

Finance and Resources Committee

10am, Tuesday, 27 March 2018

Queensferry High School

Item number 7.16

Report number

Executive/routine

Wards

Council Commitments [28](#)

Executive Summary

The purpose of this report is to provide Members with an update on progress of the Queensferry High School project and seek authority to execute financial close.

This report also seeks authority for the Council to take up a 10% capital share in the DBFM Holdco set up for the project and approval of the appointment of the Head of Property and Facilities Management as a Director of DBFM Holdco and DBFM Co.

Queensferry High School

1. Recommendations

It is recommended that members of the Finance and Resources Committee:

- 1.1 note the progress on the Queensferry High School project;
- 1.2 approve the outcome of the Hub South East Stage 2 detailed design phase for the project, including the most up to date scheme, costs and programme;
- 1.3 grant authority to the Executive Director of Communities and Families and the Executive Director of Resources as appropriate to progress, negotiate and thereafter conclude final negotiations to finalise the commercial and cost inputs necessary for financial close, within the financial parameters set out in this report;
- 1.4 grant authority to the Executive Director of Communities and Families and the Executive Director of Resources as appropriate to execute and deliver the necessary documents on behalf of the Council at Financial Close as noted in Appendix 1;
- 1.5 grant authority to the Executive Director of Communities and Families to authorise enabling works of £0.646m in advance of completion of final negotiations in order to meet Scottish Government funding requirements;
- 1.6 approve the performance by the Council of the documents listed in Appendix 1;
- 1.7 agree that the Council take up a 10% capital share in the DBFM Holdco set up for the Queensferry High School Project, subject to legal due diligence;
- 1.8 approve the appointment, if required, of the Head of Property and Facilities Management or a delegate as a director of DBFM Holdco and DBFM Co on behalf of the Council;
- 1.9 approve the budget transfer of £1.277m from the Local Development Plan Action Plan provision in the Council's revenue budget framework; and
- 1.10 note that the project agreement and the funders direct agreement are certified contracts within the meaning of section 2 of the Local Government (Contracts) Act 1997 and shall meet the certification requirements within section 3 of the Local Government (Contracts) Scotland Act 1997.

2. Background

- 2.1 The Council received funding from the Scottish Government towards a replacement Queensferry High School in 2014 and a [report](#) to full Council approved that the project could proceed with an element of the funding package coming from the Council.
- 2.2 There was then a significant delay in the Scottish Government's Schools for the Future Programme due to issues with the funding and procurement mechanisms which had to be resolved at a European level. Once these were resolved an update [report](#) to full Council in November 2016 approved that the project could proceed and approved the following recommendation:

Agree a follow up report detailing the full cost implications to the Council resulting from the Scottish Government's revenue based funding model (which is now a requirement of the Schools for the Future Programme) will be submitted to the Finance and Resources Committee prior to financial close of the contract to deliver the new school.

The report also took account of the projected increase in pupil numbers resulting from new development in the South Queensferry area and approved an increase in capacity at the High School so that it will be able to accommodate 1,200 pupils.

This report provides the update required by Council and requests authority for appropriate officers to finalise and execute all the necessary legal documentation and contracts up to and including financial close in May/June 2018.

- 2.3 The business case for replacing the school relates to the present condition and the significant investment that is required to address this. The new facility is targeted for occupation in 2020 and will represent a truly modern and fully integrated community learning centre for the 21st Century.
- 2.4 Following a tender exercise in 2016, Galliford Try Building Limited trading as Morrison Construction Scotland was appointed by Hub South East Scotland Ltd (Hubco) to design and build the new school. Significant work has taken place since then and the proposals for the new school have been shared with the Project Steering Group, Project Board, local Members, staff, parents, pupils, Edinburgh Leisure and the wider community.
- 2.5 The main construction works are programmed to start in June 2018 with a completion date for the new building of March 2020. It is proposed to decant the school to the new facility during the Easter holidays 2020. Enabling works are to be carried out during April and May 2018 prior to the start of the main works. Planning consent for the project was granted on 29 January 2018.

3. Main report

Project Financial Close

- 3.1 Over recent months, the design team have worked closely with a number of stakeholders to develop the plans for the project to a stage where it is now ready to build.
- 3.2 This process has culminated in the production of a Stage 2 report which provides an overview of the final design proposals, project costs, risks, commercial/ legal matters and programme. The most up-to-date costs are detailed in section 5 of this report. The target programme for the project is detailed below:

<i>Milestones</i>	<i>QHS</i>
Enabling Works	April/May 2018
Financial Close	May/June 2018
Construction Start	June 2018
Construction Complete	March 2020
Occupation	March 2020
Phase 2 Demolition and Pitch start	April 2020
Phase 2 Completion	March 2021

- 3.3 The project is subject to a Stage 2 Key Stage Review by Scottish Futures Trust to validate it as a condition of the funding. This exercise is currently ongoing and will be complete during April/May 2018 in advance of the anticipated Financial Close date for the project.
- 3.4 A programme for the delivery of Community Benefits for the project is currently being finalised that will deal with targeted recruitment, local supply chains and learning/ teaching opportunities. A tracker will be produced to record agreed targets and monitor delivery.
- 3.5 Approval is now sought to reach formal financial close for the Queensferry High School Project. The financial implications for the Council are detailed in section 5 below.

Capital Share

- 3.6 Under recent changes to the ESA10 rules, the Council is now required to enter into a contract with a company known as the DBFM Co that sits outside of the Hubco corporate structure. The DBFM Co is wholly owned by a holding company – DBFM Holdco. This company is the vehicle in which the parties will invest. DBFM Holdco will be structured to have a nominal amount of share capital. This share capital will

be provided by the private sector development partners (60%), SFTi (10%), the Hub Community Foundation (20%), with the Council providing the remaining 10% at a cost of £10.

- 3.7 It is proposed to seek express authority for the Council to take the 10% capital share in the DBFM Holdco company that will be established for the new Queensferry High School project. Prior to taking up this capital share the Council will undertake thorough due diligence of the legal documents proposed by the funder to ensure the Council is protected from any financial risk.
- 3.8 As a 'B' shareholder in DBFM Holdco the Council may have an opportunity to appoint a Director to DBFM Holdco (in the event that the other B Shareholder – the hub Community Foundation – does not so appoint). As a Director of a limited company the individual appointed will be expected to operate under the responsibilities and fiduciary duties of a Director. Directors in DBFM Holdco will also be required to be Directors of DBFM Co.
- 3.9 In the event that the Council is expected to appoint a Director, it is expected by SFT that the person undertaking this role will be an officer of the Council and it is therefore proposed that the Head of Property and Facilities Management or an appropriate delegate be approved now to be appointed as Council nominated director if required in both DBFM Holdco and DBFM Co.

4. Measures of success

- 4.1 A new purpose-built Queensferry High School appropriate to the demands of learning in the 21st century for secondary age young people – the principles of inclusion and Getting It Right For Every Child have been applied to the design of this proposed facility developing an innovative, forward-looking provision meeting the learning needs of the community into the future.
- 4.2 The implementation of this proposal will help deliver the Council's commitment to improving educational outcomes and life chances for all young people. Purpose-designed facilities for sports, ICT, food and health technology, STEM subjects will support health and wellbeing and skills for learning, life and work.
- 4.3 Working in a well-equipped, state of the art environment is likely to have a positive impact on staff motivation and morale, enhance learners' pride in their school and impact positively on school ethos.

5. Financial impact

Capital Implications

- 5.1 The Scottish Government has agreed to provide financial support for the project. This support is originally calculated on a capital basis and then converted to an equivalent revenue stream over a period of 25 years. The funding is conditional on the Council agreeing to enter into a 25-year contract with DBFM Co to enter into a Design, Build, Finance and Maintain contract, commonly referred to as the DBFM Agreement. This form of contract is similar to the existing PPP contracts except

most of the responsibility now remains with the Council, for janitorial, cleaning, etc. Payments (which will relate to 'hard FM') are made for the twenty five-year period of the contract by way of monthly contributions known as the service payment (or unitary charge).

- 5.2 The new Queensferry High School is an identified project within the Council's approved 5 year capital programme. The capital cost for the building contract through Hubco is £39.978m. The Council will also incur £3.784m for additional works including a 3G pitch, IT and audio-visual equipment as well as professional fees. The total cost of the project is therefore estimated to be £43.762m.
- 5.3 The Scottish Government capital equivalent funding contribution is £26.247m which will be available in the form of revenue funding to support the delivery of the project. The remaining £17.515m needs to be met by the Council, of which £13.731m will be converted to revenue in order to make unitary charge payments over a 25-year period
- 5.4 The approved capital budget for the project amounts to £8.773m. In addition, it is anticipated that £4.585m will be generated from developers' contributions, based on a prudent assessment of what might be collected. A further £4.157m will be funded by an annual contribution of £0.300m from Council revenue budgets, as set out in paragraph 5.7 below.
- 5.5 The capital funding package for Queensferry High School is set out in the following table.

	<i>QHS £m</i>
Hubco Building Contract	39.978
Additional Costs	3.784
Total Project Cost	43.762
Funding from Scottish Government for QHS	26.247
Approved Capital Budget for QHS	8.773
Estimated Developers' Contributions	4.585
Further contribution supported by Council revenue budgets	4.157
Total Funding	43.762

Revenue Budget Implications

- 5.6 The standard DBFM schools project is based upon lifecycle and limited FM Services being delivered by the contractor. The FM services provided under the contract are predominantly maintenance of the building fabric, externals and built internal environment. Lifecycle Costs included within the contract include the replacement of key building components such as the boiler, windows and roofs. Other aspects of FM services including cleaning, catering, soft landscape and janitorial services will remain with the Council.
- 5.7 The combined annual cost for FM service and lifecycle services delivered by the contractor is estimated to be £0.475m. In addition £1.163m will be required to fund retained FM services as well as rates and utilities, amounting to total running costs of £1.638m per annum. As noted in paragraph 5.4, a further £0.300m is required to fund the capital element of the project, which takes the total annual funding requirement to £1.938m. The current property budget for Queensferry High School is £0.661m, leaving a further £1.277m to be funded from other revenue budgets.
- 5.8 The revenue budget framework approved by Council on 22 February 2018 provides funding for £1m of additional revenue impacts arising from the Local Development Plan Action Plan from 2020/21 onwards, with indicative further sums included in subsequent years. In addition, the framework includes £2.5m for the revenue consequences of capital investment for the Local Development Plan Action Plan from 2020/21. As this project has expanded secondary school capacity to address the impact of anticipated housing development, it is recommended that £1.277m from this £3.5m be allocated to it. It should be noted that the financial impact of the Local Development Plan Action Plan and the construction of Wave 4 schools will be reassessed as part of the budget process going forward so that appropriate financial provision is included in the revenue budget framework.

Learning and Teaching Costs

- 5.9 The expanded high school will require additional staffing and other educational costs, compared with existing budgets. These costs will be demography funding provided for in the Council's long-term financial plan.

6. Risk, policy, compliance and governance impact

Legal

- 6.1 The Council has specialist legal advisors for the project and is liaising with the Council's own in-house legal services.

Human Resources

- 6.2 There are no HR issues arising from this paper.

Financial

- 6.3 In order to meet project timescales the Council needs to authorise enabling works of £0.646m. In the event that the project does not proceed, the Council will need to meet these costs from Communities and Families revenue budgets.
- 6.4 The funding package assumes developer contributions of £4.6m. These contributions are based on anticipated development. In the event that development does not proceed as projected, or that a lower level of contributions is negotiated additional funding will be required.

Risk Implications of Adopting the Recommendations

- 6.5 A full risk register has been developed for the project and is reviewed monthly at the Project Investment Steering Group.

Risk Implications of Rejecting the Recommendations

- 6.6 This would result in a substantial delay for the project and compromise its deliverability within the Scottish Government's funding timescales. This could result in the withdrawal of the project from the Schools for the Future Programme.
- 6.7 The existing school would require significant investment to keep it operational for the long term.
- 6.8 The reputation of the Council could be adversely affected.

7. Equalities impact

- 7.1 Promoting inclusion, improving accessibility and provision for effective Additional Support for Learning are explicit objectives within the design of the new school.

8. Sustainability impact

- 8.1 The delivery of a new Queensferry High School will bring about a range of environmental benefits. Much of this will be delivered through the design process which must adhere to local and national building standards that cover a range of sustainability features including renewable energy, heat retention, natural ventilation, recycling strategy and improved waste management.

9. Consultation and engagement

- 9.1 There has been extensive consultation with all stakeholders during the development of this project. This included informal engagement with staff, parents, children and young people and the wider community on their aspirations for the projects and gathering feedback on early concept designs.

10. Background reading/external references

- 10.1 Reports to Council [25 September 2014](#) and [24 November 2016](#).

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11. Appendices

Appendix 1 - Execution of Documents on Behalf of the Council

Execution of Documents on Behalf of the Council

Queensferry High School

The financial close process for the project requires a great deal of legal documentation which involves not just the council and DBFM Co, but Funder agreements and back to back subcontractor agreements. Financial close permits the entering into of the necessary contract documentation. The external financial, legal and technical advisers will be responsible for verifying and certifying to council officers that the key aspects represent an appropriate and bankable deal for the council. Financial close can only take place once approvals are in place from a number of parties, including:

- DBFM Co board;
- The Council; and
- Scottish Futures Trust.

Final negotiations will take place by the appropriate officers and also put in place named proper officers who would execute the project agreement documentation. This ensures that the council's governance is in place to expedite matters prior to financial close to allow the funders due diligence to proceed with a financial close.

It is therefore proposed that authority is granted to [[INSERT POSITION(S) (as proper officer for the purposes of signing documents as required by Schedule 2 of the Requirements of Writing (Scotland) Act 1995, and as proper officer for the purpose of the issue of certificates under and in terms of the Local Government (Contracts) Act 1997 and the Local Authorities (Contracts) (Scotland) Regulations 1997) to execute on behalf of the Council], all documents relating to the transaction as follows:

- (1) the project agreement for Queensferry High School between The City of Edinburgh Council and DBFM Co. This is based on the SFT's standard form hub DBFM project agreement and sets out the contractual arrangements for all parties;

- (2) the funders direct agreement for Queensferry High School between The City of Edinburgh Council, DBFM Co and the Security Agent (Nord) granting the Security Agent security interests and step in rights over DBFM Co's rights in certain circumstances;
- (3) the services direct agreement for Queensferry High School between The City of Edinburgh Council, DBFM Co and the FM Contractor (Galliford Try Building Limited);
- (4) the construction direct agreement for Queensferry High School between The City of Edinburgh Council, DBFM Co and the Building Contractor (Galliford Try Building Limited);
- (5) the independent tester contract for Queensferry High School between The City of Edinburgh Council, DBFM Co, the Independent Tester ([]), Norddeutsche Landesbank Girozentrale and the Contractor (Galliford Try Building Limited) for quality assurance services during the construction phase;
- (6) the collateral warranties for Queensferry High School from any other party in favour of The City of Edinburgh Council as appropriate to protect the Council against insolvency of any of the contracted parties;
- (7) a certificate to be issued pursuant to the Local Government (Contracts) Act 1997;
- (8) any other ancillary document relating to the project.