

Birmingham City Council

Report to Cabinet

14 February 2023



Subject: FULL BUSINESS CASE AND RECOMMENDED CONTRACT AWARD FOR NORTH BIRMINGHAM ACADEMY - EXPANSION OF EXISTING ACADEMY WITH A NEW THREE STOREY TEACHING BLOCK

Report of: Sue Harrison
Strategic Director for Children & Families

Relevant Cabinet Member: Cllr Karen McCarthy- Children Young People and Families
Cllr Yvonne Mosquito - Finance & Resources

Relevant O &S Chair(s): Cllr Kerry Jenkins - Education and Children Social Care
Cllr Akhlaq Ahmed - Resources

Report author: Zahid Mahmood
Capital Programme Manager
Education Infrastructure
Email: zahid.mahmood@birmingham.gov.uk

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Perry Barr		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 010920/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

- 1.1 To seek approval for the Full Business Case and note the contract award for the capital scheme at North Birmingham Academy as described in **Appendix A**. The capital costs of the scheme will not exceed £11,663,163
- 1.2 A separate commitment of £414,156 has been approved as part of the development costs for this project. Further details can be found under section 7.
- 1.3 The procurement route for the works is to use the Constructing West Midlands 2 Framework Agreement by direct award.

2 Recommendations

That Cabinet:

- 2.1 Notes that the decisions in this report are contingent upon the Regional Director approving North Birmingham Academy's proposal to expand the Academy.
- 2.2 Approves the Full Business Case (**Appendix A**) for the capital works at North Birmingham Academy at a total project cost of up to £11,663,163 including Education Infrastructure Capitalisation of £339,703, £57,500 fixtures and fittings and the contingency as detailed below.
- 2.3 Approves the award of a contract to Morgan Sindall by direct award using Constructing West Midlands 2 (CWM2) Framework Agreement up to the value of £10,089,207 for works to commence, and to release contingencies and place further orders up to £542,000 if required.
- 2.4 Authorises the Director of Children & Families to place orders to the value of £634,753 to Acivico Ltd for professional services.
- 2.5 Authorises the City Solicitor & Monitoring Officer to execute and complete all necessary documents to give effect to the above recommendations.

3 Background

- 3.1 The Local Authority has a statutory duty to ensure there are sufficient pupil places, secure diversity in the provision of schools and increase opportunities for parental choice through planning and securing additional provision (Section 14, Education Act 1996).
- 3.2 Birmingham City Council, as the local authority for Birmingham, has a statutory duty to ensure sufficient school places. The City has a growing population with one of the youngest populations in Europe. Following the growth of numbers in our primary schools, additional secondary places are required to meet incoming demand. The Local Authority is keen to ensure that future places are provided in the areas that they are needed; helping children to attend a school nearer to home and as part of their local community. North Birmingham Academy is in the

right location to support the Local Authority in meeting some of the required need for additional places.

- 3.3 North Birmingham Academy is a large, co-educational secondary school and sixth form located in the Perry Common area of the City. The school currently has 1150 pupils on roll, however there are plans to increase this number over the next five years by 300 extra pupils to 1450. The current admission number is 180, although there are plans to increase this to 240, with an additional 60 pupils being added to Year 7 from September 2023 until September 2027. Should the Regional School's Commissioner approve the expansion, future admissions consultations will seek approval to the increased PAN. As part of DfE requirements, the City is broken down into planning areas in order to assess and address sufficiency issues. The Local Authority have identified a shortfall of Secondary School places in the Erdington area for September 2023 and beyond due to larger cohorts moving from primary schools in that area. Of the four schools in closest proximity to the Erdington Area, North Birmingham Academy was deemed most appropriate due to being rated Good and having suitable space to expand. Two of the other schools in this area also have an inadequate Ofsted rating, so would not be considered, while it was decided that the final school, a catholic school would not be expanded as another catholic school in the north side of the City is already going through this process.
- 3.4 A Planning application for the scheme was submitted on the 10 November 2022 and is due for determination on the 9 February 2023. Subject to FBC and statutory approvals (including RSC approval to the business case) the main works are due to commence on 3 April 2023 with a proposed completion of 5 July 2024.

4 Options considered and Recommended Proposal

- 4.1 The option of doing nothing would mean that the Local Authority fails to meet its statutory obligation to ensure that there are sufficient pupil places, promote diversity and increase parental choice through planning and securing additional provision.
- 4.2 The recommended option is to build a new teaching block with remodelling of some areas of the existing building and provide a link to the existing building to accommodate the additional 2 forms of entry.

5 Consultation

- 5.1 The Governing Body at North Birmingham Academy supports the proposed improvements to the school, and it is fully welcomed by the parent/carer community for children attending the school. E-ACT conducted public consultation on the proposal to *enlarge North Birmingham Academy by creating a three-storey expansion and increase pupil places offered by the school*, as required by the statutory guidance, "Department for Education 'Making significant

changes to an open academy – Department guidance for all types of academy trust (January 2022).” The consultation period for this project ran from 27 June 2022 to 24 July 2022. The fast-track business case will be submitted to the Regional School Commissioner for decision in early Jan 23.

- 5.2 Birmingham City Council Officers (Education Infrastructure) shared the Academy Trust’s proposal and consultation with Birmingham Councillors and relevant Birmingham City Council officers, departments and partner organisations. In the case of all types of academy trust, the Regional Schools Commissioner is the decision maker for then proposal by the E-ACT (interdependent and conditional to all relevant approvals, including those contained in this report) The Leader and Ward Members for Perry Barr have been consulted in relation to the proposals and are supportive of the proposals proceeding to an executive decision (to be undertaken).

6 Risk Management

- 6.1 Availability of materials and labour. With the impact of Brexit, Covid-19 and the situation in Eastern Europe, there is a risk of shortage of materials and labour. As a result, cost increases from materials and delay to programme could occur. Project meetings are held to ensure that all parties are informed of progress and that any issues and concerns are picked up at the earliest opportunity and resolution is sought to ensure the project meets the required timescales.
- 6.2 Regular 2 – 4 weekly project meetings will be held to ensure that all parties are informed of progress and that any issues and concerns are picked up at the earliest opportunity and resolution is sought to ensure the project meets the required timescales. Regular meetings between Education Infrastructure and Acivico Ltd will also be held to closely monitor financial budgets to ensure that costs do not exceed the approved budget.
- 6.3 Working in a live school building and ensuring Health & Safety is maintained, Acivico Ltd has many years of experience delivering expansion projects of this nature and will manage and co-ordinate the works with the principal contractor, overseen by the Local Authority.
- 6.4 A project risk register will be maintained and managed by Acivico Ltd. The risks will be observed and apportioned between the Local Authority and Acivico Ltd.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council’s priorities, plans and strategies?

- 7.1.1 These works are to ensure that all pupils at North Birmingham Academy are provided with a safe and secure learning environment. The spending priorities proposed are in accordance with the Schools’ Basic Need

Programme 2022-23 approved by Cabinet on 26th April 2022, and the Council's Vision and Forward Plan priorities for Children, particularly 'A great place to grow up in by providing an environment where children have the best start in life and are able to realise their full potential through great education'.

7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR)

Morgan Sindall Construction Limited are a certified signatory to the BBC4SR, achieving a social value rating of 9.60% out of 10.00% and has produced an action plan with commitments relevant to the contract. These actions will be monitored and managed during the contract period.

The social value outcomes to be delivered include:

- Creating at least one new full time work placement with sustained training opportunities, including work experience during the life of the project
- Undertaking a least one engagement activity to support and benefit the school.
- Ensure 100% of all persons employed on the project will be paid above the Real Living Wage
- Positively supporting the local infrastructure by advertising all vacancies locally
- Active contribution/donation to Community Investment Projects
- 96% commitment to the recycling of construction waste

7.2 Legal Implications

7.2.1 The recommendations in this report facilitate the discharge of functions contained within section 14 of the Education Act 1996 whereby the local authority has a duty to ensure that there are sufficient school places to provide all pupils the opportunity of appropriate education.

7.2.2 The arrangements set out in this report comply with the powers of general competence as set out in Section 1 of the Localism Act 2011.

7.3 Financial Implications

7.3.1 The capital costs of the proposed works at North Birmingham Academy are detailed in the attached FBC (**Appendix A**). The capital costs will not exceed £11,663,163 and will be funded from the 2021/22 Schools Capital Programme.

7.3.2 In addition to the £11,663,163 a Pre-Construction Services Agreement (PCSA) has been drawn up, approved and committed for the value of

£414,156. This payment was approved via a FoA on 18 May 2022 by the Director of Children & Families.

- 7.3.3 This PCSA was approved in advance as per the new Constructing West Midlands 2 procurement framework requirement. In order to have a chance of making the timescales to complete this project for September 2024, this payment of £414,156 has been committed at risk.
- 7.3.4 This payment is to be funded from the allocation of £2.000m of Basic Need Grant for the development of Feasibility Studies to inform Full Business Cases in order to deliver the Basic Need and High Needs Provision Programme (approved by Cabinet 28th April 2022). Without this approval, the contractors couldn't progress the design and orders, and the project wouldn't be able to progress over Summer 2023.
- 7.3.5 Consequential revenue costs arising including additional staffing, utility and any on-going day to day repair and maintenance of the asset will be the responsibility of North Birmingham Academy and will be funded via the school's budget.

7.4 Procurement Implications (if required)

- 7.4.1 The Local Authority's primary route for schemes of this type and proposed for this project is to use the CWM2 Framework Agreement Lot 2 (projects valued generally in excess of £5,000,000). The Local Authority is entitled to access this Framework Agreement. The Local Authority, in collaboration with Acivico Ltd, has been involved in selecting the most appropriate contractor for the project based on the Framework evaluation methodology. The Council has amended and added clauses to the call off contract specific to this project.
- 7.4.2 The procurement strategy was not previously reported to Cabinet and therefore this award has not been delegated.
- 7.4.3 The rules for calling off the Framework Agreement are to either undertake a further competition exercise or a direct award. The direct award route was selected to ensure that the programme timescales could be met. First phase expansion would need to ensure that classrooms were in place for occupation for the additional pupil intake in time for September 2023. Confirmation that direct award was approved by the Procurement Department for this project on 2 March 2022. Undertaking a further competition exercise would have added 8 weeks to the programme, which would have meant that the project would fall out of timescale and the risk of the necessary expansion work not being completed on time. This would have deferred the project for another year which is not acceptable.

7.4.4 Value for money is demonstrated by:

- A cost quality appraisal of the four CWM Lot 2 Contractors was undertaken based on the Framework's Direct Award Set Criteria. This utilises pre-set criteria with a fixed percentage ratio of 70% Cost 30% Quality.
- Under the Framework Set Criteria for Direct Awards, cost is based on the default rates taken from the Framework Pricing Schedules. This includes the respective contractors' preliminaries rates, utilisation factors, design fees, pre-construction fees and rates for Overheads & Profit.
- Quality was assessed using the quality scores awarded to the respective Contractors at Framework ITT stage which included Social Value as a key component of the evaluation matrix.
- Based on the evaluation methodology outlined above, Morgan Sindall was identified as the most economically advantageous contractor for this particular project.

7.4.5 Acivico Ltd has advised of a contingency figure of £542,000 to cover the project due to the unknowns which may be uncovered during the construction process as included in recommendation 2.1.

7.5 Human Resources Implications (if required)

7.5.1 N/A

7.6 Public Sector Equality Duty

7.6.1 A Full Equality Analysis EQUA650 was carried out in 2022 for Education Infrastructure's Schools' Capital Programme 2022-23. The outcomes from consultation demonstrate that proposed capital developments support positive outcomes for children, young people, their families and carers. No negative impact on people with Protected Characteristics was identified. It was concluded that sufficiency of educational places and opportunities for all children and young people contributes to providing positive life chances and supports a positive approach to Safeguarding in Birmingham: actively reducing the number of children and young people out of school helps to mitigate risk to their safety and wellbeing. We have assessed the content and can confirm that it is still relevant to the proposed expansion works referred to in this report by having a positive impact.

7.7 Environmental and Sustainability Implications

7.7.1 An Environment & Sustainability Assessment has been completed as attached (**Appendix B**).

8 List of Appendices

8.1 **Appendix A** - Full Business Case

8.2 **Appendix B** – Environment & Sustainability Assessment

9 Background Documents

9.1 Schools' Capital Programme –School Condition Allocation, Basic Need Allocation 2022-23+ Future Years Cabinet Report (Approved at Cabinet 26th April 2022)