

REPORT TO CABINET

19 September 2018

Subject:	Schools Capital Programme 2018/19-20/21: Phase 2, Q3 Academy Langley
Presenting Cabinet Member:	Leader of the Council Councillor Simon Hackett - Cabinet Member for Children's Services
Director:	Lesley Hagger, Executive Director of Children's Services Chris Ward, Director – Education, Skills and Employment Darren Carter, Executive Director – Resources
Contribution towards Vision 2030: 	
Key Decision:	Yes
Forward Plan (28 day notice) Reference:	SMBC10/07/2018
Cabinet Member Approval and Date:	Leader Councillor Simon Hackett - Cabinet Member for Children's Services – 22 August 2018
Director Approval:	Lesley Hagger, Executive Director of Children's Services: 16.8.2018 Chris Ward, Director – Education, Skills and Employment: 16.8.2018 Darren Carter, Executive Director – Resources: 21.8.2018
Reason for Urgency:	No urgency as the report was included on the Forward Plan within recommended timelines.
Exempt Information Ref:	No exemption applies
Ward Councillor (s) Consulted (if applicable):	It is not necessary to consult ward councillors
Scrutiny Consultation Considered?	Scrutiny consultation has not been undertaken.
Contact Officer(s):	Martyn Roberts, Team Lead – Planning, Education Support Services, Education, Skills and Employment Directorate Email: martyn_roberts@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

- 1.1 approve funding for Phase 2, Q3 Academy Langley, Moat Road, Oldbury B68 8ED as part of the Schools Capital Programme 2018/19-2020/21.
- 1.2 subject to 1.1 above, the remaining £948,916 funding be retained until feasibility has been undertaken on proposed schemes for 2019-2022, which will be subject to a further report submitted to Cabinet.
- 1.3 subject to 1.1, 1.2 and 1.5, the Director – Education, Skills and Employment be authorised to award a contract, either:-
 - through the Strategic Partnering Agreement with Sandwell Futures Limited; or
 - following a compliant procurement exercise, in conjunction with the Section 151 Officer, and in consultation with the Cabinet Member for Children’s Services, subject to meeting the criteria as set out in paragraph 7.6 of the report.
- 1.4 subject to 1.1, 1.2, 1.3 and 1.5, the Director – Monitoring Officer enter into any legal agreements on terms agreed by the Director – Education, Skills and Employment, as required, to allow the building works to be completed on the site.
- 1.5 require in connection with 1.1 above, that the following action points identified within the appraisal report be implemented to reduce any risk to the council:-
 - Review cost estimates to ensure that they are reasonable and can be managed within the available funding.
 - Review the corporate Risk Register for the project to ensure all risks, responsible officers and target dates for the mitigation of risks are appropriately identified.
 - Ensure rigorous financial monitoring is undertaken on the Council’s Basic Need Allocations to ensure future funding needs can be met.
 - Identify outputs and outcomes in relation to the construction works to assist with effective project management.

1 PURPOSE OF THE REPORT

- 1.1 This report seeks approval to allocate £6,500,000 from the Department for Education's Basic Need allocation to fund Phase 2, Q3 Academy Langley as part of the Schools Capital Programme 2018/19-2020/21.
- 1.2 To further seek approval to retain £948,916 of the Basic Need capital balance to fund future schemes, reports which will be presented to Cabinet once feasibility has been undertaken.

2 IMPLICATION FOR THE COUNCIL'S AMBITION

- 2.1 The recommendations in this report relate to the provision of 480 new school places through the completion of major capital works at Q3 Academy Langley (Phase 2).
- 2.2 The works will contribute significantly towards ambition 4 of the council's Vision for 2030 'Raising the quality of schools "Our children benefit from the best start in life and a high-quality education throughout their school careers with outstanding support from their teachers and families"'.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 On 29 May 2018, the Department for Education/Education and Skills Funding Agency (DfE/ESFA) announced that the Authority would receive a nil Basic Need capital allowance for 2020/21. The council is challenging this decision.
- 3.2 It is currently projected that an additional 3,845 places will be required in secondary schools by September 2025.
- 3.3 Previously approved capital projects to provide a total of 840 new secondary school places have now been completed at Q3 Academy Langley (Phase 1): Ormiston Sandwell Community Academy, Oldbury: and RSA Academy, Tipton.
- 3.4 Funding to deliver 1,045 new school places at: George Salter Academy, 250 places: Shireland Collegiate Academy, 275 places: Kelvin Way, West Bromwich, 300 places: Wood Green Academy, 220 places: St Michael's Church of England High School, 30 places ('bulge' class), has been approved by Cabinet to meet the continuing demand for new places.
- 3.5 Whilst the unprecedented growth in the birth rate experienced over recent years has started to ease, the Borough continues to receive a high demand for school places, primarily due to increased migration and retention rates. In particular, in Smethwick demand remains high.
- 3.6 The proposed final project at Q3 Academy Langley (Phase 2) was scheduled for completion in September 2019 to support the projected

shortfall in secondary school places. Phase 2 entailed construction of 3 additional blocks to the main building.

- 3.7 In light of the Government's zero announcement on Basic Need funding, officers have had to review Phase 2 to ensure a sufficient supply of school places can still be delivered for September 2019.
- 3.8 The proposed second phase will now be a reduced scheme to build one block to accommodate both general and specialist teaching areas to support Key Stage 4 option subjects for Years 10 and 11.
- 3.9 Strategic Finance has confirmed that having taken into account all previous approvals for expenditure of Basic Need and ongoing commitments, that the balance of resources available to the Authority are £7,448,916.
- 3.10 Following the nil Basic Need announcement, and the above remaining Basic Need resources it should be noted that these are the only capital resources available to the council to meet the ongoing demand for new secondary school places. The Authority will continue to challenge the Government and the DfE to seek a resolution to the Government's decision.

Cabinet is requested to approve allocation of the capital funding to enable the proposed expansion to be included within the Schools Capital Programme 2018/19-2020/21.

- 3.11 A full appraisal has been undertaken by Strategic Finance. The appraisal process recorded a score of 67%. A copy of the report can be found at Appendix 1. Some risks have been identified as a result of the appraisal and action points recommended to mitigate these risks.
- 3.12 An Equality Impact Assessment (EIA) initial screening has been undertaken. The screening identified that there will be no adverse impact on people or groups with protected characteristics as a result of the proposals contained within the report. A full EIA is not therefore required. However, it has revealed that as the council has a statutory duty to provide a sufficient number of school places for all children in Sandwell, all groups are potentially affected by the policy of expansion. This proposal demonstrates that this is uniformly applied in response to where pupil demand is expected although size and type of expansion is restrictive as it is dependent on the availability of government capital funding.

4 THE CURRENT POSITION

- 4.1 The zero Basic Need announcement presents a significant risk to the Authority's school place planning strategy and the funding of future school places, hence the assessment of strategic risk 040 – school place planning, as red and the need to challenge the decision taken by the DfE.
- 4.2 On 14 February 2018, Minute No.30/18 of Cabinet approved the allocation of £1.7m of Basic Need funding to fund an enabling works package for Phase 2 of Q3 Academy Langley.
- 4.3 Following the recent announcement, Phase 2 has had to be reviewed to ensure a sufficient supply of new school places can be provided for September 2019. From September 2018, the school will be at full capacity with 636 pupils on roll.
- 4.4 A total of 480 new places are required for September 2019 to ensure options for Key Stage 4 pupils can be offered. Phase 2 will now focus on construction of one teaching block accommodating both general and specialist teaching spaces.
- 4.5 Subject to future funding announcements a further third phase will now be required to construct the two remaining blocks.
- 4.6 Phase 2 will comprise approximately 2,220 sq m of new build, through extension of the existing building footprint by one additional wing, and extensions to the external sport, recreational and car parking areas.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 Full public consultation was undertaken when planning consent was granted for the new school development. Subject to design review, a new application may now be required for the reduced Phase 2 scheme, when further public consultation would be held in respect of the application.
- 5.2 The Academy will continue to consult its local community, parents / carers and pupils as the phased development of the Langley site continues.
- 5.3 In partnership with the LEP/construction contractor the Authority will also expect that a regular resident information sheet will be published to advise the local community on the progress with the development stage of the project to avoid traffic congestion and allay any local concerns from residents.

6 ALTERNATIVE OPTIONS

- 6.1 The revised Phase 2 scheme forms part of the final build solution for Q3 Academy Langley, and there is no alternative option since the first phase of the new school has been completed and now open to pupils. The council is committed to the project to ensure the new 1,200 place (plus 300 places at post 16) school is completed.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 Strategic Finance has confirmed that the council's remaining Basic Need capital resources to fund the Schools Capital Programme is £7,448,916. The balance has been confirmed taking into account all previous approvals of Basic Need expenditure and remaining commitments to approved schemes.
- 7.2 A total of £700,000 remains unspent within the approved Phase 2 Q3 Academy Langley Enabling Works Package. The total estimated cost of Phase 2 is £7.2m. Cabinet is requested to approve the allocation of £6.5m from the council's balance of Basic Need funding as follows:

Project	Contractor £000's	Design £000's	F&E £000's	Total £000's
Q3 Academy Langley	5,028	628	535	6,191
Project Contingency				309
	5,028	628	535	6,500

- 7.3 Approval to include Phase 2 Q3 Academy Langley as part of the Schools Capital Programme 2018/19-2020/21 will ensure a sufficient supply of school places.
- 7.4 There is no time limit on the resources being spent.

A project contingency estimated at £0.3m has been allowed for Phase 2. If expenditure against contingency is required this will be reported to members as part of the quarterly monitoring report. Any unspent programme contingency will be reported for reinvestment in future phases of the Schools Capital Programme.

- 7.5 Without the continued expansion of Q3 Academy Langley there would be an immediate shortfall in supply of places to meet demand for places for the academic year 2019/20.

It is proposed to hold back the remaining £0.95 million to support the next phase of the secondary school expansion programme.

- 7.6 The project will fall within the scope of the Strategic Partnering Agreement (SPA) with Sandwell Futures Limited.

Should the project not be delivered through the SPA a separate procurement exercise(s) will be carried out to identify the most suitable and value for money supplier/suppliers for the project. The procurement approach will follow the council's Procurement and Contract Procedure Rules to ensure that UK and EU legislation is adhered to, and value for money is achieved. In order to ensure a streamlined process, this report requests delegated authority to the relevant Chief Officer, the Director – Education, Skills and Employment to award the contract at the end of the procurement, in conjunction with the Section 151 Officer, and in consultation with the Cabinet Member for Children's Services. Where the outcome of the procurement exercise identifies that the value of the contract is more than that specified in this report, or the council has not received the minimum number of tenders required, then a further report will be submitted to Cabinet to award the contract.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 In accordance with the Education Act 1996 the council has a statutory duty to ensure there are sufficient schools available for the children of Sandwell. Any school organisation changes arising out of the development of the project will be subject to the relevant statutory processes.
- 8.2 The council shall ensure that any procurement of contracts necessary for this proposal are undertaken in accordance with the public procurement rules, the Council's Procurement and Contract Procedure Rules and Standing Order Regulations.
- 8.3 The freehold interest in the proposed development site is held by Sandwell Land and Property Limited. The company has granted a leasehold interest to the Authority. It is the Authority's intention to grant an Under-Leasehold interest to the Academy Trust (in accordance with the Academy Trust's statutory right). An agreement will be entered into with the Academy Trust to provide the Authority, Sandwell Futures Ltd, construction contractors and sub-contractors free access / egress to the property to complete the new school development.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 An Equality Impact Assessment (EIA) initial screening has been undertaken. The screening identified that there will be no adverse impact on people or groups with protected characteristics as a result of the proposals contained within the report. A full EIA is not therefore required.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 A data protection impact assessment is not required for this proposal – all material is maintained in accordance with the council's data protection policy.

11 CRIME AND DISORDER AND RISK ASSESSMENT

- 11.1 The Corporate Risk Management Strategy (CRMS) has been complied with – to identify and assess the significant risks associated with this decision/project. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks.

Based on the information provided, it is the officers' opinion that for the significant risks that have been identified, arrangements are in place to manage and mitigate these effectively.

If this report is not agreed, then the council will risk having an insufficient level of school places which is contrary to the council's statutory responsibility. If there is an insufficiency of school places this will have a detrimental impact on children's future access to school places within Sandwell and the council's reputation will be detrimentally affected.

The council's strategic risk register currently includes a red risk in respect of school place planning: SR040 - If the LA is unable to exert sufficient strategic control over school place planning and the direction of capital investment, then it will be unable to deliver on its statutory duties. The recommendations above if approved, will assist in the continued mitigation of this risk.

An appropriate project management structure is in place, and the School Organisation Programme Board meets on a regular basis.

Project documentation has been prepared, including a project plan and project risk register, to ensure effective management. The project is subject to risk analysis and project risk monitoring. Plans are in place to mitigate key programme risks:

- The financial downturn and competing capital pressures:

- Projects rely heavily on DfE allocations and are not reliant on capital receipts;
- Government policy changes could reduce future capital allocations:
 - Phased programme approvals, avoiding unfinanced commitments; and
- Failure to accurately anticipate the changing pattern of demand for school places:
 - Pupil place planning strategy in place;
 - School Organisation Programme Board to drive the delivery of Sandwell's pupil place planning strategy.

12 SUSTAINABILITY OF PROPOSALS

- 12.1 The Authority has successfully completed the first phase of Q3 Academy Langley, the first new school established through a DfE presumption exercise to select an Academy Trust sponsor.

The procurement framework with the LEP ensured the Authority delivered Phase 1 within budget, on programme and exceeded the Academy Trust's expectations.

The design principles and delivery methods used for Phase 1 have set a clear benchmark for completion of Phase 2.

Following completion of the capital works the Academy Trust will become directly responsible for all costs associated with the general upkeep, maintenance and outgoings for the new school development.

- 12.2 The capital funding will form part of the Authority's approved Schools Capital Programme using its Basic Need allocation received from the DfE.
- 12.3 Subject to future funding announcement a third phase will now be required to construct the Sports, and Lecture Theatre blocks to complete the school.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 The major project proposals will build upon established Academy provision, where strong links at popular and oversubscribed schools have been developed with the local community, opening up facilities for use, and building upon successful engagement activities established within the Multi Academy Trust.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 The freehold interest in the school site is to be held by Sandwell Land and Property Limited, with the grant of a leaseback to the Authority for education purposes.
- 14.2 An Under-leasehold interest, and a separate New School Agreement are to be entered into with the Academy Trust, which will provide for free access / egress to complete the new school development.
- 14.3 There will be no overall impact on the council's Asset Management Plan or register as the council will retain a long leasehold interest in the land.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 15.1 The Government's decision to announce a zero Basic Need allocation for 2020/21 has led to a review of Phase 2 for Q3 Academy Langley.
- 15.2 Phase 2 will now entail construction of one of three blocks that remain to be built for the school.
- 15.3 Phase 2 will provide sufficient accommodation to admit Year 7 in September 2019, and to enable the school to offer curriculum options for Key Stage 4.
- 15.4 This report seeks Cabinet approval to allocate £6.5m Basic Need capital to fund Phase 2 to undertake the next phase of major construction works.

16 APPENDICES: Appraisal Report

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