF programme have gone through the New Project Approval Process contained in the Strategic Partnering Agreement in respect of the Batch 2 schemes and to ensure that the Council is able to deliver schemes which are Value for money and within the funding envelope. The power to enter into such agreements with the LEP is pursuant to the Education Act 1996, School Standards and Framework Act 1998, Local Government Act 1972 and the Local Government Act 2000. Finally any staff transfers under the BSF programme will be undertaken in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.

## **9. ONE TOWER HAMLETS CONSIDERATIONS**

- 9.1 At the heart of the BSF programme is the desire to create sustainable communities, putting the school at the heart of the community. This supports the Extended School's agenda, localisation of services and a cohesive approach to Children's Services. The opportunity to create enhanced community facilities at all four batch 2 schools is a once in a lifetime opportunity for the local areas surrounding Swanlea, Harpley PRU, Raines.
- 9.2 The BSF investment aims to increase employment, training and educational opportunities for the residents of the borough, either through improved learning environments, with enhanced ICT facilities, access for community learning and opportunities for apprenticeships or through the establishment of a partnership vehicle to deliver the investment.

## **10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 10.1 The BSF programme supports and requires sustainable investment of the BSF funding. This is captured in the tender documents in the following areas:

- Building Research Establishment Environmental Assessment Method (BREEAM) – all 100% new build solutions should aspire to BREEAM ‘Excellent or Very Good’ and all remodel/refurbishment projects should achieve BREEAM ‘Very Good’;
- In line with The London Plan, BPEC is required to submit proposals, which achieve 10% (current) and 20% (future) renewable targets. Discussions are taking place with the Planning Department on a strategy that be applied across the estate as a whole to achieve the targets as proposed. It should be noted that refurbishment projects are difficult to achieve these targets.

## **11. RISK MANAGEMENT IMPLICATIONS**

- 11.1 A formal risk register is maintained for the BSF programme and reviewed by the Strategic Partnership Board on a monthly basis. All key strategic, programme and project risks of BSF are captured on the boroughs corporate JCAD automated risk register.
- 11.2 Programme risks are regularly reviewed with identification of appropriate mitigating actions.
- 11.3 If approval is not secured for entering into the contracts for Swanlea, Harpley PRU, Raines and Bowden House, it will mean the authority will lose £52m.

## **12. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 12.1 All schemes have been put before the secure by design adviser as part of the pre-application planning meetings with all recommendations incorporated into the schemes.

## **13. EFFICIENCY STATEMENT**

- 13.1 The structure of the LEP model is based on a series of agreed Key Performance Indicators (KPIs) which cover: Partnering, Quality, Timeliness, Customer Satisfaction and Added Value. A Continuous Improvement (CI) target has been agreed for each of these KPIs and a commercial agreement has been reached with BPEC on the Guaranteed Minimum Saving (GMS) which this will generate across the duration of the programme.

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### **Local Government Act, 1972 Section 100D (As amended) List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”

Name and telephone number of holder  
and address where open to inspection.

**To be completed by author**

**To be completed by author ext. xxx**

*Report authors should refer to the section of the report writing guide which relates to Background Papers when completing this section. Please note that any documents listed in this section may be disclosed for public inspection. Report authors must check with Legal Services before listing any document as ‘background papers’.*