

Proposed Variation to Project Agreement dated 30 March 2001 to expand Barlby Community Primary School

REPORT TO; the Corporate Director Children and Young Peoples Services (CYPS); Stuart Carlton and the CYPS Executive Member.

DECISION DATE: 11 February 2020

PROPOSED RECOMMENDATION

It is recommended that Authority is given by the Corporate Director – Children and Young People’s Service to enter into the Deed of Variation and related documents comprising:

- Deed of Amendment to PFI Project Agreement
- Contractor collateral warranty to Authority
- Architect Collateral Warranty to Authority
- C&S Engineer Collateral Warranty to Authority
- M&E Engineer Collateral Warranty to Authority
- Certificate issued pursuant to Local Government (Contracts) Act 1997
- Notices of assignment

- i. approving the terms of the variation documents to which it is party and consenting to the transactions contemplated by such documents;
- ii. authorising the Assistant Chief Executive Legal and Democratic or persons authorised by them to seal the variation documents to which the Authority is party, in each case in accordance with its Constitution.

BACKGROUND TO SUPPORT THE RECOMMENDATION

The County Council’s Executive authorised the expansion of Barlby Community Primary School through reports on 24 May 2016 (Planning of School Places – Basic Need Programme 2015-2018 Appendix A) and 24 June 2018 (Planning of School Places – Basic Need Programme 2018-2021, Appendix B) including funding for the scheme and that expansion would be delivered by the Private Finance Initiative company that manage the school.

The Corporate Director – Children and Young People’s Service has power to exercise all functions of the LEA and to enter into contracts to facilitate service delivery. (Scheme of Delegation 3.3 and 4.2 (a)).

Barlby Community Primary School was constructed under the Private Finance Initiative (PFI). It is now proposed to vary the Project Agreement dated 30 March 2001 to expand Barlby Community Primary School.

The need to expand the school has arisen from new housing within the catchment area of the school. Part of the funding for this scheme has been provided by housing

developers through Section 106 developer contributions for infrastructure arising from the need created by the housing development. The remainder of the funding required is coming from Basic Need funding for pupil growth allocated by central government to the County Council.

Tender evaluation is now underway in relation to the proposed expansion. Prior to the awarding of the contract, the PFI contractor requires the Council to certify the contract. The proposed expansion is subject to a Deed of Variation to the PFI contract, which it is recommended be approved by Corporate Director CYPS and signed by both parties. This is required by the PFI provider to be certified pursuant to the Local Government (Contracts) Act 1997. Once a contractor is chosen, the legal paperwork will be completed and a schedule of works produced.

LEGAL AND GOVERNANCE COMPLIANCE

The County Council's Executive are being recommended on 4 February 2020 to authorise the Assistant Chief Executive Legal and Democratic Services to issue the certificate under the Local Government (Contracts) Act 1997 to confirm the County Council's powers to enter into the Deed of Variation in respect of the proposed expansion of Barlby Community Primary School and that an indemnity be given by the County Council to the Assistant Chief Executive Legal and Democratic Services, against any claim that may arise out of or in connection with the issue of the certificate under the Local Government (Contracts) Act 1997.

RECOMMENDATION

It is recommended that Authority is given by the Corporate Director – Children and Young People's Service to enter into the Deed of Variation and related documents comprising:

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