

# Report

## Cabinet Member for Education & Skills

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### Part 1

Date: 18 October 2018

Item No: 1

**Subject** Procurement proposal for a stand-alone Nursery at Maesglas Primary School

**Purpose** To seek approval from the Cabinet Member for Education & Skills to directly award the construction contract for a new stand-alone nursery building at Maesglas Primary School. The procurement proposal will require the Financial Contract Standing Orders to be waived due to the circumstances on the shared site. If agreed the contract would be awarded to Morgan Sindall, who are currently delivering a 7 classroom extension on the site for Maes Ebbw Special School.

**Author** 21<sup>st</sup> Century Schools Manager

**Ward** Gaer

**Summary** This report makes reference to the preferred procurement option for the construction of a new stand-alone nursery building at Maesglas Primary School. Due to the current circumstances on site and the requirement to complete the build by September 2019, approval is required from the Cabinet Member for Education & Skills to progress with the project by directly awarding the contract.

Welsh Government has recently approved a capital bid for the amount of £520,661 under the Infant Class Size Grant. The funding will be used to reduce the number of pupils within each foundation phase classroom at Maesglas Primary School by creating a new nursery building and reallocating the existing nursery classrooms within the school. The aim of the grant is to improve educational outcomes for pupils within the school. A bid for a revenue grant has been successful but has no impact on this report.

The report recommends directly awarding the construction contract to Morgan Sindall and to allow the contractor to commence with the design and construction of the nursery building. This will result in the Financial Contract Standing Orders to be waived. The project will be managed by Newport Norse.

**Proposal** To waive Financial Contract Standing Orders and approve the direct award of the contract to Morgan Sindall for the construction of a new stand-alone nursery building at Maesglas Primary School to accommodate 24 pupils (full time equivalent).

**Action by** Chief Education Officer

**Timetable** Immediate

This report was prepared after consultation with:

- Strategic Director - People
- Chief Education Officer
- Education Service Manager
- Head of Law & Standards
- Senior Finance Business Partner
- Interim Procurement Manager
- Welsh Government Officers
- Headteacher, Maesglas Primary School
- Chair of Governors, Maesglas Primary School
- Newport Norse

**Signed**

## **Background**

The Council submitted a bid to secure Welsh Government Infant Class Size Grant funding for Maesglas Primary School. The capital proposal within the bid was to construct a stand-alone nursery that would accommodate 24 pupils per session. The Council received confirmation on 25<sup>th</sup> July 2018 that the capital element of the bid was successful. The capital grant allocation awarded to the Council is £520,661.

The proposal for the nursery building is to complete in time for the 2019/20 academic year. The new building will allow for the existing classrooms that currently accommodate the nursery to be reallocated within the foundation phase which will result in the number of pupils within each classroom to reduce. The impact for the proposed building will see classrooms that currently contain 30 or more pupils to reduce to fewer than 26 by releasing the existing nursery classroom.

When considering the potential procurement options for the project it was noted that a 7 classroom extension was underway at Maes Ebbw Special School as part of the 21<sup>st</sup> Century Schools Programme. The project commenced on 23<sup>rd</sup> July 2018 and is due to complete in May 2019. Maes Ebbw Special School and Maesglas Primary School share the site with the only access to Maesglas Primary School being provided through the contractor's compound.

The contractor delivering the 7 classroom extension at Maes Ebbw Special School is Morgan Sindall. Morgan Sindall was awarded the construction contract following a tendering exercise under the SEWSCAP Procurement Framework. The tender process commenced in March 2018 and was awarded in May 2018. It was highlighted that the contractor has successfully been awarded the contract following the submission of the most economically advantageous tender. Subsequently the contractor has been employed by Newport City Council using the JCT Design & Build contract 2016 edition.

It should be noted that under the SEWSCAP Framework, the original tender package had to be offered to two separate lots. Due to the current market conditions 12 contractors were given the opportunity to tender for the works rather than the usual 6 under the framework. As an indication of the competitive market only 3 contractors returned a tender submission for consideration.

## **Site Management**

Due to the layout of the site it is not possible to access Maesglas Primary School without passing through the Maes Ebbw Special School site. As part of the extension works to Maes Ebbw the site compound has been set up to the rear of the school. To ensure traffic movements are managed safely the contractor has taken responsibility of the access route with agreed times for school staff and deliveries to access the school while emergency access will be provided by a Banksman if required.

It has been advised by Newport Norse that only one contractor should be responsible for Health & Safety arrangements on the site. Employing a second contractor to complete a significant project such as the nursery building is likely to cause conflict between the contractors and potentially cause delay if deliveries and subcontractors are not able to access the site when required.

The shared site only has one vehicular entrance which is located near Maes Ebbw Special School. There are a number of pedestrian access points to the site but it would not be feasible for contractors to park off site.

## **Works Programme**

The project underway at Maes Ebbw Special School commenced on 23<sup>rd</sup> July 2018. The main focus will be to complete the amendments to the car park area and ground works. These works are required to be complete by the beginning of the 2018 academic year. Following this the works to the 7 classroom extension will commence. The building works are expected to be finished by May 2019.

To reduce the impact on the school site a modular construction is likely to be chosen for the Nursery building at Maesglas Primary School. The works are expected to take approximately 5 to 6 months. As

such the construction works would need to commence in February 2019 to ensure the building is available for September 2019.

The proposal to directly award the contract would result in the removal of the tender process. As an indication, the tender period taking into account the time from when the tender documents were advertised to the point where the tender report was received by Education for consideration was 12 weeks. The removal of this process is expected to provide cost savings as the contractor would not be required to provide resources for the work.

## **Procurement Options**

Through consultation with the Head of Law & Standards and the Interim Procurement Manager a number of options were discussed for the Maesglas Primary School project.

The first consideration by Education was to extend the current contract awarded to Morgan Sindall. This option could be considered although this would create risk on the Maes Ebbw project. This option has the potential to cause issues with contract compliance. Should the contractor fail to deliver the Maes Ebbw project it may not be possible to take action against the contractor due to the whole project being extended to accommodate Maesglas Primary.

The preferred option would be to directly award a separate contract to Morgan Sindall. This would protect the Council against the potential risks that could arise by extending the Maes Ebbw contract. As the procurement of the Maes Ebbw project has been completed within a few months it would be possible to evidence best value and a fair tendering process. This option was supported by officers within Welsh Government.

Should the preferred option be approved this would require officers from the Council and Newport Norse to negotiate the contract by using the existing rates that was priced in the original Maes Ebbw tender documents. It should be possible to negotiate some savings as the contractor would not be required to provide a site management team as it would be expected that the existing team would oversee both projects comfortably.

The alternative option would be to complete the full tender exercise but as highlighted within this report it would not be possible to provide the nursery building by September 2019.

## **Quality & Standards**

As per the grant criteria, Welsh Government is encouraging Local Authorities to consider the reduction of pupil numbers in Foundation Phase classrooms. The Council is supportive of this approach and the grant funding will allow for this to progress in Maesglas Primary School.

The Council firmly believes that this proposal will not have any detrimental impact on standards at the school. The proposal is expected to have a positive outcome for pupils in regard to attainment.

It is acknowledged that the existing classrooms in Maesglas Primary School are considered small to the reduction in the number of pupils within each Infant classroom would provide a more comfortable environment for pupils while also delivering a complete new building for nursery pupils.

## **Human Resources Issues**

There will be staffing implications as part of the overall proposal to reduce the pupil numbers in the infant classes. Revenue grant funding has been secured for the appointment of additional teaching staff at Maesglas Primary School. This will be reported in a separate paper.

## **Governance Issues**

There will be no changes to school governance arrangements as a result of this proposal. The governing body will continue in its current form.

## School Reorganisation

There will not be any increase or decrease in the overall pupil numbers following the construction of the nursery building. There is no requirement to complete a statutory consultation.

## Financial Summary

The total cost of the nursery build is anticipated to cost £520,661 as per the grant claim. The project will be fully funded through the Welsh Government Infant Class Size Grant.

The Welsh Government Infant Size Grant will also provide revenue funding for additional teaching staff for the next three years. This will be reported in a separate paper and updated in the MTRP.

## Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to utilise grant funding	L	L	This is unlikely, although should there be considerable delay it will be possible for Welsh Government to recall the grant funding.	Chief Education Officer
September 2019 deadline is not achieved	L	L	There will not be an impact on existing pupils as the current arrangements will continue. However, should the building be delivered late the reallocation of classrooms would create disruption for the pupils during term time.	21 <sup>st</sup> Century Schools Manager

\* Taking account of proposed mitigation measures

## Links to Council Policies and Priorities

Wellbeing of Future Generations (Wales) Act 2015  
Council Improvement Plan  
Education Service Plan

## Options Available and Considered

Option 1: To extend the existing contract for Maes Ebbw Special School and allow the main contractor to design and building the Maesglas Primary School nursery building.

Option 2: To directly award the contract to the main contractor. Issue a separate contract that can be managed by the main contractor while also completing the Maes Ebbw project. This will enable the building to be available for September 2019 while potentially achieving some cost savings.

Option 3: To commence with a fresh tendering process and appointment a separate contractor to deliver the building once the Maes Ebbw project comes to a close..

## Preferred Option and Why

The preferred option is Option 2. This would allow the building to be completed in time for September 2019 while also achieving best value. This approach would also remove the potential risk of operating with two main contractors on site. The option would also ensure the cost of the build would be

competitive as there are concerns with the current market conditions and the potential lack of interest from potential contractors.

### **Comments of Chief Financial Officer**

As stated in the report the capital works of £520,661 will be funded by Welsh Government grant.

The ongoing revenue costs of running the classroom are estimated at around £62k per annum. This is funded by Welsh Government until August 2021, however after this funding would need to be put into the MTFP to fund the increased cost.

The estimated value of the construction work for the new nursery building at Maesglas Primary school is below the public procurement threshold under the EU procurement Directive and the Public Contracts Regulations. The waiving of CSO's will be reported to Audit Committee.

### **Comments of Monitoring Officer**

The proposed action is in accordance with the Councils Contract Standing Orders. The estimated value of the construction work for the new nursery building at Maesglas Primary school is below the public procurement threshold under the EU procurement Directive and the Public Contracts Regulations. Therefore, there is no requirement to comply with the full public procurement requirements in terms of tendering the contract. However, Council Standing Orders would still require competitive tenders for the work because of the value of the contract, in order to demonstrate best value. In this case, it is recommended that Contract Standing Orders are waived in order to allow for the direct award of the contract to Morgan Sindall, the contractors who are already carrying out the classroom extension work at Maes Ebbw Special School, on the same shared site. The direct award is recommended on grounds of both contract management and efficiency. It would be problematic for two separate contractors to have shared use and possession of the same site for two separate projects and this could give rise to health and safety issues and contractual claims. In addition, awarding the contract for the nursery building to the existing contractor should result in economies of scale and efficiencies, with savings in preliminary site establishments costs and overheads. Therefore, the negotiated route should provide an opportunity to secure a more economic price for the Council. The contracts cannot be combined into one as the amount of the new contract is more than a permitted marginal variation to the current contract and including this as an addition to the current contract at this stage could give rise to significant delay and disruption claims. Therefore, it is advisable that the Council does not seek to rely on the exemption under CSO's to vary or extend the current Morgan Sindall contract. Instead, CSO's should be formally waived to allow for the direct award of a separate contract. However, the fact that CSO's have been waived in this case, and the reasons for such a waiver, will need to be reported to Audit Committee in due course.

### **Comments of Head of People and Business Change**

There are no immediate HR implications, however as outlined in the report once the separate paper has been produced HR will need to advise on any issues arising from a potential proposal to reduce pupil numbers in the infant classes and appoint additional teachers. There may be a need to reflect on Leadership pay ranges depending on pupil numbers.

The proposal has considered the Well-being of Future Generations Act and the proposal is in line with Welsh Government strategies to reduce the number of pupils in infant classes which is looking to achieve better educational outcome for pupils. The impact of improved outcomes will provide further benefits throughout the pupils' education and working life.

### **Local issues**

Comments provided by:

Leader of the Council, Councillor Deborah Wilcox

I note the salient point from the Head of Legal Services comments;

*'Therefore, there is no requirement to comply with the full public procurement requirements in terms of tendering the contract.'*

I am content therefore for this to proceed in my ward under these terms.

## Scrutiny Committees

None

## Wellbeing of Future Generations (Wales) Act 2015

Report writers need to indicate how they have considered the five things public bodies need to think about to show they have applied the sustainable development principle put into place by the Act. You will need to demonstrate you have considered the following:

- Long term: the importance of balancing short- term needs with the need to safeguard the ability to also meet long – term needs  
***By supporting this option the building will be provided as planned and available for the 2019 academic year. However, the life of the new building is expected to be 50 years plus which will provide a high quality nursery facility for the long term.***
- Prevention: How acting to prevent problems occurring or getting worse may help us meet our objectives  
***The new building will improve the overall condition of the buildings on site and will reduce the level of maintenance required. The school is also being considered for further capital investment in the future which will further reduce the maintenance backlog while providing 21<sup>st</sup> century school facilities.***
- Integration: Consider how the proposals will impact on our wellbeing objectives, our wellbeing goals, other objectives or those of other public bodies  
***The proposal is in line with Welsh Government strategies to reduce the number of pupils in infant classes which is looking to achieve better educational outcome for pupils. The impact of improved outcomes will provide further benefits throughout the pupils' education and working life.***
- Collaboration: have you considered how acting in collaboration with any other person or any other part of our organisation could help meet our wellbeing objectives  
***The project will have a number of stakeholders including the school and pupils while also including Newport Norse and the contractor as key specialists who will deliver the building.***
- Involvement: The importance of involving people with an interest in achieving the wellbeing goals, and ensuring that those people reflect the diversity of the City we serve  
***Pupils and school staff will be fully involved throughout the scheme. The project will be subject to a planning application which will allow for further public consultation and interaction.***

## Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

## Consultation

Not applicable

## Background Papers

None

Dated: 18 October 2018