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To: CABINET – 14 JUNE 2010

Subject: UPDATE ON THE BSF AND ACADEMIES PROGRAMME,
FOLLOWING RECENT GOVERNMENT ANNOUNCEMENTS

Classification: Unrestricted

Summary: To bring to Cabinet's attention the current position of both our BSF and Academies Programmes, following recent Government announcements.

Introduction

1. (1) This report sets out the issues arising out of recent announcements. The detailed financial position, in view of our existing contractual commitments, is addressed separately as an exempt item.

(2) Before looking at what the future might hold, it is important to acknowledge how successful we have been with these programmes and their predecessors (e.g., six secondary PFI, Swan Valley PFI etc.,) both in terms of:

(i) the scale of investment we have already secured. In the case of BSF, our Wave 3 scheme which covers 11 schools is seeing capital investment of some £200m, and our first batch of Academies is receiving some £160m; and

(ii) the transformation of teaching and learning the investment supports, in line with our secondary strategy and vision.

(3) Following the creation of the new coalition Government and the creation of the new Department for Education (replacement to the previous DCSF) there have been a number of announcements by the DfE and actions by Partnership for Schools (PfS) that have a direct bearing on both our current BSF and Academies Programmes. These include:

- The statement that all of the previous Government's investment commitments since 1 January 2010 are to be reviewed.
- The statement on the Department for Education (DfE) website that stated:

'The DfE has not yet made a decision on Building Schools for the Future (BSF) funding or any other Capital Programmes. The Government is committed to a full comprehensive spending review in the autumn, and Ministers will shortly be considering their spending priorities, which will take into account all areas of spending including school capital.'

- PfS and Treasury not proceeding with what is called the Meeting to Review Approval (MRA), that was scheduled with them for 26 May. That meeting was due to approve our Wave 5 Outline Business Case (OBC) that had already passed the rigorous PfS Peer Review.
- Confirmation that in respect of Academies (old style) that where a Funding Agreement has been signed between the Government and the sponsors, these would proceed. This has been confirmed recently with the approval of The Marsh Academy Final Business Case (FBC).
- PfS postponed the planned Remit meeting scheduled for 19 May with them in respect of Wave 6 – this would have represented our formal entry into the Wave.
- PfS continuing to progress with active schemes which have passed the OBC approval stage, as no directives have been given that work should stop.

(4) Whilst all of the above give some direction, we are still missing so much information that any advice on the way forward is difficult. It is clear that irrespective of the review, there has to be an ongoing investment programme into the secondary estate for no other reason than the state/age of the estate requires it. However, we do not know answers to a multitude of questions, such as:

- Are schemes that have an OBC approved going to proceed as approved at that stage, or could they be subject to change?
- Is the basis of the Programme changing i.e., from an educational transformation driven programme to primarily a buildings related Programme?
- Is the concept of the Local Education Partnership (LEP) as the delivery vehicle and ICT integration going to continue?
- By how much is the overall funding envelope going to be reduced, and on what basis is it going to be allocated?
- Does the LA have responsibility for the “new style” academies capital investment?
- How do we handle the disappointment our schools, pupils and local communities are going to feel from, at best, a slowing down of the Programme and, at worst, a complete abandonment?
- Do we and our private sector partners get reimbursement for any aborted development costs?
- Is there recognition of the different situations authorities find themselves in? Some others like us have a LEP in place.

(5) The rest of this report, and the exempt report elsewhere on the Agenda, endeavour to set out where the above leaves us with our Programmes and the implications that either delay or cancellation would have, both in educational terms and the impact upon the local economy. The exempt paper addresses the financial issues.

BSF Programme

2. (1) We entered into the contract for our first LEP on 24 October 2008 and, whilst this was specifically about the Wave 3 schemes, it also secured our strategic partner for two future Waves, 4 and 6.

(2) Waves 3 and 4 covered the secondary schools in Gravesham and Thanet, whilst Wave 6 relates to Swale. Also included within Wave 4 is the procurement of the Isle of Sheppey Academy.

Wave 3

(3) Wave 3 is unaffected by any of the announcements. The 10 schools within Wave 3 (plus Ifield Special School) are currently under construction by the LEP and we have already taken possession of St George's at Broadstairs and are due to take possession of three PFI schools in Gravesham before the end of this academic year.

Wave 4

(4) This wave is the second phase of the Kent LEP1 Programme, and consists of 14 schools spread between Gravesham and Thanet. Cabinet approved our involvement and submission in respect of this Wave on 13 July 2009. The Outline Business Case was approved by PFS on 31 March 2010.

(5) Wave 4 has been issued to the LEP under the New Project Approval Process and they have developed and submitted draft Stage 1 submissions to the Council for consideration. Under the Contractual documentation there are set criteria upon which the formal submission is reviewed for approval to Stage 2. The review of the draft submission has almost been completed and we are preparing to move to Stage 2 within the next couple of weeks.

(6) The approval process is such that the proposals would continue to be developed until such time as we are ready to reach financial close for this Wave. At that time we would:

- need to seek formal Cabinet approval to allow us to reach financial close, then
- submit to PFS our FBC.

(7) At the current time we have been unable to obtain definitive advice from PFS or the DfE as to the possibility that the approval of this Wave could either be:

- (a) stopped/reversed as result of the review of decisions post January 2010;
- (b) stopped/reversed as result of the Comprehensive Spending Review or Budget;
- (c) not approved when the FBC is submitted in early 2011

(8) Although we do not believe that it makes sense to impact upon Wave 4, there is a risk that the Wave could be stopped or amended before financial close by the Government. In such a situation we would expect the Government to agree to cover the significant sums already incurred by all parties involved. We are, however, looking at our contractual commitments and how we manage risk and cost reduction.

WAVE 6

3. (1) This is the final Wave in the first LEP and relates to schools in Swale. As indicated earlier the Remit meeting, which would formally admit us into this Wave was postponed by PFS, and as such we cannot proceed very far with work on this Wave, although it does form part of our contract with the LEP.

(2) Anticipating that the Remit meeting was to go ahead, workshops had commenced with the schools to develop the Strategy for Change documentation and were then to continue into OBC work. The LEP provide the design/architectural input into this

process under the Partnering Services Agreement. Initial scoping/feasibility work has commenced in respect of the Fulston playing field where it was planned to relocate a school.

WAVE 5

4. (1) Wave 5 (Dover/Shepway) commences the procurement of Kent's Second Local Educational Partnership, which would be the framework under which Wave 5 and any future BSF or Academy capital projects would be delivered. The following documentation in respect of this Wave has to date been approved by PfS and the DfE:

- Remit/Readiness to Deliver
- Strategy for Change Part 1
- Strategy for Change Part 2

(2) The Outline Business Case has been prepared and was submitted in December 2009. We were anticipating that PfS would progress the approval in advance of the election, but this did not prove to be the case. The document went to Peer Review on 13 May 2010 and was recommended by PfS for approval by Treasury at the next MRA meeting. The MRA meeting scheduled for 26 May 2010 has been postponed. The OBC would secure some £220 million of capital investment for this Wave.

(3) There are no contractual implications associated with the delay of Wave 5, but there are significant abortive costs to us from the development costs we have already incurred.

(4) We also know that the major contractors expecting to tender for this LEP have expended significant sums and, in the event of a complete closure of this Wave, we might want to consider asking Government to compensate them for their loss. This would help to maintain Kent's reputation as a good future partner within the building community.

(5) At present we intend to undertake only minimal work until the MRA meeting is reconvened. This work includes:

- responding to the points raised by the Peer Review (these are minimal);
- completion of work on the procurement documentation; and
- completion of the Dover Grammar Schools Outline Planning application

These pieces of work are substantially complete and need to be concluded to allow us to progress quickly in the event that Wave 5 is allowed to proceed.

Educational Implications

5. (1) The educational implications of not progressing with Wave 4 are very significant and probably cannot be understated. The schools within the districts of Thanet and Gravesham were split between Wave 3 and 4. The rationale at the time being that we did not want all the schools within a locality subject to significant change at the same time and, as a result, the schools in Wave 3 were those that presented less challenges than those left until Wave 4. The overall planning for educational provision and school capacity is based across the districts and is reliant on collaboration amongst the schools to deliver a cohesive and joined up learning experience to all learners in a district. Wave 3 is nearing building completion. Only half of the schools in each district will be completed under Wave 3, with the remainder to follow in Wave 4. Therefore, if Wave 4 does not progress, this will create significant pressure on the capacity of those schools which have benefited

from new buildings (as parental choice may skew the popularity of those schools that have had investment). It will also put further pressure on the viability of those schools that have yet to benefit from investment where they are already vulnerable. The collective agreement between schools was key to managing the declining rolls that are evident across these two districts.

(2) BSF is one of the key components in delivering National Challenge and School Improvement Strategies through the provision of “fit-for-purpose” buildings, as well as feeding into a number of other County-wide plans and commitments e.g., improving the quality of teaching and learning targets to reduce temporary accommodation at schools, increased integration of technology into the curriculum, apprenticeships, carbon reduction targets, backing Kent business etc.

(3) Local communities have been consulted on and have expectations of improvements that are going to be delivered. This will need to be carefully managed should the programme be significantly amended or cut.

(4) The schools have already committed substantial time and energy over the last three years on the development and the Wave 4 schools can see what they are due to be benefiting from.

(5) Alongside the BSF Programme, school reorganisation has already been undertaken in respect of:

- The Sheppey Academy
- Federation of Ramsgate Grammar Schools
- Laleham Gap
- Foreland/ Hartsdown co-location
- Ellington/ Hereson amalgamation

(6) Of the above and whilst it will be controversial and meet strong resistance from a building perspective, all schools could continue in their current buildings, with the exception of:

(a) Ellington/ Hereson

From September 2011 KCC are required to consolidate this amalgamated School on to the Ellington site. The current planned investment is some £6 million capital (it should be noted that this is a variation to an existing PFI contract). In the worse case this could be provided in the form of temporary accommodation, although this may be contested by the Trust who agreed to form a Trust on the basis of new buildings.

(b) The Sheppey Academy

If new buildings were not to be provided this would be a breach of the Funding Agreement with the Department of Education. It is unclear what would happen in this case and whether the sponsors would remain committed to the project. We anticipate that this scheme will continue.

(6) The withdrawal of Wave 4 would also have major implications in respect of the delivery of the SEN review and Kent's strategy where Special Schools are currently operating in accommodation not entirely suitable for their new designations. Members may recall that when we transferred the Thanet special schools (five of them) into BSF and out of our SSR programme, we saved £20m from within our Capital Programme. How these schools needs could be addressed without BSF is unclear.

Implications on the Local Economy

6. (1) BSF is more than just a Building Programme and the LEP have committed to spending money in Kent, and there are expectations amongst the Kent Economy in respect of this.

(2) 180 local Kent businesses are currently benefiting under the expenditure linked to Wave 3. The LEP will have negotiated contracts with beneficial rates on the basis of continued work in the future. The value of contracts placed in Kent for Wave 3 is estimated to be £32 million, and similar projections are made in respect of Wave 4. We understand that for many of these businesses the Kent BSF Programme is a key component of their order book until the private sector market has recovered, with 70% of labour coming from the local Kent Economy. Two major building contractors have the Wave 4 works on their order book. We understand that Kent (along with other BSF Programmes) represent a large proportion of the order book for the next financial year.

(3) As part of the Programme the LEP is committed to provide two apprentices per £3 million of construction value. Across Wave 4 this would mean that at least 120 apprenticeships opportunities that would be lost in the County area.

Academies

Batch 1

5. (1) All of the Academies being delivered under this batch have had their Funding Agreement (FA) signed and are being progressed – with construction underway at New Line Learning and Longfield Academies. The Final Business Case for the Marsh Academy was recently approved and confirmed, the national message being that it was business as normal. We are assuming that all of the Academies in this batch will be delivered.

Batch 2

6. (1) Unlike the first batch, we have three Academies (Wilmington, Astor of Hever and Ashford) where the FA has not yet been signed and therefore could be less certain of completion. However, the message from both DfE and PfS is that it is business as normal and that we can expect these to be completed. Until the FA is signed, development work undertaken by us is at risk, although this appears to be very small.

Way Forward

7. (1) Whilst waiting for a clearer set of statements from Government, we are looking at our options, associated risks and possible contingency plans are, in event of different outcomes.

Recommendation

8. Members are asked TO:

- (1) NOTE the position; and
- (2) CONSIDER the messages it may wish to deliver to both Government and the Ken public.

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