



Building Schools for the Future Programme Final Business Case (FBC)

SUMMARY

- 1.1 Local Authorities are required to submit a Final Business Case (FBC) following the appointment of their BSF preferred bidder to evidence that the procurement process has delivered the objectives set out in the Outline Business Case. The FBC is the final key approval required prior to the release of funding and provides Partnerships for Schools (PfS) with confirmation regarding the affordability and delivery of the Sample Schools. The document sets out key information on the programme including any changes in the scope, affordability, proposed procurement route or deliverability of the project since the Outline Business Case.
- 1.2 Following the national review of the programme and the Secretary of State for Education's announcement on 05 July 2010, Derby's BSF Programme was stopped with the exception of the two Sample Schemes. Therefore, the Final Business Case covers the sample schemes for Derby's BSF Programme only. PfS approval of the FBC is required before the programme can proceed to financial close and for construction work to commence on the schools in January 2011. Subject to Cabinet approval, the FBC will be submitted to Partnerships for Schools (PfS) for final approval. It is anticipated that PfS will require a maximum of 6 weeks to consider the FBC, and it should be noted that 14 other Local Authorities will also be submitting their BSF documents at the same time.
- 1.3 The Local Authority is planning to achieve Financial Close around 23 November 2010. However, this date may be pushed back depending on final Government and Treasury approvals. All the necessary documentation is in place, therefore we are confident Derby's BSF Programme should reach financial and contract close around 23 November 2010.

RECOMMENDATION

- 2.1 To consider and approve the Final Business Case for Derby's BSF Programme as detailed in the part two confidential report.
- 2.1 To approve the commencement of the schemes as detailed in the Final Business Case.

REASONS FOR RECOMMENDATIONS

- 3.1 The Final Business Case is the final stage of the approval process for Derby's BSF

Programme Sample Schemes. PfS approval is required before the BSF Programme can proceed to financial close and for construction work to commence.

SUPPORTING INFORMATION

4. Background

- 4.1 Derby joined the national Wave 5 of the Building Schools for the Future (BSF) Programme in October 2007. Derby's Strategy for Change Part 1 was submitted on 19 December 2007, and the Strategy for Change Part 2 on 9 May 2008. Following approval of these documents, the Outline Business Case (OBC) was submitted on 10 October 2008. All documents were submitted in line with PfS agreed deadlines and received formal approval from the Department for Education (formerly Department for Children, Schools and Families), prior to the publication of the OJEU notice on 02 March 2009.
- 4.2 Originally, the scope of Derby's BSF Programme comprised the rebuilding of four schools and the refurbishment of ten schools. Full provision of an ICT managed service was also to be included in line with the construction programme. Those schools that had already been rebuilt prior to BSF were also included in the programme as ICT only schools. These works were to be delivered in a single wave over three phases.
- 4.3 Following the national review of the programme and the Secretary of State for Education's announcement on 05 July 2010, the project was stopped with the exception of the two Sample Schemes which were identified for further discussion. Following the submission of further information on the Samples Schools, these schemes were approved. This Final Business Case (FBC) therefore relates only to these two schemes; the PFI new build Sample Scheme for Noel-Baker and St Martins, and the D&B refurbishment Sample Scheme for Derby Moor.
- 4.4 Local Authorities are required to submit a FBC following the appointment of their BSF preferred bidder to evidence that procurement has delivered the objectives set out in the Outline Business Case. The FBC is the final key approval required prior to the release of funding and provides Partnerships for Schools (PfS) with confirmation regarding the affordability and delivery of the Sample Schools. The content and structure of the FBC attached as Appendix 2 is in accordance with PfS requirements.

5. Procurement

- 5.1 The procurement for Derby's BSF Programme was undertaken using the Competitive Dialogue Procedure of the Public Contracts Regulations 2006 and Balfour Beatty was appointed on 22 June 2010, as the Selected Bidder.

The procurement:

- was in compliance with relevant EU procurement legislation.
- allowed for a robust analysis of the proposed solutions of each bidder at each stage of the process.
- ensured that the bids offered value for money through an effective and continuous competition between each consortium up to the appointment of the Selected Bidder.

- 5.2 Following the complex and detailed evaluation process, Derby's BSF Project Board and Council Cabinet approved the appointment of the highest scoring bidder, Balfour Beatty Education, to deliver Derby's BSF Programme. Bidders were notified of the outcome on 09 June 2010 and as legally required, this was followed by a 10 day 'standstill period' until 21 June 2010 when the Selected Bidder was appointed. A Feedback Meeting with the unsuccessful bidder was also held during this period on 14 June 2010.

6. Contractual Close

- 6.1 Following Government approval of BSF Programme funding for Derby's Sample Schools, work has been urgently taking place with Balfour Beatty Education (BBE) in planning for contractual close in relation to Noel Baker / St Martin's and Derby Moor.
- 6.2 PfS approval of the FBC is required before the programme can proceed to contractual close and for the construction programme to commence. Subject to Cabinet approval, the FBC will be submitted to Partnerships for Schools (PfS). It is anticipated that PfS will require a maximum of 6 weeks to consider the FBC. However, there is a need to be aware that a significant number of other Authorities will also be submitting FBCs at the same time. Once the FBC has been approved, contract close will follow with the Council formally signing all the legal documentation and Balfour Beatty Education seeking final approval and signatures from their banks with due diligence completed. Derby's BSF Programme is scheduled to reach financial and contract close around 23 November 2010. However, in view of government approvals and final approval and signatures that Balfour Beatty will need to secure from the banks, this date may be pushed back. All the necessary documentation is in place, and therefore we are confident Derby will be one of the early authorities to reach financial close.
- 6.3 Whilst it is positive that Derby's Sample Schools have received approval, it is, of course, disappointing that the remainder of the BSF Programme has been stopped. This is disappointing for all schools, particularly in the case of Lees Brook due to the very poor condition of the school buildings. The outcome of the Government's Comprehensive Spending Review will provide a better understanding of Schools Capital Funding in the future. Capital investment is essential for all schools across the primary and secondary estate in Derby.

OTHER OPTIONS CONSIDERED

7. The FBC is the final stage of the approval process for Derby's BSF Programme Sample Schemes. PfS approval is required before the programme can proceed to financial close on the Sample Schemes and for the work to commence. Therefore, other options have not been considered.

For more information contact: Rita Silvester - Director of Strategy and Commissioning
Children and Young People's Department.
Email: rita.silvester@derby.gov.uk Tel: 01332 716840

Gurmail Nizzer - Head of School Organisation and Provision
Children and Young People's Department.
E-mail: gurmail.nizzer@derby.gov.uk Tel. 01332 716852

Background papers: None

List of appendices: Appendix 1 – Implications
Appendix 2 – Final Business Case

IMPLICATIONS

Financial

- 1.1 Due to commercial confidentiality, the detailed financial information is outlined in the Final Business Case included in the part 2 confidential report.

Legal

2. The legal documents shown below are being finalised between the Authority, our legal advisers, and Balfour Beatty legal advisers.

The contracts listed below are in the process of being submitted to PfS for approval. Some of the key contractual documents require PfS approval prior to contract close. This process runs in parallel to FBC approval with PfS commercial lawyers. The legal workstream remains on target with the aim for Derby's BSF Programme to reach financial and contract close around 23 November 2010.

- Strategic Partnering Agreement
- Shareholders Agreement
- Management Services Agreement
- PFI Project Agreement
- PFI Payment Mechanism
- ICT Services Contract
- ICT Payment Mechanism
- Design and Build Contract
- Funders Direct Agreement

Personnel

3. There will be personnel implications of services to be included in the LEP, for example, cleaning, caretaking, grounds maintenance and security for the proposed PFI school. TUPE will apply to any staff transferring to the PFI Contractor. There will be full consultation. There are now no implications for ICT staff as there is no longer a requirement for an ICT managed service.

Equalities Impact

4. The BSF Programme will provide capital funding to improve and modernise Derby's Sample Schools which Noel Baker / St Martins and Derby Moor. The Sample Schools will be Disability Discrimination Act (DDA) compliant on completion of the programme.

Corporate objectives and priorities for change

5. The BSF Programme supports the Corporate Priority of building ambition, aspiration and achievement in the city's young people.

**Building Schools for the Future Programme
Final Business Case**

Due to commercial confidentiality, the Final Business Case is included in the part 2 confidential report.