

CEREDIGION COUNTY COUNCIL

Report to: Cabinet

Date of meeting: 06/06/23

Title: Aeron Valley New Area School – Build Contract

Purpose of the report: To consider the contractual arrangements for the Aeron Valley New Area School in order to proceed expediently.

For: Decision

Cabinet Portfolio and Cabinet Member: Cllr Wyn Thomas – Schools, Lifelong Learning and Skills
Cllr Gareth Davies - Finance & Procurement
Cllr Clive Davies - Economy and Regeneration

1. Background

Following a mini-tender process, C Wynne & Sons Ltd (trading as Wynne Construction) were appointed in July 2022 to deliver a new 3-11 area school in the Aeron valley - Ysgol Dyffryn Aeron. This was procured as a 2 stage Design & Build contract under the South West Wales Regional Contractors Framework. A tender was awarded for the initial Design stage on 12th July 2022 to the value of £322k.

The key milestones reached to date are:

- i) The Strategic Outline Programme of 21st Century Schools activity was approved by WG in November 2019, giving an in principal capital allocation of £15.3m. At this very early indicative pre COVID stage, this included a £7.1m estimate relating to Ysgol Dyffryn Aeron.
- ii) RIBA Stage 2 (Concept Design) was achieved in October 2022.
- iii) The specific Strategic Outline Case (SOC) for Ysgol Dyffryn Aeron was then considered and approved by WG and permission to proceed to Outline Business Case (OBC) was received on 20/12/22. This included an estimated cost of £10.9m at this stage.
- iv) The OBC for Ysgol Dyffryn Aeron was then considered and approved by WG and permission to proceed to Full Business Case (FBC) was received on 30/03/23. This included an estimated cost of £12.0m at this stage.
- v) RIBA Stage 3 (Developed Design) was achieved in February 2023.
- vi) Full Planning permission was granted at Development Management Committee on 10th May 2023

The FBC was submitted to WG on 5th May 2023, following receipt and analysis of the main Build construction prices and refinement of a proposed main Contract sum.

The FBC was considered and supported at the initial stage of WG's FBC consideration process on 18th May 2023 and is now proceeding for consideration at WG's Capital Investment Panel on 15th June 2023. If that stage is passed, a formal recommendation is made for Ministerial approval. Formal WG communication in the form of grant offer letter etc would then follow thereafter, if the Scheme receives Ministerial approval, but this may well run into July.

To date the Council has incurred costs of just over £0.75m on this Scheme, which includes Land Purchase, Architects Design fees and associated fees (e.g. Planning, Building regulations and Ground Investigation). Welsh Government have released funding to date on the basis that acceptance and use of the funding is at the Council's risk if the Scheme were not to be approved at final FBC stage.

2. Current Situation and Proposed Approach

In order to proceed in an expedient manner, particularly to enable a start on site at the earliest opportunity during the summer period, the delivery team have identified enabling works and key components which can be progressed in order to minimise programme timeline constraints.

This results in a proposal to commence certain key essential aspects of construction prior to receipt of formal grant offer documents from WG. This is proposed via a 'Letter of Intent' and the minimum level of works deemed essential consists of:

- Contract Preliminaries
- Facilitating Works
- Bulk Excavation
- Retaining Structures Design
- Attenuation Tanks
- SIP Timber Frame design and deposit to secure materials and commence manufacture

The total value of these items (and therefore maximum risk exposure to the Council) is £1.276m. The actual expense incurred during the period covered by the proposed 'Letter of Intent' would be deducted from the final agreed Contract sum.

3. Financial Position

Overall the latest total overall Project cost is now expected to be £16.3m, which includes a proposed main build construction contract of c£14.7m.

The scheme is expected to be funded by WG grant at 65% with Ceredigion County Council match funding of 35%, apart from the Childcare and Net Zero Carbon aspects (both of which are expected to attract 100% WG funding) and the ALN aspect (expected to attract 75% WG funding).

Due to the increase in total cost, the Council's matched funding contribution will need to increase from the current c£3.5m set aside up to c£4.6m, with an additional c£1.1m being required from a combination of Capital Receipts and the Core Capital Programme. Officers have been proactive and mitigated a potentially larger increase by presenting a business case for WG funding for various components at higher grant intervention rates.

4. Construction Contract Tender Acceptance

In order to ensure the next steps are in place after the Letter of Intent has been issued, so that works on site can continue in an expedient manner, it is proposed that Cabinet also now consider the main Build stage contract tender. This can only be considered with the clear caveat that the full construction build tender can only be accepted once formal notification of successful FBC approval and confirmation of funding is received from WG.

As the construction element has already been procured as part of a Design & Build Contract let under the South West Wales Regional Contractors Framework, there is no further awarding evaluation needed. Background to the original appointment of C Wynne & Sons Ltd (trading as Wynne Construction) is shown in Appendix 1 (EXEMPT).

A proposed contract sum has therefore been formed through a combination of the contractor's submission and then subsequent verification and validation by the external consultants employed on the project and internal officers.

A main contract sum for the construction phase of £14,656,660 is therefore now proposed. Cabinet approval is required for a tender acceptance on a framework contract that exceeds £3m.

5. Conclusion

Ysgol Dyffryn Aeron is a scheme that the Council is fully committed to, with land purchase and design costs already having been committed as sunk costs, albeit funded by WG on at risk basis, with the Council currently bearing that risk. It is a key development which supports the Corporate Wellbeing Objective of 'Providing the Best Start in Life and Enabling Learning at All Ages' and is a specific commitment in the 2022-2027 Corporate Strategy.

The post COVID construction market is an extremely challenging one, with construction inflation being both variable and unpredictable and considerable practical supply chain issues still being prevalent. Further delays risk both higher inflationary cost pressures and will bring programme timeline challenges.

The Council has protected itself as far as is reasonably possible by taking appropriate legal advice on the contents of a proposed 'Letter of Intent'. This is a standard approach used in the construction industry, with the main considerations being the level of overall risk and quantum of exposure balanced against the overall intended Scheme outcomes and associated risks of delays.

This proposal has been discussed with the CLO: Finance & Procurement (Section 151 Officer) and provided that the proposed Letter of Intent is not formally signed or issued until there is some form of confirmation from WG that the FBC has been signed off by the WG Full Capital Panel on 15th June 2023 and is being recommended for Ministerial approval (accepting that this will only be informal confirmation initially) and that WG have no objection to the Council proceeding prior to receipt and acceptance of a WG Grant Offer letter, then the risk level attached to the proposed approach becomes relatively low. If there is a negative outcome from the WG Full Capital Panel, then a Letter of Intent will not be progressed as the project would not have gained FBC approval.

The main driver for the Letter of Intent approach and subsequent tender acceptance in readiness is for expediency reasons - to enable a faster mobilisation and start on site by the Contractor, in the knowledge that the only remaining hurdles are final Ministerial sign off and the issuing of a formal WG grant offer letter. The usual operational requirements for a project of this value in relation to Project Bank Account and a Performance Bond will also need to be in place.

Leadership Group and the 21st Century Schools Project Board have both considered the current position and the associated risks in depth and are in agreement with the proposed approach.

Wellbeing of Future Generations:	<p>Has an Integrated Impact Assessment been completed? If, not, please state why?</p> <p>Summary:</p> <p>Long term:</p> <p>Collaboration:</p> <p>Involvement:</p> <p>Prevention:</p> <p>Integration:</p>	N/A
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Recommendation(s): Cabinet are requested:

1. To approve the issue of a Letter of Intent to C Wynne & Sons Ltd (trading as Wynne Construction) to a maximum value of £1.276m as outlined in the report.
2. To accept the tender for the Build contract for Ysgol Dyffryn Aeron in the value of £14,656,660 from C Wynne & Sons Ltd (trading as Wynne Construction), subject to this contract only proceeding once FBC approval and confirmation of funding is formally notified by WG.
3. To note that, on the assumption that WG FBC approval is subsequently achieved, there will be a requirement for an additional c£1.1m of Council matched funding to be set aside in the next update of the Multi Year Capital Programme.

Reasons for decision:	To allow the construction works for the new area school in the Aeron Valley to commence on site at the earliest opportunity.
Overview and Scrutiny:	N/A
Policy Framework:	N/A
Corporate Well-being Objectives:	Providing the best start in life and enabling learning at all ages
Finance & Procurement implications:	Outlined in the body of the report.
Legal Implications:	Content of the proposed letter of intent is being prepared by the Legal & Governance service.
Staffing implications:	N/A
Property / asset implications:	N/A
Risk(s):	<ul style="list-style-type: none"> • FBC approval not being granted by WG and therefore sunk costs to date would fall as a 100% cost to the Council. • Delays in opening the new school by starting in the Autumn • Whilst the size of the contract relative to the original estimate has increased, this is considered to be a low risk in terms of probability and value.
Statutory Powers:	
Background Papers:	N/A
Appendices:	Appendix 1 – EXEMPT Original Design & Build Procurement
Corporate Lead Officer(s):	Elen James – CLO: Lifelong Learning & Culture Clive Williams – CLO: Schools Duncan Hall – CLO: Finance & Procurement Russell Hughes-Pickering – CLO: Economy & Regeneration
Reporting Officer(s):	Allan Bailey Nia James Duncan Hall George Ryley
Date:	24/05/23