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**21<sup>ST</sup> CENTURY SCHOOLS BAND B FUNDING**

**EDUCATION, EMPLOYMENT & SKILLS (COUNCILLOR SARAH MERRY) AND FINANCE, MODERNISATION & PERFORMANCE (COUNCILLOR WEAVER)**

**AGENDA ITEM: 7**

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**Reason for this Report**

1. To seek Cabinet approval to enter into discussions with the Welsh Government (WG) regarding participation in the Mutual Investment Model (MIM) funding route for two schemes within Cardiff's 21<sup>st</sup> Century Schools Band B Programme.

**Background**

2. At its meeting on the 14<sup>th</sup> December 2017, the Cabinet received a report which:
  - Outlined the priority schemes to be undertaken as part of Cardiff's Band B 21<sup>st</sup> Century Schools Programme
  - Requested members note the approval in principle by WG of the Strategic Outline Case submitted by Cardiff Council for Band B of the 21st Century Schools Programme and to authorise discussion with the WG to secure business case approval for individual schemes
3. This report set out the sufficiency, suitability and condition issues in Cardiff and which form were the basis of the funding request from Cardiff to WG under the Band B programme.
4. Support for Cardiff programme was secured in principle to enable the Council to:-
  - Remove all "D" condition, end of life, school properties;
  - Address the 8 form of entry sufficiency issue in the English medium secondary sector in the central area of the City;
  - Address the sufficiency, condition and suitability issues in the Special Sector, in both primary & secondary settings;
  - Address local sufficiency issues in Welsh medium primary schools in the East & West of the City;

- Address local sufficiency issues in English medium primary schools in Cardiff Bay & West of the City.
5. In developing its outline programme for 21<sup>st</sup> Century Schools Band B, the Council considered a range of options and prioritised a list of projects and schemes. This work was undertaken in conjunction with external cost consultants to ensure the robustness of indicative costs. The Council utilised standardised construction cost rates as provided by WG.
  6. The indicative cost of the Council's outline Band B programme was £284 million. This cost represented the full "rolled-up" cost of all schemes within the preferred programme. At the point of submission, external cost consultants confirmed that delivering the programme was possible within the overall envelope identified.
  7. As set out in the December 2017 report, the WG's approach to Band B is slightly different to Band A as there are two funding models available to support Local Authorities to finance their investment. There continues to be the option of the traditional capital grant funding model along with the offer of the MIM as an alternative revenue funded option. This latter option took the form of a public-private partnership, in which the WG would hold a stake, whereby local authorities would not be required to finance the capital outlay associated with the construction of new schools buildings. Instead, local authorities would fund 25% of the revenue cost of leasing the new school buildings over a period of 25 years, with WG funding the balance.
  8. At the outset of Band B, WG confirmed that the following intervention rates would apply for capital funded schemes:
    - Mainstream Schools – 50:50
    - Special Schools / PRUs – 50:50
    - Voluntary Aided Schools – 85:15
  9. Cardiff Council's submission indicated and received in principle agreement to a £284 million programme. This equated to a Cardiff Council contribution of circa £139 million, (slightly less than 50% overall owing to the inclusion of St Mary the Virgin Primary School in the programme funded at an 85:15 rate specific to investment in faith schools). Consistent with the approach taken to Band A, the Council's funding contribution would have predominantly taken the form of external prudential borrowing together with capital receipts to the value of £25 million, as outlined in the Council's 2018/19 budget report.
  10. As set out in the December 2017 Cabinet report, the Cabinet's initial position regarding MIM (following consideration of the overall cost of MIM; the WG's proposed contribution rate at 75:25 and the overall level of risk exposure) was to express an interest in the traditional capital funding model only, when submitting its Strategic Outline Business Case.

## Issues

11. As a result of representations made by numerous local authorities around the affordability of Band B, the WG have recently confirmed that the capital funding intervention rates will change. The new rates are as follows:
  - Mainstream Schools – 65:35
  - Special Schools / PRUs – 75:25
  - Voluntary Aided Schools – 85:15
12. Where local authorities have schemes that combine both mainstream and special schools, these are to be split into their constituent parts so that the relevant intervention rates can be applied (an assumed 70% intervention rate has been assumed for the purposes of this report). This is particularly relevant to Cardiff's largest scheme where it is proposed that Cantonian High School be rebuilt at 8FE together with the expansion and relocation of both Woodlands High School and Riverbank Special School to the Cantonian High School site. If agreed to proceed to implementation, this scheme will account for almost a quarter of the value of the Cardiff Band B investment programme.
13. The rate of intervention for MIM has also been revised and is proposed to be 81:19 cost sharing arrangement in the favour of local authorities. WG have suggested that the increased MIM intervention rate equalises the potential cost to local authorities across both funding options.
14. The WG are clear that there is still support for the schemes outlined in each Local Authority's initial Strategic Outline Programme. However, they have also confirmed that the change in intervention rates will result in the need to slow down the pace of delivery of capital funded schemes to align with the availability of funding in each financial year. This is a direct result of increasing their share of the funding, without a commensurate increase in the total amount of funding being made available.
15. As a consequence of the need to change the pace of delivery of capital funded schemes, the WG have asked local authorities whether they would like to reconsider their stance in relation to schemes delivered via MIM. This is of particular relevance to Cardiff, due to the urgent need to progress schemes as soon as possible, particularly those in connection with Condition D schools. A robust pipeline of schemes is required for the Private Sector Delivery Partner Procurement, which will commence in the first half of 2019.
16. Local authorities that have already submitted an interest in MIM will be given priority for consideration under this option. However, the WG have confirmed that there is still scope for others to secure funding through this funding model within the £500 million funding envelope allocated.

## **Evaluation of the MIM model and Cardiff Schemes that could be suited to this funding route**

17. Evaluating the full financial and non-financial impact of funding projects via the MIM route is challenging and the following is largely based on information and financial modelling provided by WG. The anticipated benefits of MIM are as follows:
- Potential for earlier delivery of schemes, particularly in the context of the slowdown of the traditional capital funded model schemes.
  - Earlier delivery would assist with the avoidance of part of the significant cost that will be required to maintain Condition D schools before the new schools are constructed.
  - A school asset that is maintained at a high level during the 25-year lease period, with the WG contributing towards 81% of the maintenance costs.
  - The Council and schools concerned will have full control over the day to day operation of the building, including soft facilities management and use of the building and its facilities.
  - Engagement with the MIM route may provide an opportunity to reconsider the scope of schemes that could potentially be funded via MIM.
18. There are also potential limitations of the MIM funding model, these are set out below:
- The suitability of MIM is limited to complete new builds only, projects that include refurbishment or extensions are not deemed suitable.
  - Projects (or a group of similar projects in a local authority area) would need to have a capital value of £15 million or more to be funded through this route.
  - MIM is not deemed suitable for small primary schools, PRUs or special schools.
  - Statutory consultation needs to have been completed beforehand with no outstanding or complicated land issues.
  - The scope of schemes needs to be clearly defined in advance of commencing a MIM scheme with changes to scope being problematic once the scheme is underway.
  - Councils will still need to undertake and fund some capital works, including work to enable the schedule of accommodation to be worked up, and they will also be required to fund some works connected to FFE and ICT.

### **Potential Cardiff MIM Schemes**

19. Cardiff Council has only two schemes that would meet the WG's criteria for inclusion as a MIM scheme. These are set out below:
- The first is Cathays High School, which is intended to be a rebuild scheme for an 11-18 school expanding from 6FE to 8FE with 6<sup>th</sup> form.
  - Willows High School, which could be rebuilt either as an 11-16 8FE school or in conjunction with a new build primary provision

20. The other schemes included in Cardiff's Band B submission are either too small in capital value, are too far progressed or relate to special schools.

### **Capital and MIM Financial Comparison**

21. An evaluation, based on the available information, has been undertaken to assess the estimated cost of delivering a scheme via the MIM route, compared to via the traditional, capital route. This evaluation has taken account of intervention rate changes to both funding routes and has been based on the two schemes (Willows and Cathays) outlined previously. The comparison has been predicated on MIM financial information provided by WG, cost estimates from external advisors and current interest rates being incurred by the Council.
22. The analysis has taken a view of the total revenue cost that would be incurred by the Council over a 25 year period. In the case of capital funded schemes, this incorporates the annual capital financing charges associated with the repayment of external borrowing and the estimated annual cost of repairs and maintenance to each school. With regards to MIM, the analysis incorporates the annual unitary charge that would be incurred for the 25 year period, the capital financing charges associated with the works required outside of the MIM arrangement and an estimate of annual repairs and maintenance that would remain the responsibility of the Council and school.
23. When comparing the two options in totality, the total revenue cost over the 25 year period is broadly similar, with the estimates suggesting that MIM would result in slightly lower costs overall. This includes the higher level of maintenance that would be undertaken as part of the MIM arrangement. In terms of affordability, the revenue saving that would arise from favourable intervention rates, and two schemes being removed from the capital funding envelope and implemented as MIM schemes, would be sufficient to fund the 19% contribution that the Council would be required to make to the annual unitary charges for MIM schemes.

### **Summary**

24. The WG have confirmed that the original delivery profile of schemes will be difficult to support via the capital funded route.
25. The financial evaluation, despite its limitations, indicates that the total cost of MIM schemes are not substantially different to the costs of capital funded schemes.
26. In addition, the level of maintenance that would be ensured via a MIM scheme is beneficial.
27. On this basis, it can be concluded that the MIM route would secure delivery close to the required timetable for Cardiff, at no greater cost to the Council. The broader scope, including primary provision as part of

the Willows development, could only be delivered via MIM. In contrast, the capital route would not be able to secure delivery of these two schemes until a later stage of the Band B programme and could not include a primary school without potential impact upon other schemes within the programme.

### **Local Member Consultation**

28. Consultations have taken place with a range of stakeholders about the Band B priorities and aims of the 21<sup>st</sup> Century school strategy. These included Local Members, Diocese, Arch Diocese, Head Teachers and Governing Bodies.

### **Reason for Recommendations**

29. Owing to changes to the intervention rates by the WG on its national 21<sup>st</sup> Century Schools Investment Programme and the potential benefits for Cardiff in terms of time and increased scope to include for a larger Willows scheme the Cabinet is recommended to reconsider its decision specific to the pursuing MIM funding for part of the Cardiff programme.

### **Financial Implications**

30. This report recommends that Cabinet approve the pursuit of a dual funding strategy for the 21<sup>st</sup> Century Schools Band B Programme, including two potential schemes to be delivered under the MIM funding route. This represents a change of position compared to the December 2017 report and there are both capital and revenue implications arising from this. In terms of capital schemes, as well as an increased contribution from WG, progressing two schemes under MIM will result in a reduction in capital funding required by the Council. This reduction will result in reduced external borrowing and a reduction in capital financing charges associated with the repayment of that borrowing. The saving that arises from these changes would be required to fund the annual costs of undertaking any MIM schemes. In addition, a level of capital funding will need to be retained to finance the investment that does not form part of the MIM arrangements.
31. The financial analysis undertaken has indicated that the annual cost of MIM schemes is not substantially different to that associated with schemes funded via capital. On this basis, it is assumed that the saving that would arise from a reduced capital programme would be sufficient to fund the costs of the annual unitary charge associated with MIM schemes. However, this assumption is potentially limited by the quality of information that has been made available via WG in relation to MIM and further detailed work will need to be undertaken to fully assess the costs and benefits of entering into a MIM arrangement.
32. In addition to the further work required, there are a number of considerations that will need to be made when entering into a MIM arrangement. The first of these is the need to be clear on the scope and scale of projects. In comparison to capital schemes, there will be less

flexibility to change the scope of projects once a scheme is underway and there may be financial penalties associated with any changes required. Furthermore, in order to comply with procurement timescales, it will be necessary for land and consultation issues to have been resolved in advance of commencing schemes, particularly to avoid delays and the financial cost that could be associated with this. A further consideration is that, whilst the Council will be lease the new school once completed, the asset and corresponding liability will form part of the Council's balance sheet, with the liability forming part of the Council's overall level of external debt. At the end of the 25 year lease period, the ownership of the asset will transfer to the Council.

33. Overall, of most critical importance is recognition of the fact that the arrangement that may be entered into is for a period of 25 years. On this basis, there is an inherent risk to the Council's financial resilience and it will be critical that value for money is ensured for the Council as part of the further due diligence that will need to be undertaken before a final commitment to a MIM scheme is made.

### **Legal Implications**

34. Under the Education Act 1996, the Council has a general statutory obligation to promote high standards of education and to consider parental preference which includes preference for Welsh medium education. The Council also has obligations under the School Standards and Framework Act 1998 and School Funding Regulations 2010 to provide capital funding for maintained schools.
35. Section 84 and 85 of the School Standards and Organisation (Wales) Act 2013 and the Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013, set out the statutory obligations for all local authorities to prepare, submit, publish and revise Welsh in Education Strategic Plans (WESPs).
36. The Council also has to satisfy its public sector duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties, Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected characteristics are:
- Age
  - Gender reassignment
  - Sex
  - Race – including ethnic or national origin, colour or nationality
  - Disability
  - Pregnancy and maternity
  - Marriage and civil partnership
  - Sexual orientation
  - Religion or belief – including lack of belief

37. The Council also has to consider its obligation under section 88 and schedule 10 of the Equality Act 2010 to prepare and implement an accessibility strategy. The strategy should increase disabled pupils' access to the curriculum and improve the physical environment and the provision of information.
38. The report identifies that the Equality Impact Assessment has been completed. The purpose of the Equality Impact Assessment is to ensure that the Council has understood the potential impacts of the proposal in terms of equality so that it can ensure that it is making proportionate and rational decisions having due regard to its public sector equality duty. The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language, the report and Equality Impact Assessment deals with all these obligations

### **HR Implications**

39. HR People Services will work with the Governing Body of all schools within Band B on any HR matters arising from the expansion of individual schools. In line with the SOP HR Framework, the Headteacher and the Governing Body of the schools concerned will be encouraged in to undertake a review of their staffing structure and assess the workforce requirements required for the increase in pupil numbers. This will have to be balanced against the forecasted school budget. However, it is likely that the permanent expansion schools within Band B will result in the creation of new posts in each of the schools concerned.
40. HR People Services will also provide support for the additional recruitment. This will take into account the School Redeployment and Redundancy Policy and Procedure whereby new posts may provide opportunities for any school based staff on the school redeployment register at that particular time

### **Equality Impact Assessment**

41. An Equality Impact Assessment for the 21st Century Schools Band B Programme has been carried out. The assessment concluded that the programme would not adversely affect a particular group in society. Any proposals brought forward following this report would be subject to further equality impact assessments including an assessment on any changes to accommodation.

### **Transport Matters**

42. High level transportation issues have been reviewed for the sites in question to ensure that consideration is given to the ability of the potential locations to support Active Travel, in terms of pedestrian and cycle access to the sites.
43. All new developments will require a Transport Assessment to be undertaken, this will determine whether any changes are deemed



necessary to the immediate highway network to enable pupils and staff to access the schools using Active Travel modes. All schools within Cardiff are also encouraged to develop robust Travel Plans which will help them address issues relating to how their staff and pupils travel to school, with the emphasis on encouraging and promoting Active Travel such as walking and cycling.

44. Any highway improvement works identified from the Transport Assessments will have to be funded and delivered as part of the 21<sup>st</sup> Century Schools Programme.

**Community Impact**

45. The Welsh Assembly Government School Organisation Code 2018 requires local authorities to conduct a Community Impact Assessment and a Welsh Language Impact Assessment when proposing changes to school organisation.

46. The following are taken into account when developing proposals
- Public Open Place/parkland
  - Noise and traffic congestion
  - School designation
  - School links to the local community
  - Impact on parents and families
  - Travelling implications for pupils/families
  - Impact on community activities, impact on community facilities

**RECOMMENDATIONS:**

The Cabinet is recommended agree to pursue a dual funding model strategy to fund the 21<sup>st</sup> Century Schools Programme to include the MIM route for the delivery of our proposed Band B schemes at Cathays and Willows (including 3FE primary).

<b>SENIOR RESPONSIBLE OFFICERS</b>	<p><b>CHRISTOPHER LEE</b> Corporate Director of Resources</p> <p><b>NICK BATCHELAR</b> Director of Education &amp; Lifelong Learning</p>
	<p>15 March 2019</p>