

PLYMOUTH CITY COUNCIL

Subject: Capital Investment Delivery for All Saints Academy, Plymouth
Committee: Cabinet
Date: 27 March 2012
Cabinet Member: Councillor Samantha Leaves (Children and Young People)
CMT Member: Anthony Payne (Director for Place)
Author: Gareth Simmons (Programme Director for Learning Environments)
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Ref:
Key Decision: Yes
Part: One

Executive Summary:

On 20 December 2010, 71 academies were given capital allocations by the Department for Education (DfE); All Saints Academy Plymouth (ASAP) was allocated £10.6 million. The Academy's Lead Sponsor, the Church of England Diocese of Exeter, and cosponsors, the University College Plymouth St Mark and St John and Plymouth City Council, appealed against the allocations; following submissions to Ministers these were revised. In May 2011, the allocation for ASAP was increased to £11.3 million.

On 18 October 2011, Cabinet gave approval for the Council to act as procurement agent for ASAP and the Marine Academy Plymouth (MAP).

This report deals with ASAP; a separate report for the MAP was approved by Cabinet on the 21 February 2012.

Ministers signed off the allocation on the basis that the delivery of the capital investment is procured through the Partnership for Schools (PFS) Academies Framework. In discussions, between PFS and the sponsors of ASAP (May 2011), it was indicated that the funding is reliant on the procurement being through this route and managed by the Council.

Technical Advisors were appointed through the Office of Government Commerce (OGC) Advisor Framework to project manage the procurement.

A feasibility study was developed that considered the building options and set out a control scheme that met the objectives of the Academy. This study has also been through a pre-application planning process. The control scheme had been evaluated to ensure that it is deliverable and within the allocated budget. On the 22 December 2011, the feasibility study was submitted to PFS and approved.

The project was put out to the PfS Construction Framework through a Provisional Invitation to Tender (PITT), where all regional framework contractors were invited to express an interest in tendering. Four contractors, Balfour Beatty plc, Keir, Interserve and BAM Construction Ltd chose to tender and a formal PITT evaluation reduced this down to just Balfour Beatty plc and BAM Construction Ltd.

Full Invitations to Tender (ITT) were sent out on the 23 January 2012 and a formal design engagement process has been concluded with both contractors' design teams being offered equal time allotted to the Academy and building end users. The Contractors submitted ITTs on the 5 March 2012, these have been evaluated for quality and value for money using the PfS agreed evaluation criteria. This evaluation demonstrates that BAM Construction Ltd is recommended as the selected panel member (Preferred Bidder). This recommendation has been endorsed by the Academy, and by the Academy's lead sponsor, the Church of England Diocese of Exeter.

The capital investment in the city will have an important impact on the local economy. It is estimated that as much as 80 per cent of this value will be spent in Plymouth and the demand for skilled trades will also allow the Council to negotiate that the contractor will take on apprentices as part of the proposal.

Corporate Plan 2012 - 2015:

This programme aligns with and supports the following Corporate Priorities:

1. Deliver growth and promote Plymouth as a thriving growth centre by creating the conditions for investment in quality new homes, jobs and infrastructure. The Academy Investment will improve education infrastructure that supports the growth of the city, by supplying good quality education provision that meets need, it makes the city an attractive place to live and work. This paper brings to Cabinet opportunities for substantial investment into the city.
 2. Raise aspiration and the skills and expectations of Plymouth residents to ensure our young people achieve better qualifications and find high quality jobs. The investment this paper describes will significantly improve the secondary school infrastructure in the city.
 3. Reduce inequalities by reducing the large economic and health gaps between different areas of the city by improving the educational offer in these parts of the City. The proposals in this paper are targeted at narrowing the gaps in inequality of education that exists in the city.
 4. Provide value for communities and to become more efficient and joined up with partners and local residents to deliver services in new and better ways. These proposals seek to support the Academy, a partner organisation, brokered by the Council to achieve the maximum value for the community it serves.
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Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The sum of £11,332,061, approved by Partnership for Schools (PfS) as the investment budget, is to be allocated in the following way:

Design and Build Contract £10,856,332:

- Construction Costs £7,460,275
- External Works and Abnormal Costs £1,423,500
- Fees £1,002,964
- FFE £701,843
- ICT Infrastructure £267,750

and ICT Hardware £475,1729.

Under the terms of the PfS framework the contract budgets above are fixed contractual sums. The scope of the works delivered by the Design and Build contractor is a variable throughout the procurement, and the quality and quantity of the offer has been evaluated using PfS's strict procurement process.

Whilst the contracting risks are small, it should be understood that acting as procurement agent, the Council will take on liability for the project should there be a legitimate claim. However, PfS have devised a client biased contract that offers a considerable amount of comfort that much of the risk is transferred to the contractor. The procurement will also be undertaken with some rigour; therefore, the onward risk is very small.

Within the fee element for both academies, the sum of £300,000 was top sliced for the Council to use for procurement costs. Based on analysis of costs, this top slice is unlikely to be sufficient to fund the full costs of managing a project. However, the academy sponsors have agreed to meet procurement costs above this provision, based on the view that reduced expenditure in this area would be a false economy.

The Council's time in gaining internal approvals, letting and monitoring the building and technical advisors contracts was assessed to be a total of 210 days of work. As these expenses cannot be recovered against the allocated funding, this represents the Council's contribution in support of the two Academy projects.

The ongoing operation and condition liability of ASAP falls to the Academy and the Government, so there are no direct costs falling to the Council.

Other Implications: e.g. Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:

Schools are a key facility in their local communities and support wider cohesion in the area. An Equality Impact Assessment has not been completed as the investment in school buildings would be designed to current building regulations which are fully DDA compliant. In addition, these are community facilities which are open to all; therefore issues surrounding discrimination on the basis of age, faith, gender, race, or sexual orientation are not applicable.

Capital investment into schools offers the opportunity for them to resolve many issues of health and safety and community safety that have become long standing in schools. The capital investment will resolve building condition issues that in the long term improve the building fabric that could lead to Health and Safety breaches.

A fully compliant risk register has been developed for the project.

Recommendations & Reasons for recommended action:

1. That Cabinet approves the appointment of BAM Construction Ltd as the selected panel member to deliver the capital improvements to All Saints Academy Plymouth and that expenditure of the design fees is awarded to this contractor.
2. That the final approval to agree the scope and quality of works be delegated to the Director for Place.

Reasons for these recommendations are to comply with PFS approval process that contractual decisions should be made with speed and efficiency. Also to fully comply with the Council's constitutional arrangements and to ensure that this centrally allocated investment is delivered through the PFS Construction Framework process and procedure.

Alternative options considered and reasons for recommended action:

The project undertook a detailed Feasibility Study that considered a number of building options before a control scheme was chosen as a preferred design. Through the procurement process two contractors have developed alternative options that have been carefully evaluated for design compliance and value for money.

Consideration of different procurement routes were considered in the 18 October 2011 Cabinet.

Background papers:

1. [Plymouth City Council Children's Services Strategy for Change Investment for Children.](#)
2. [Capital investment delivery for Marine Academy Plymouth and All Saints Academy, Plymouth. Cabinet 18 October 2011.](#)

Sign off:

Fin	ChS 0380	Leg	LT 1422 5	HR	N/A	Corp Prop	CJT/ 093/ 0202 12	IT	N/A	Strat Proc	JK/SP U/27 I/D D/03 12
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Originating SMT Member: Gareth Simmons and David Draffan

1. Background

1.1 On 20 December 2010, 71 academies were given allocations by the Department for Education (DfE). All Saints Academy Plymouth (ASAP) was allocated £10.6 million. The academy's sponsors (of which Plymouth City Council is a co-sponsor) appealed against the allocation, which was revised following submissions to Ministers. The capital allocated was finally approved in May 2011 and increased to £11,332,061.

1.2 Ministers have signed off the allocations on the basis that the delivery of this capital investment is procured through the Partnership for Schools (PFS) Academies Framework. In discussions between PFS and sponsors of MAP in May 2011, it was indicated that the funding allocated is reliant on the procurement being through this route and managed by the Council. This was reinforced through a direct contact with the Council at a meeting with the Director for Services for Children and Young People and the Director for Corporate Support on 21 May 2011.

1.3 Cabinet took the decision to proceed with the procurement on the 18 October 2011 and Technical Advisors were appointed through the Office of Government Commerce (OGC) Advisor Framework to project manage the procurement.

1.4 A feasibility study was developed that considered the building options and set out a control scheme that met the objectives of the Academy. The study has also been through a pre-application planning process. The control scheme has been evaluated to ensure that it is deliverable and within the allocated budget. On the 22 December 2011, the feasibility study was submitted to PFS and approved.

1.5 The project was put out to the PFS construction framework through a Provisional Invitation to Tender (PITT) where all regional framework contractors were invited to express an interest in tendering. Four contractors, Balfour Beatty plc, Keir, Interserve and BAM Construction Ltd chose to tender and a formal PITT evaluation reduced this down to just Balfour Beatty and BAM Construction Ltd. The PITT included to 'batch' St Michael's Free School, Truro. This means that the delivery of this additional project can be undertaken by the same successful contractor saving a considerable amount of procurement time.

1.6 Full Invitations to Tender (ITT) were sent out on the 23 January 2012 and a formal design engagement process has been concluded with both contractors design teams being offered equal time allotted to the Academy and building end users.

1.7 Both Contractors submitted ITT's on the 5 March 2012, which have been evaluated for quality and value for money using the PFS agreed evaluation criteria. This evaluation demonstrates that BAM Construction Ltd is recommended as the selected panel member. This recommendation has been endorsed by the Academy and by the Academy's Lead Sponsor the Church of England Diocese of Exeter.

2. Proposed scope of project

2.1 The feasibility control scheme included the demolition of the majority of the school buildings built in the 1960s, and the ROSLA blocks built in the 1970s. The remaining 1980s building (East Wing) would have been refurbished and remodelled. The Brunel Centre will remain and will include no work. The balance of new build to refurbishment was as follows:

- New build 4,188m²
- Refurbishment and Remodelling 4,084m²
- No work 811m²
- Demolition 5,357m²

2.1 The balance of new build to refurbishment of the recommended selected panel member is as follows:

- New build 4485m²
- Refurbishment and Remodelling 4132m²
- No work 811m²
- Demolition 5357m²

3. Financial position

3.1 **VAT Academies:** the treatment of VAT has been simplified following a change in VAT legislation in April 2011, which means that all academies are now able to reclaim any VAT which they incur.

3.2 **VAT Plymouth City Council:** Although a Tenancy at Will (TAW) has been granted to ASAP, it will be amended during the construction period so that the Council will retain an interest in the land. It will contract with the contractor and incur all the design and build costs. The Council will make contract payments and receive funding in the form of a capital grant from the Department of Education. Once the works are completed, the TAW will expire and 125-year peppercorn lease granted to the Academy.

3.3 Provided that the lease granted to ASAP is a true peppercorn, i.e. a lease granted for no consideration in money or kind, then the Council is able to fully recover the VAT relating to the construction contract. However, if the lease does not represent a true peppercorn lease, then the grant of land would be made in the course of business. The default liability of a supply of land is exempt from VAT, but this could result in a proportion of the Council's VAT becoming irrecoverable, potentially at a cost of more than £1 million.

3.4 The Council will opt to tax the ASAP site as insurance to protect the Council's ability to recover input tax, should it be deemed by HM Revenue and Customs that the lease is not a true peppercorn lease.

4. Legal position

4.1 Whilst changes have been introduced by the Academies Act 2010, the Council retains power to act as a procurement agent in the type of arrangements proposed.

4.2 As the Academy is now separate organisation to the Council, there will be the need to transfer collateral and other warranties from the consultants, contractors and manufactures of the works. The Council would not hold a residual role following the completion of the works as the Academy will retain responsibility for the on going repair and maintenance of the property as set out the standard 125 year academy lease.

4.3 At the completion of the works contract the responsibility of the ongoing contractual obligations are transferred in a standard Development Agreement between the Council and the Academy Trust, this agreement, drafted by PfS, will clearly set out the transfer of the completed building works to the Academy Trust.

4.4 Partnership for Schools have also set out a standard Memorandum of Understanding (MOU) between the Council and themselves that formally sets out the agreement that the Council will follow PfS processes and use all of their standard documents including the frameworks design and build contract.