

Hampton Gardens Secondary School – New Build Project

Councillor Holdich, Leader and Cabinet Member for Education, Skills and University

AUGUST 2015

Deadline date: July 2015

Cabinet portfolio holders:	Cllr Holdich, Leader and Cabinet Member for Education, Skills and University in consultation with Cabinet Member for Resources
Responsible Director:	John Harrison Executive Director, Resources
Is this a Key Decision?	YES If yes has it been included on the Forward Plan : Yes Unique Key decision Reference from Forward Plan : KEY/12DEC14/04
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO

R E C O M M E N D A T I O N S

The Cabinet Member, in consultation with the Cabinet Member for Resources is requested to :

1. Authorise the Corporate Director Resources to approve the construction of new school buildings at Hampton Gardens up to the value of the budget sum of £26m. This sum shall include the anticipated design and build contract costs of up to £22m, funding for Information and Communications Technology (ICT), all site surveys, the purchase of additional land and project management and technical advisers fees.
2. Authorise the Corporate Director Resources to award the design and build contract to the successful Education Funding Agency (EFA) Contractors Framework Panel Member.
3. Authorise the Assistant Director for Legal and Governance or delegated officers to enter into any legal documentation on behalf of the Council in relation to this matter, including the design and build contract, an early works agreement (if required), the transfer of the school site and the purchase of additional land.
4. Agree to enter into a Development Agreement with the Education Funding Agency
5. Agree to enter into a Development Agreement with Hampton Academies Trust.
6. Authorise the Assistant Director for Legal and Governance or delegated officers to enter into a 125 year lease of the school site to Hampton Academies Trust after the defects liability period for the school buildings has expired.
7. Authorise the Service Director for Education, People, Resources and Corporate Property to enter into additional agreements if required by the Department for Education or the Education Funding Agency to facilitate the opening of the new school by Hampton Academies Trust.

Cllr Seaton, Cabinet Member for Resources, comments that:

No comments.

1. SUMMARY OF MAIN ISSUES

- 1.1 This report seeks the Cabinet Member's approval to the recommendations to enable a new secondary school to be provided within the Hampton Gardens development in Hampton, Peterborough. The new school will open to year 7 pupils in September 2017.
- 1.2 The new secondary school will provide 1500 places (inclusive of 300 post-16 places) for children living in the Hampton area and in Yaxley in Cambridgeshire. The new school places are required for September 2017. The project will be led by the Council in collaboration with Cambridgeshire County Council.
- 1.3 Demographic analysis demonstrates a need for secondary school places in the area. Overall secondary cohorts are forecast to increase rapidly. Hampton College continues to be popular with Hampton residents and numbers of children currently living in Hampton show that it is likely to continue to be oversubscribed even with an increase of Published Admission Number to 210. Forecasts show that children living in Yaxley in Cambridgeshire would require up to 4 forms of entry at the new school. Some of these will be children who would otherwise attend Stanground Academy. Places would be freed up at Stanground Academy, which could be taken by students from elsewhere in the city including children living in the Cardea development area.
- 1.4 The site for the new school is located within the Hampton Gardens development area and is subject to a Section 106 Agreement. A site feasibility study to assess the suitability of the site and identify any abnormal conditions that could impact upon the viability of the school scheme, was commissioned by the Council. A number of investigative surveys were carried out and the results of these fed into an indicative block plan and site layout in order to formulate potential cost, programme and identify risk.
- 1.5 In September 2014, Hampton Academies Trust were selected as the education provider to manage the new school. The Trust submitted a Free School proposal to the Department for Education (DfE) in October 2014 and the Trust were notified on 9 March 2015 that the proposal has been approved to enter the "pre-opening" stage. The final decision to go ahead with the proposal depends on the Secretary of State formally entering into a funding agreement with the academy trust. If the proposal is successful and the Secretary of State and academy trust sign a funding agreement, this will reduce the Council and Cambridgeshire County Council's capital contributions to the build costs.
- 1.6 The Council approached the Education Funding Agency (EFA) with a request to utilise the EFA Contractors Framework to undertake a local competition to procure and appoint a contractor as the Selected Panel Member to design and build the new school.
- 1.7 The Hampton Gardens Secondary School will be procured as the "sample" scheme with a number of additional secondary and primary school projects as "non-sample" schemes as part of a batched procurement. This would enable the Council to use the Framework Panel Member appointed to deliver Hampton Gardens Secondary School, for the subsequent "non-sample" schools and award the design and build contract. The contract would be the standard form of lump sum design and build contract.
- 1.8 The project will adhere to the established EFA procedures and utilise the standard suite of documents for procurement. This includes the Feasibility Study template, Preliminary Invitation to Tender template and evaluation matrix, Invitation to Tender template and evaluation matrix and Final Business Case template. The Council has satisfied itself with the terms and conditions within these documents and has signed the Confidentiality Agreement.

- 1.9 All nine Panel Members for the Southern Sector were invited to respond to the Preliminary Invitation to Tender (PITT) and all were invited to the Panel Members Event held at the end of April 2015. Of the nine, three Panel Members responded to the PITT. Following the Framework processes, two were shortlisted to proceed to ITT stage. Designs were developed with both contractors and submitted to the council evaluation team on 10th July for evaluation. Following the evaluation results, Carillion Construction Ltd scored the highest marks and are the proposed selected Panel Member. A 10 day standstill period will commence, subject to no challenges being received during this period on the proposed selection of the contractor, upon expiry of this period Carillion Construction will be selected as the Panel Member. The Selected Panel Member will continue to work with the Council and Hampton Academies Trust to refine the design in readiness for submission of a planning application at the end of August 2015.
- 1.9 Funding for the project has been allocated within the Medium Term Financial Plan. Up to four forms of entry will be provided for children living in Cambridgeshire. The Council will work in partnership with Cambridgeshire County Council to jointly fund and deliver the new school places. The project will be led by the Council (Schools Infrastructure Team) as the school will be located with the Council's local authority boundary.
- 1.10 A Collaboration and associated Funding Agreement have been agreed with Cambridgeshire County Council. The Collaboration Agreement outlines the partnership arrangements which will govern the joint nature of the project until an Operation Agreement is established for all parties which will govern the relationship between the parties following the opening of the school. These agreements were subject to a separate Decision Notice published on 4 March 2015.
- 1.11 The Funding Agreement provides the detail relating to the arrangements for funding to be pre-agreed and split 50/50 between the Council and Cambridgeshire County Council. A payment mechanism and reporting schedule has been agreed between the parties via the Funding Agreement. The Agreement also makes reference to Transition Funding. As the school will have a phased intake from year 7 with full occupancy expected in 2023, the funding from the DfE may not cover the full running costs of the school. The Agreement sets out how both parties will cover any deficit in revenue costs.
- 1.12 The Council and Hampton Academies Trust are working with the DfE to progress the Free School application. The EFA are devising a mechanism to award funding to the Council as the Framework User, to deliver the school building as part of the Free School application. As the funding is required earlier than programmed by the DfE, the Council are awaiting final confirmation regarding the funding to be allocated. Should the Secretary of State award funding to the project to deliver the school building, this will off-set the contributions to be made by both the Council and Cambridgeshire County Council. The funding allocation, if awarded, will be available in readiness for award of contract to the Selected Panel Member.
- 1.13 It is a requirement of the EFA that the Council and the EFA enter into a Development Agreement. The Development Agreement regulates the relationship between the EFA and the Framework User (the Council) for the purposes of providing the funding the Council to deliver the school build.
- 1.14 It is also a requirement of the EFA and the Department for Education that the Council and Hampton Academies Trust enter into a Development Agreement. The Development Agreement regulates the relationship between the Academy Trust and the Framework User (the Council). It provides the basis upon which the Academy Trust participates in the process for design finalisation, is consulted in relation to construction and commissioning matters and has its interests recognised by the Framework User.
- 1.15 The Agreement also envisages the novation of the design and build contract to Hampton Academies Trust at a date immediately following completion of the Defects Liability Period. This ensures that the Academy Trust then has a direct relationship with the design and

build contractor allowing it to enforce Intellectual Property rights and latent defects. This allows the Council to drop out of the contractual chain.

1.16 The Development Agreement also forms an Agreement for Lease with Occupational Licence confirming that a lease (with a 125 year term) will be agreed between the Council and Hampton Academies Trust upon completion of the new buildings following a 12 month defects liability period.

1.17 The site identified for the school is subject to a Section 106 Agreement. The land will be transferred to the Council from the developer O&H Properties Ltd. The site is a total of 6.8ha hectares. As this falls short of non-statutory guidance relating to site requirements for a school catering for 1500 pupils, the Council will purchase an additional 0.94 hectares from the developer in order to ensure that the school site can provide the necessary facilities. There is an agreed threshold within the S106 Agreement for the release of funding contributions from O&H Properties Ltd for the school build.

1.18 Programme:

In order to achieve an opening in September 2017, the key procurement milestones with date's are as follows:

- Submission of the Feasibility Study to the EFA for approval - 20 April 2015
- Panel Member's Information Event – 17 April 2015
- Issue Preliminary Invitation to Tender (PITT) – 8 May 2015
- PITT evaluation and shortlisting – 18 May 2015
- Issue Invitation to Tender (ITT) – 27 May 2015
- Select Panel Member – 23 July 2015
- Submit Planning Application – 27 August 2015
- Approval of Final Business Case – 19 November 2015
- Award of contract/financial close – 22 November 2015
- Start on site – December 2015/January 2016

2. PURPOSE OF THIS REPORT

2.1 The purpose of this report is to provide background information and seek the Cabinet Member's approval in relation to the recommendations.

2.2 This decision is proposed in accordance with the delegations for the Cabinet Member for Education, Skills and University exercising delegated authority under paragraph 3.4.3. and 3.4.8 (a) of Part 3 of the constitution in accordance with the terms of his portfolio (h).

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4. DETAILS OF DECISION REQUIRED

The purpose of this report is to obtain the Cabinet Member's approval in relation to:

- the construction of a new secondary school on land transferred to the Council and subject to a Section 106 Agreement affecting the Hampton Gardens development area of Hampton;
- the purchase of additional land to ensure the school site meets requirements
- the authorisations required to award the design and build contract to the selected EFA Contractors Framework Panel Member to carry out the works as the "sample" scheme of a batched contract;
- the authorisations required to enter into a Development Agreement with Hampton Academies Trust
- the authorisations required to enter into any other agreements as required by the DfE and EFA including a Development Agreement with the EFA

- 4.2 The Selected Panel Member will proceed with the submission of the planning application as per the programme.
- 4.3 Subject to planning approval, award of contract for the design and build of the new school will take place in November 2015.
- 4.4 The technical advisors to the project will prepare a comprehensive Value for Money report for review by the Council prior to the award of contract.

5. CONSULTATION

- 5.1 A joint Council and Cambridgeshire County Council Members briefing was held on 6 May 2014.
- 5.2 A joint Council and Cambridgeshire County Council briefing for primary and secondary headteachers and their Chair of Governors was held on 3 June 2014.
- 5.3 A public consultation event was held at Hampton Hargate Primary School on 14 July 2014 for the public to find out more about the proposals for the new secondary school. A further event was held on 16 July 2014 at Fourfields Primary School for parents of children living in Cambridgeshire.
- 5.4 Further public consultation will take place prior to submission of the planning application at the end of August 2015.
- 5.5 Public consultation will take place as part of the Free School process lead by Hampton Academies Trust.
- 5.6 A Project Board has been established with membership from the Council and Cambridgeshire County Council. The first meeting took place on 17 April 2015.
- 5.7 Key stakeholder departments within the Council are fully briefed on the proposals. These include Planning Department, Strategic Finance and Legal Services.

6. ANTICIPATED OUTCOMES

- 6.1 The land for the new school site will be acquired by the Council partly by way of a transfer to the Council and partly by the purchase of an additional 0.94ha of adjacent land to form a total site area of 7.74ha to accommodate the new school. Both parcels of land shall be acquired from the developer O&H Properties Ltd.
- 6.2 A design and build contract will be awarded to a member of the EFA Contractor's Framework (southern sector) to build the new Hampton Gardens Secondary School. The new school will be delivered as the sample scheme with the option to appoint the successful contractor to deliver future non sample schemes as part of a batched contract.
- 6.3 The programme summary anticipates construction of the new school commencing in January 2016. The school will open to year 7 students in September 2017.
- 6.4 Approval of the Development Agreement between the Council and the EFA and a further Development Agreement between the Council and Hampton Academies Trust will allow the Council to enter into a design and build contract with the contractor in order for the work to commence on site as programmed.
- 6.5 The principles of the agreed Collaboration and Funding Agreements will be applied to the delivery of the project as a joint venture between the Council and Cambridgeshire County Council.

7. REASONS FOR RECOMMENDATIONS AND ANY RELEVANT BACKGROUND INFORMATION

7.1 The Local Authority has a statutory duty to provide school places. There are significant pressures on the city to provide school places in the areas most in need. A review of demographic data has informed the decision to open a new school as part of the School Organisation Plan 2012-2017 upon land subject to a Section 106 Agreement.

7.2 As a result of the above, the proposed scheme will :

- Provide 1500 new school places (inclusive of 300 post-16 places) for children living in Hampton and Yaxley in Cambridgeshire to be managed by Hampton Academies Trust
- The school will open on a phased basis in September 2017 for year 7 pupils
- Delivered as the sample scheme via a batched design and build contract

7.3 The EFA Contractors Framework batched contract arrangements will allow the Council to deliver the new school buildings and associated facilities for opening in September 2017.

8. ALTERNATIVE OPTIONS CONSIDERED

The following options were considered and rejected:

8.1 To do nothing. This option was rejected due to the Local Authority's statutory duty to provide sufficient school places.

8.2 Consideration was given as to whether to seek an executive decision from the Cabinet Members at the time of award of contract and entering into the Development Agreement. However given the timescales for delivery of this project, it is considered necessary to seek authorisations as set out in the decisions described above.

8.3 Tender the projects outside of the framework. The procurement of a contractor to design and build the new school as the sample scheme of a batched contract enables the Council to utilise this contract for future school build projects without the need to re-procure. This approach will save Council resources and ensure that school projects can be completed within required timescales for the delivery of additional places.

9. IMPLICATIONS

9.1 The legal and financial implications of this Cabinet Member Decision Notice are set out in the main body of the report.

9.2 Legal – The Education Funding Agency Contractors Framework was procured under the Restricted Procedure of the Public Contracts Regulations 2006 and the Council is permitted to use the framework. The Council is entering into the agreement pursuant to its powers contained in section 2 of the Local Government Act 2000, section 14 of the Education Act 1886, section 22 of the Schools Standards and Framework Act 1998 and section 111 of the Local Government Act 1972 in order to enable investment in certain educational services and facilities.

9.3 Environmental – The specification for the works in the new build will include a sustainable approach to ensure that the building envelope exceeds current building regulations in terms of air quality, air tightness and energy efficiency. It will also incorporate renewable technologies to achieve the 10% improvement in Part L2A Buildings Regulations.

10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

None.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

School Organisation Plan 2012-2017

EFA Contractors Framework Guidance November 2013

Medium Term Financial Plan