

KENT COUNTY COUNCIL

CABINET

MINUTES of a meeting of the Cabinet held in the Darent Room, Sessions House, County Hall, Maidstone on Monday, 17 December 2007.

PRESENT: Mr P B Carter (Chairman), Mr N J D Chard, Mr M C Dance, Mr M J Angell (Substitute for Mr K G Lynes), Mr K A Ferrin, MBE, Mr G K Gibbens, Mr R W Gough, Mr P M Hill, OBE, Mr A J King, MBE and Mr C T Wells

IN ATTENDANCE: Mr P Gilroy (Chief Executive), Mr G Badman (Managing Director of Children, Families and Education), Ms A Honey (Managing Director Communities), Mr O Mills (Managing Director - Adult Social Services), Mr N Vickers (Head of Financial Services), Ms M Peachey (Kent Director Of Public Health) and Mr A Wilkinson (Managing Director - Environment and Regeneration)

UNRESTRICTED ITEMS

1. Results of Annual Performance Assessment of Children's Services for 2006/07
(Item. 2)

(1) It is a statutory requirement to report the results of the Annual Performance Assessment (APA) to the first Cabinet Meeting following their publication at the end of November and also to share these with partners and make them available on the website.

(2) Attached to the Cabinet report was the APA letter. This letter demonstrated that Kent's grades recognised continued high performance with scores of 3 out of 4 for current performance on "Children's Services and Children's Social Care" and a maximum 4 out of 4 for "Capacity to Improve". Overall the scores were the same as last year's assessment with all five "Ever Child Matters" outcomes rated at "Good".

(3) A comparison with the results from the 126 authorities published so far placed Kent in the top quartile based on the overall score for 'Children's Services and Capacity for Improvement' with only 11 scoring more highly than Kent.

(4) The Cabinet noted that this year the APA acts as a "risk assessment" for the Joint Area Review (JAR) of Children's Services which is to take place in tandem with the Corporate Assessment.

(5) The Cabinet noted that two of the areas for development identified in the APA letter, namely teenage pregnancy and participation and attainment up to the age of 19, were being investigated in the Joint Assessment Review (JAR) alongside the core areas of safeguarding, looked after children, children and young people with learning difficulties and disabilities and service management and capacity to improve. The Cabinet congratulated the Managing Director for Children, Families and Education and his staff on an excellent Annual Performance Assessment.

(6) RESOLVED that:-

Cabinet note the 2006/2007 results of the Annual Performance Assessment of Children's Services.

**EXEMPT ITEMS
(Open Access to Minutes)**

Cabinet resolved that under Section 100A of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act.

**2. Kent's Building Schools for the Future Programme
(Item. 4)**

(In attendance for this item were Grahame Ward, Director of Resources, Children, Families and Education, Rebecca Spore, Head of PPP/PFI, Karl Limbert, Programme Manager: Building Schools For The Future & Academies, Jane Blenkinsop, PPP/PFI Project Finance Officer, Peter Mulholland, Group Leader, Property and Commercial, Legal and Democratic Services, Alan Day, Senior Policy Officer (Digital Curriculum), Children, Families and Education. Bob Griggs and Sayeeram Mothi, (KPMG), Jonathan Stewart (Gleed's) representing Gleed's input into design and financial management and Stephen Matthews, Nabarro Nathanson,)

Urgent Item of Business

(1) The Chairman sought and gained the approval of the Cabinet to deal with this matter under the urgency procedure outlined in Appendix 4 Part 8 of the Constitution. He indicated that he had agreed this with the Chairman of the County Council and with the Leaders of the opposition groups.

(2) He informed Cabinet that the final bids were received on 16 November from bidders following the close of a dialogue under the competitive dialogue process. The evaluation of the two bids to be the private sector partner in the Local Education Partnership (LEP) had been an incredibly time consuming exercise, as it should be, in view of the scale of the eventual financial investment that will take place in one third of the County Council's secondary estate.

(3) The intention was that work starts on site during the 2008 summer holidays and if this date is not met the County Council become liable for increased costs as the prices are only fixed for three months past the estimated financial close which is mid June 2008.

(4) The Chairman informed the Cabinet that the report makes clear the evaluation group only completed its work on Thursday 13 December 2007 and it was not until late on Friday 14 December that the report which was before the Cabinet had been cleared by the lawyers and finalised.

(5) It was necessary to take this time to ensure that a robust evaluation was undertaken to challenge bid submissions and ensure due process was followed.

Both bidders had spent significant development budgets to reach this stage. Kent County Council must ensure that there is no risk of legal challenge from bidders and to use this time whilst Kent County Council has maximum competitive tension to secure the best commercial position for the Council.

(6) In order to achieve the start on site the preferred bidder had to submit some of the necessary planning applications before Christmas 2007 if the County Council are to avoid any judicial risk which is a critical path item to achieve a financial close date in June 2008. Any delay would not only have significant cost implications but would also increase the disruption caused to schools as the construction programmes had been developed such to optimise the summer holiday period. To delay the decision would not be in the authority's financial or commercial interest.

(7) The Cabinet had before them a report which was dealt with in three parts. The first was an overview of the process followed to date including a description of the procurement process and the evaluation mechanism. The second element of the report related to the Building Schools for the Future (BSF) evaluation team's assessments of both bidders' final tenders highlighting particular strengths and weaknesses. The third element was an analysis of risk issues, affordability and an outline of the process ahead.

Report Discussion

(8) The Cabinet noted that the decision to select a preferred partner was not in itself a contractual decision. It is a decision to select a partner with whom the County Council wishes to work to finalise mutually acceptable contractual positions with a view to delivering the programme within agreed affordability and time constraints.

(9) The Cabinet were invited to appoint a preferred bidder in order to progress to the concluding stages of the procurement which includes both the production of a Final Business Case which will need to be signed off by Partnerships for Schools (PfS) and the Department for Children, Schools and Families (DCSF) and the reaching of financial close for Wave 3 and the establishment of Local Education Partnership 1 (LEP1). The timing of the decision which the Cabinet is invited to make was important since it is calibrated to enable planning applications to be submitted in December and January respectively.

(10) The Cabinet noted the process including the overview of the procurement process and the overview of the evaluation process and the scores in which each of the five areas for evaluation, namely:-

- (a) partnering services;
- (b) design, technical and facilities management;
- (c) information communication technology;
- (d) legal; and
- (e) financial

had been assessed.

(11) The Cabinet received presentations from the project team on each of the five areas and responded to Cabinet Member questions.

(12) In terms of risk, affordability issues and the process going forward the Cabinet noted that any delay in the selection of a preferred bidder would lead to a delay in the submission of planning applications which would lead to slippage in the programme and push back the target construction commencement dates. This in turn would almost certainly lead to price increases and a less favourable affordability position for the Council.

(13) A comprehensive matrix of risk issues and associated risk mitigation strategies had been identified by the BSF team which took into account discussions with Cabinet Members and the Leaders of the opposition parties.

(14) A report summarising the legal risk associated with the procurement of a partner to form a Local Education Partnership (LEP) to deliver BSF investment in the LEP 1 area was also set out in the report.

(15) Cabinet were reminded that they had recognised the potential affordability position for the Wave 3 project at their meeting on 18 September 2006. The current position was summarised for the Cabinet.

(16) The development budget was being increased in the 2008/2009 Capital Programme to reflect Kent County Council's admission into Waves 4, 5 and 6. There needed to be a small increase in the County Council's investment in the LEP. The intention was that these increased budgets would be funded by way of additional receipts and in the case of the Private Finance Initiative gap via charge to the Direct Schools Grant (DSG). The affordability of the final bids was summarised for the Cabinet as well as the affordability on future projects, Waves 4 and 6.

(17) The Cabinet were informed of the contents and conditions under which the preferred bidder is to be appointed and noted the timetable for the official announcement of the preferred bidder.

(18) Mr P B Carter, Leader of the Council, moved and Mr N J D Chard seconded the recommendations set out in the report. In seconding the recommendations (and with the support of the Leader) Mr Chard asked that an additional recommendation be added that Cabinet congratulates and thanks the Building Schools for the Future team for their very successful work to date and the groundwork they had put in place for future Waves and LEPs.

(19) The Cabinet unanimously RESOLVED:-

- (a) to endorse the appointment of Bidder X as its preferred bidder;
- (b) to note that the Cabinet will be asked at the appropriate time to approve the financial close which is scheduled to be in June 2008;
- (c) at the appropriate time receive reports on future Waves, e.g. Wave 4 and Wave 6; and
- (d) to congratulate and thank the Building Schools for the Future team for their very successful work to date and the groundwork they had put in place for the future Waves and LEPs.

(In accordance with the timetable for the announcement for the preferred bidder, Bidder X was identified as Land Securities Trillium on 18 December 2007).