Leicester City Council

WARDS AFFECTED
All wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Special Children & Young People Scrutiny Committee	**11th February 2010**
Cabinet	**15th February 2010**

Building Schools for the Future - Outline Business Case

Report of the Strategic Director - Children

1. Purpose of Report

1.1 The purpose of this report is three fold:

a) To set out clearly the opportunities offered by the Building Schools for the Future (BSF) project which is the largest publicly-funded capital project to be undertaken by the Council and will provide a significant number of construction and related industry jobs for the next 3 to 4 years in Leicester.

b) To secure approval of the Outline Business Case for the Council's Building Schools for the Future (BSF) Programme and to obtain the necessary delegated authority to implement the programme before March 2010.

c) To secure approval to proceed with the plans for Rushey Mead School which is the 'sample scheme' presented as part of the Council's OBC submission to Partnerships for Schools (PfS).

1.2 Cabinet received a report on 14th December 2009, presenting the Council's Strategy for Change (SfC). The SfC was approved as the 'Direction of Travel' for the BSF programme and described in some detail the ambitious programme of educational transformation and plans to significantly improve outcomes for children, young people and their families and communities. It was noted in the last report that the analysis of the long-term affordability of the programme was not complete. This work is now substantially complete and this report sets out to present Members a synopsis of the BSF Programme, the long-term financial implications of the programme as a whole and the detailed financial and design plans for the Rushey Mead School project.

2. Summary

2.1 BSF is the most substantial programme of investment in Leicester's Schools for 100 years. The total programme will rebuild or remodel every secondary school with a total investment in excess of £300m. Four schools have already been successfully completed. There will also be substantial investment in Special schools and Pupil Referral Units.

2.2 The OBC sets out the detail of how the remaining schools will be rebuilt, and is part of the formal process of securing government funding.

2.3 Additionally the OBC is the trigger for detailed design work to take place on Rushey Mead School, which will be the first new scheme, and the outline designs are discussed in this report.

2.4 A substantial investment programme of this nature conveys risk, which it is necessary for the Council to accept for the programme to succeed. This is also discussed later in this report.

3. Recommendations

3.1 The Children & Young People Scrutiny Committee is recommended to consider this report and make any comments it wishes for consideration by Cabinet.

3.2 Cabinet is recommended to:

a) Approve the Outline Business Case with Option C: the preferred model, on the basis of revenue affordability to schools and the Council. This model proposes that the two voluntary-aided schools continue their existing facilities management and lifecycle arrangements through the Diocese and special schools and PRUs continue with the existing arrangements provided by themselves and the Council. Consultation with schools and the Diocese have begun and there are currently no contra-indications to this model;

b) Note the intention to provide flexible access for communities to facilities in schools and the use of 'zoning' of the school buildings to provide a more cost-effective and environmentally sustainable solution to community use of these public buildings;

c) Authorise the Strategic Director - Children, in consultation with the Cabinet Lead, to take such decisions as she thinks fit to implement the programme (subject to the limitations noted below);

d) Request a further report confirming the approval of PfS or outlining any significant changes to the programme as a consequence of negotiation;

e) Authorise the Strategic Director, Children, in consultation with the Cabinet Member, Children and Schools, to adjust the allocations for each school, as necessary, in order to match funding with cost as each scheme is developed, noting that final approval will rest with Cabinet as each Financial Close is brought to Cabinet for approval;

f) Pursuant to (c) above, note the expenditure required to progress the project until the end of April 2010 as set out in Appendix 2. This amounts to a total of £4.6m, of which £1m would be funded from the TLE budget and £3.6m recoverable from PfS once new projects are approved;

g) Authorise the Chief Finance Officer to sign the appropriate Section 151 Officer letter of support, drafted in accordance with PfS and CIPFA guidance and which is ancillary to the implementation of the BSF Programme and projects as approved. (An outline of the letter is attached at Appendix 3). Note that this will commit the Council to deliver its transformational vision and make every endeavour to bridge the affordability gap; and

h) Approve the use of future receipts from land sales at specified schools to support the programme as discussed in the OBC.

Note: In relation to recommendation c) above

(i) The Director's authority shall not include authority to proceed with any project or related matter which is subject to significant change as a result of the negotiations and approvals of PfS as detailed in this report;

(ii) The Director's authority shall not extend to authorising financial close and / or any early works agreements;

(iii) The Director's decisions will generally relate to those routine matters required to maintain progress on the programme such as the issue of new project requests and Stage 1 approvals;

(iv) Before issuing any Stage 1 approval, the project proposals will be presented to Cabinet Members and local ward councillors.

4. The Outline Business Case

4.1 The Council and its partners' ambitions for children are to raise standards of attainment, improve their well-being and close the equality gaps in health and education. Although outcomes for children in Leicester continue to improve steadily, the Building Schools for the Future Programme offers a once in a lifetime opportunity to transform secondary education and bring about a step change.

To support these ambitions, the aims of the BSF programme are to:

a) Position schools as vital hubs for neighbourhood working and community activities. Schools will be promoted as resources for the whole community with facilities that are accessible to all;
b) Provide an inclusive learning environment within which every child can reach their full potential with personalised learning designed to meet their own individual needs;
c) Provide all teachers with a 21st Century working environment; and
d) Offer a comprehensive range of services within easy reach of every family.

4.2 The SfC approved by Cabinet in December 2009 describes the educational challenges and vision for transformation then goes on to describe the estate proposals for the remainder of the programme. The SfC sets out detailed proposals for school sizes, the scope and cost of work within each school and the timetable. The SfC set out construction costs estimated at £274.5m based on the elements to be funded by PfS. These costs (and the funding to match) are now estimated at £282.8m and include all funding sources (as noted in Annex A)

4.3 BSF is one of the largest capital and transformation projects ever undertaken by the Council and the SfC contains a detailed risk management strategy and risk log.

4.4 The BSF Programme has very recently been through a programme assurance check by the ODI team and has been found to be in good health.

4.5 The Council has been asked by the government to work to an approvals process which is normally applicable to authorities new to the BSF programme. Leicester is unique among local authorities in that it has an approved Strategic Business Case (SBC) and has procured a Local Education Partnership (LEP) and delivered the first phase of schools and has then been asked to start the process again. This has created a number of additional pressures including sustaining the LEP (whose only income is derived from new projects). A further pressure has been the need to develop two fast-track schemes (Crown Hills Community College and Rushey Mead School) ahead of completing the Outline Business Case for the whole remaining BSF Programme.

4.6 The approvals process that the Council is following is:

- Approval of pupil number projections (final confirmation awaited from PfS)
- Approval of indicative funding model (final confirmation awaited from PfS)
- Approval of Strategy for Change (approved by Cabinet on 14th December 2009 and currently with PfS)
- Outline Business Case for 'Sample Project' (with this report)
- Stage 0 approvals for new non-sample projects
- Approval of final business cases

4.7 As noted above, the BSF Strategy for Change (SfC) set out the intended direction of travel and aspirations for the programme. The SfC included the education vision and the estates strategy, which covers the following projects:

- All secondary schools (except two new schools: Samworth Enterprise Academy and Madani High School)
- A proposed new City Centre School
- All Special Schools (except Oaklands which has primary-aged pupils only and does not qualify for BSF funding)
- 4 sites used by the Federated Secondary Pupil Referral Service
- Soar Valley Vocational Training Centre
- The use of capital receipts.

4.8 This report is concerned with the Outline Business Case (OBC). When submitting the OBC, the Chief Finance Officer is also required to certify that the Council understands the content of the Outline Business Case, and that it is affordable, value for money and deliverable.

4.9 This report presents details of the Rushey Mead scheme. At later dates, Cabinet will be asked to consider the remaining schools projects. An indicative timeline for presentation of all remaining projects to Cabinet (prior to financial close) is given below:

Cabinet Approval for Future Projects	
School	**Paper to be submitted to Cabinet**
Rushey Mead School- Sports and Science College	June/July 2010
Cherryleas	July/Aug 2010
Children’s Hospital School	July/Aug 2010
Crown Hills Community College	Oct 2010
The City of Leicester College	Oct 2010
St Pauls Catholic School	Mar/Apr 2011
Babington Community Technology College	Mar/Apr 2011
English Martyrs Catholic School	Mar/Apr 2011
New College Leicester	Mar/Apr 2011
West Gate School	Mar/Apr 2011
Ellesmere College	Mar/Apr 2011
Moat Community College Specialising in Science	May/Jun 2011
Hamilton Community College	May/Jun 2011
Ash Field School	May/Jun 2011
Nether Hall School	May/Jun 2011
Keyham Lodge School	May/Jun 2011
Sir Jonathan North Community College	Jul/Aug 2011
Lancaster School and Specialist Sports and Arts College	Jul/Aug 2011
Millgate School	Jul/Aug 2011
Soar Valley College VOC	Mar/Apr 2011

Fullhurst Community College Phase B	2015 TBC
New City Centre School	2015

4.10 The purpose of the OBC is to seek approval of the 'sample project', in this case Rushey Mead School, to confirm the estates strategy (outline proposals for all schools, as noted above) and the affordability of the whole programme. A 'sample project' is a project for which more detailed plans are submitted to evidence educational ambition, probity and due diligence and which, subject to approval of the OBC, can proceed to detailed design. All projects in the BSF programme will be subject to final sign off by Cabinet before construction. However, detailed design work on Rushey Mead will proceed following assessment of the OBC, and it is therefore important that Members are satisfied with the current design.

4.11 Appendix 4 includes details of the Rushey Mead project which has reached RIBA stage D and will be re-presented to Cabinet for approval prior to financial close of this project in Summer 2010 once all design work is complete and financial matters relating to both capital and revenue have been brought to a satisfactory conclusion. Design elevations of the new Rushey Mead School which give an impression of what the new school will look like are also included at Appendix 4.

4.12 A copy of the full OBC will be available on request. The OBC contains the following sections:

1. <u>Executive summary</u>

   A summary of the OBC

2. <u>Background</u>

   This section confirms that there have been no changes to corporate, educational or estates strategy since the SfC. It also confirms that there has been no change to the background of the programme. Since the Council is submitting its OBC only weeks after the SfC, this is a formality.

3. <u>The Projects</u>

   In this section the Council is required to demonstrate that it has considered a full range of options for each school and selected the most appropriate. In order to deliver this, the LEP has undertaken a final appraisal of the options put forward by the Council in the SfC and has confirmed that these are appropriate and deliverable within budget. The Strategy for Change outlines the Council's approach to sustainable buildings. The environmental performance in Phase 1 of BSF significantly exceeded the required standards that were originally proposed in the Strategic Business Case (SBC). The TLE Division has developed a successful partnership approach with the LEP and supply chain to optimise investment in carbon reduction and secure the highest affordable levels of sustainability. The environmental standards for Phase 2 schools will further build and improve upon the standards achieved for Phase 1. The TLE Division has established a partnership with the Institute of Energy and Sustainable Development at De Montfort University and a number of collaborative projects are being undertaken around the BSF Programme, which will further enhance the sustainability standards of the programme.

4. Value for Money

This section contains a financial assessment of each project to demonstrate that the appropriate choice of PFI or 'design and build' has been made and that the projects represent value for money. It tests the presumption that projects with greater than 70% new build should be PFI and those with less than 70% design and build. The OBC confirms the position given in the SfC.

5. Affordability

This section demonstrates that the programme is affordable in terms of capital, i.e., that the identified capital funding matches the estimated cost of the programme and revenue, i.e., that the ongoing payments for PFI unitary charge, facilities management and lifecycle costs can be met from Council and School revenue funds earmarked for the purpose. It has however, recently become clear that two early projects (Crown Hills and Rushey Mead), which were "fast tracked" will attract less funding than the indicative funding in the Strategy for Change (due to changes in PfS funding allocation models) and this funding will need to be made up with Council resources otherwise the work undertaken to reach design Stage 1 will be largely abortive. Work is taking place urgently with the LEP to minimize the impact of this although it should be noted that the fall in construction prices has enabled the LEP to propose a scope of work for the two schools that is substantially higher than the Council's aspiration, as expressed in the 'New Project Request'. The aspiration for Rushey Mead was 30% new build, 40% remodel and 30% do nothing whereas the LEPs proposal is for 70% rebuild. In the case of Crown Hills, the Council's aspiration was 60% new build and 40% remodel whereas the LEP has offered a 100% new build. This is not a situation that is likely to reoccur, the fast track schools were started ahead of agreeing the total funding envelope with PfS as an expedient. After approval of OBC, the funding for each project will be agreed with PfS at the time of issue of the Stage 0, this is the only variation in funding expected and the scope of the design for each project will reflect the amount of funding available.

6. Preparation for new projects

This section describes the authority's organisational structure and resources to deliver the programme. Essentially, this is as per the report agreed by Cabinet on 30th November 2009.

7. Leading and managing change

This section confirms the Authority's approach to delivering educational transformation including achievements to date and those anticipated for the future.

4.13 The affordability section of the Outline Business Case is included at Appendix 1. This demonstrates that the OBC is affordable to the Council if Option C is selected, and explains risks associated with this assessment. Schools affordability is dealt with in paragraphs 5.1.6 to 5.1.11.

4.14 Appendix 2 contains a summary of the costs to be incurred up to the end of April 2010.

4.15 Appendix 3 sets out the principles relating to the ‘Section 151’ Officer’s support letter.

4.16 Appendix 4 contains the proposals for Rushey Mead School at their current state of development (completion of designs up to RIBA stage D i.e., Stage 1 completion of this BSF project).

4.17 Appendix 5 is the latest full BSF Risk Register.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1 Financial Implications

5.1.1 This report is concerned with financial implications throughout. These implications are significant and the key aspects to note are set out in the following paragraphs.

5.1.2 Capital

Capital costs will be kept within the funding available subject to any construction contingencies. Any such contingencies would be funded by Prudential Borrowing, which is estimated as being up to £12m for the purpose of estimating the resulting revenue repayment costs. Four schools have been completed so far and two further ‘fast track’ schools projects are progressing. As indicated in Section 4.12 Part 5 above, the two ‘fast-track’ schemes could require significant additional funding of up to £3.1m. It is proposed to fund this from future capital receipts from selling surplus land at other school sites as part of the BSF Programme (as noted in the SfC report) If capital receipts are not forthcoming, then the costs would represent the first call on the proposed £12m contingency to be funded by Prudential Borrowing.

5.1.3 Revenue

The revenue affordability over the 25 year life of the BSF contracts has been estimated, using models which range from assuming that all schools receive full Facilities Management and Lifecycle maintenance and full evening availability, through to a model which assumes that all future schools would determine and fund FM and Lifecycle at local level. The recommended option (Option C) is for full FM and Lifecycle to be arranged under BSF contracts for secondary schools, excluding the two Voluntary Aided Schools, and for the assumed out of hours availability to be arranged flexibly according to community and school needs. The VA schools, together with special schools (including the Children's Hospital School) would not receive FM and Lifecycle, and in essence would be refurbished under BSF with the subsequent operation and maintenance to be similar to current arrangements.

5.1.4 This preferred option has an on-going revenue affordability gap which on current estimates is slightly less than the budget provision set aside by the Council and the potential contribution discussed with secondary schools before the commencement of Phase 1. The Council would contribute £2.5 million per year from the General Fund budget, and a typical secondary school would be required to contribute around £73,000 per year over and above its scheduled contribution to BSF. The precise contributions would depend upon the extent to which the £12m contingency is required (and hence the annual repayment costs), the actual costs for FM and Lifecycle and the extent to which the assumptions around evening availability prove to be correct.

5.1.5 Particular risks to note are that the costs are estimates at this stage; that the proposal to exclude VA secondary schools from FM and Lifecycle may not meet with approval of PfS and others; that the Council (and the Roman Catholic Diocese) will be required to show how the VA and special schools would be maintained to an acceptable standards.

5.1.6 <u>Schools Affordability</u>
A particular risk is the ability of community secondary schools to afford their contributions. Schools will make the 'scheduled' contributions already agreed which broadly match current spending on premises and ICT and will be required to contribute to 30% of the revenue affordability gap. In addition, schools will need to provide fully for the ICT managed service and periodic refresh of ICT equipment which falls outside of the revenue affordability gap calculation.

5.1.7 The annual affordability gap contribution for an average community secondary school is estimated at £73,000 which is towards the top end of the contributions discussed with schools during the early days of the BSF programme.

5.1.8 The impact of the ICT contribution will vary from school to school depending on current spending both revenue and from devolved formula capital. The key point to note is that schools will be required to commit to setting aside money for a periodic refresh of the IT equipment in the school and the central data centre. Subject to further discussions, this is estimated at around £125,000 p.a. for a typical secondary school. Schools will also be required to pay in the order of £120,000 p.a. for the managed service. It is acknowledged that this is significantly more than schools may have been expecting to pay for ICT, although it does represent the true cost of the managed service and a planned refresh programme. Phase 1 schools are paying £67,500, plus indexation, for the ICT managed service and have not yet made consistent arrangements for a refresh fund. The £67,500 relates to financing arrangements specific to Phase 1. Schools are aware that the cost model used on Phase 1 is not a sustainable model in the longer term.

5.1.9 This currently would be a challenge for many schools, and the schools budget in general. To address this on a school-by-school basis, "a whole school approach" to BSF funding will need to be taken, with the way in which the schools will operate and be staffed being developed as part of BSF visioning closely interrogated by schools staff, together with professionals from Learning Services, the Children's Services Finance and ICT Teams. It should be possible to achieve revenue efficiency savings as a result of BSF capital investment. This planning and modelling will start shortly after OBC approvals, with final solutions needed by 2013 when most of the new schools will be open. Schools will be encouraged to review how any surplus balances could be used, for example, to contribute to an ICT refresh fund.

5.1.10 In addition, further costs will fall to the Schools Budget overall as schools with new buildings can expect a business rates increase in the region of around £60,000 p.a. Assuming that five schools are rebuilt, this would add £300,000 per year of costs to the schools budget. There could be an additional cost for some refurbished schools. This will not impact directly on individual schools as schools are funded for the actual costs of business rates. However, it will mean that a greater proportion of the overall Schools Budget will be pre-committed to meeting business rate costs.

5.1.11 Clientside

With regards to the expenditure required to progress BSF until the end of April 2010, the Council's share of the costs will be met from the TLE Clientside budget. In the event that BSF does not proceed and that the Council has to meet abortive costs not funded by the Government, these would also be charged in the first instance to the funds set aside for the TLE Clientside. These principles were discussed in the TLE Clientside paper approved by Cabinet on 30th November 2009.

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5.2 Legal Implications

5.2.1 The Council has entered into a Strategic Partnering Agreement with Leicester Miller Education Company and the proposed changes to what is currently the "strategic business case" need to be taken to the Strategic Partnering Board set up under that agreement.

5.2.2 In terms of procurement there are advantages, if this can be done, in bundling PFI schools together in a group PFI contract. Because of the way PFI deals are structured major changes to pupil numbers or a change in school status could have a significant effect on the Council in financial terms. The school programme includes units not originally set out in the approved BSF programme and the availability of BSF funding for these units should be confirmed with PFS and DCSF.

5.2.3 Contracts for the proposed school projects will follow the "new projects approval process" in the partnering services contract that the Council has entered into with LMEC (the Strategic Partnering Agreement).

5.2.4 Contract prices for new projects are subject to benchmarking against (a) the Phase 1 schools, (b) the PFS data base and (c) local information.

5.2.5 The Council has power to enter into the various contracts under the Education Act 1996, School Standards and Framework Act 1998, the Local Government (Contracts) Act 1997 and Section 111 of the Local Government Act 1972 and under Section 2 of the Local Government Act 2000.

5.2.6 For PFI schools a credit approval letter will need to be obtained but this will be done after the government departmental approval of the final business case.

5.2.7 The Council has powers to finance capital investment within its affordable limit for borrowing under Section 2(1) of the Local Government Act 2003, having regard to the Prudential Code for Capital Finance in Local Authorities.

5.2.8 No interest in land is to be disposed of or transferred to the contractor. However the Council may not own, currently, all the land to be involved in all the forthcoming phases. This will need to be addressed before new projects are initiated under the new projects approval process.

5.2.9 The forms of contract are in the "Agreed Form" attached to the strategic partnering agreement. Reference should be made to the legal summary of these contracts in the report to Cabinet on the Financial Close of the phase 1 schools. Generally these contracts achieve a fair balance of risk between the contractor and the Council (and of course in the case of PFI contracts achieve the required transfer of risk threshold under the relevant Financial Reporting standard). Thus it needs to be made clear that, whether through contract variations or compensation events as listed in the contracts, the lump sum price or the service charge ("Unitary Charge" for PFI) may be liable to change, in contract.

5.2.10 In respect of the proposed ICT contracts it is proposed that these effectively be coterminus with the ICT contracts for the Phase 1 schools to avoid any difficulties with integrating fragmented providers.

5.2.11 Staff would transfer under TUPE. The contracts will contain provisions reflecting the obligations of the parties under the TUPE regulations, and also the statutory code on non TUPE transfers, two tier workforce and pensions issues, where this is relevant.

5.2.12 Governing Body agreements will be needed in respect of the proposed contractual arrangements for each school.

5.2.13 School change procedures may be needed if there are to be certain alterations to a school, for example enlargement, moving school sites.

5.2.14 The Council will need government consent for the disposal of assets such as school playing fields, playgrounds and recreation areas on school sites. Statutory consultations are required as part of the approval process with, amongst others, Sport England. Capital funding conditions will need to be examined in the event of any proposal to dispose of land which will realise a capital sum.

5.2.15 The Council has a minority share interest in LMEC and has appointed a director.

5.2.16 As these proposals are for a change to existing Council policy an Equalities Impact Assessment should be undertaken and taken into consideration.

5.2.17 Conditions of third party funding should be carefully examined and legal advice sought so that funding conditions align with the BSF contracts. It is common for funders either to restrict disposals of the funded facility and/or seek clawback at market values.

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6. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting information
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	Yes	Section 2.4, sub-paragraph 3
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	

7. Risk Assessment Matrix

7.1 The BSF Programme has a detailed risk management strategy and risk log. The risk matrix below only covers issues arising directly from this report.

Item	Risk	Likeli-hood	Severity	Control Actions
1	**PfS Approvals**			
	Delay to approval of SfC may require OBC to be amended	L	L	Ongoing discussions and fortnightly meetings with PfS as SfC was developed
	Delay to approval of OBC causes programme to stop	M	M	OBC submitted in draft as developed and discussed with PfS
2	**Capital reconciliation**			
	Costs underestimated or unforeseen	L	M	Budget for contingency and value engineer as necessary
	Funding inadequate / Capital receipts not achieved	M	H	Ensure LEP only designs schools within funding envelope.
3	**Revenue affordability**			
	Cost or funding may be underestimated	L/M	M	Work with FM provider to confirm assumptions
	Estimated savings may not be realised	L/M	M	Work with FM provider and schools to confirm assumptions
	PFI costs higher than estimated in report of finances	L	M	General contingency included in costs. Negotiate with PfS.

	Schools / Council future funding insufficient to meet costs Alternative FM and lifecycle proposals not acceptable to PfS Flexible availability out-of-hours may not meet community needs	M L M	H M L	Resources may need to be prioritised in future to meet the commitment to this stated priority. A whole-school approach to BSF funding will be taken. Arrangements to be compared with those of other LAs that have been approved by PfS Further consultation with schools and communities before finalising proposals
4	**Ongoing project development costs** Expenditure on project development may not be recovered if projects do not proceed	L	H	All expenditure assessed before commitment made. No unnecessary work commissioned at risk.
5	**Government Policy** Cessation of BSF due to government funding restrictions part way through the programme Changes in the status of schools leads to schools reviewing their commitments whilst the Council continues to hold the BSF contracts	L M	H M	The approval of an OBC by PfS on behalf of the government, confirms funding. The only variation arises from the inflation indexation which is set later when Stage 0 submissions are made for non-sample projects. A future agreement may however review the total programme in the light of funding constraints. Discussions would be held with the new Governing Bodies, Trusts, etc, Government direction would be sought if appropriate and the cost-sharing arrangements across all schools would be reviewed
6	**Pupil forecasting** Failure to generate the expected numbers of pupils leading to a shortfall in funding	L	H	Pupil forecasts are based on 2018/19. All pupils attending secondary school at that time are already born. However, pupils may choose to attend school elsewhere.

7.2 Given the scale of the programme, these risks are significant financially. For example, capital receipts are estimated at £3.1m and if not achieved will lead to a requirement for additional prudential borrowing to finance the two fast-track schools; A 1% overspend across the remaining programme would equate to some £2m, for which borrowing or resources would have to be identified; and a reduction from the forecast pupil numbers at individual schools or across the City as a whole would affect the ability of individual schools and schools overall to meet the on-going revenue funding commitments.

7.3 In mitigation of the above, in terms of capital receipts, the Council would not feel the full affect of any underachievement of capital receipts because of BSF funding rules. For example, if land sales only achieved 50% of expected values, the Council would still receive £2.1m, only £1m less than accounted for. In terms of possible overspend, it should be noted that Phase 1 was delivered within 3.4% of the estimated cost and affordability models have been built with a £12m contingency, well in excess of that required based on projections from Phase 1. In terms of pupil numbers, it should be noted that projected numbers are based upon children already born and the Council always has the option to omit or reduce the size of the proposed City Centre school if it becomes apparent that expected pupil numbers will not materialise. In summary, these risks will be mitigated by on-going programme management, for example reviewing the scope of future schools and buildings in the light of cost pressures and changes in pupil number forecasts.

8. Background Papers – Local Government Act 1972

8.1 Cabinet report 30th November 2009 - TLE Team Structure
Cabinet report 14th December – BSF Strategy for Change

9. Consultations

9.1 There is ongoing consultation with Partnerships for Schools, Secondary and Special Schools and their communities and Trades Unions and Professional Associations.

10. Report Authors

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Key Decision	Yes
Reason	Is significant in terms of its effect on communities living or working in an area comprising more than one ward
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)

APPENDIX 1 AFFORDABILITY ANALYSIS

1. Background

1.1 The Building Schools for the Future Programme (BSF) is a national programme to rebuild or refurbish every secondary school in the country.

1.2 The BSF proposals for Leicester were approved by Cabinet on 14th December 2009 in the Strategy for Change (SfC), subject to a satisfactory affordability position being established. There are two aspects to affordability: capital and on-going revenue.

Capital Affordability Overall

1.3 Building works and ICT infrastructure and certain new equipment are funded from a combination of Private Finance Initiative (PFI) annual credits and Government grants for Design and Build schools. A small proportion of expenditure may be funded from land or other asset disposal, schools' Devolved Formula Capital and Council borrowing. The treatment of capital receipts arising from disposal of land is governed by PfS funding rules and the OBC assumes £3.6m will be raised this way . There are two underlying principles: the national programme and the local authority should share the benefits of any asset disposal arising from the proposals and the funding allocation from PfS is not reduced at the outset so if the receipts are not realized then there will be no liability to PfS. Local authorities are required to share actual capital receipts with PfS on a 50:50 basis after deducting and retaining the first £300,000. So for example if the authority sells a site for £600,000 the Council would receive £450,000 and PfS £150,000. The capital reconciliation is based on the Council's estimated share of receipts. Capital affordability is a reconciliation of the estimated cost of buildings and ICT with the available capital funding from these various sources. Annex A contains the capital reconciliation of the programme, currently estimated at £325. 4m.

1.4 A programme contingency of £12m is built into the model. If required, this would be funded by prudential borrowing, the repayment of which would have a long-term implication for revenue affordability.

Capital Affordability for the 'Fast Track' Schemes (Crown Hills and Rushey Mead)

1.5 It should be noted that when the 'New Project Proposal' letters were issued for Crown Hills Community College and Rushey Mead School, there were certain risks because the project funding for these two schools had to be determined in isolation before the OBC was compiled. This was approved by Cabinet in order to maintain the solvency of the LEP, pending Government reconsideration of the strategic business case. However, initial designs for two schools now exceed funding envelopes by £3m due to recent changes in the PfS funding allocation model. Work is taking place with the LEP to reduce the cost, but if this is not feasible this will represent a call on the project contingencies, with an intention that this additional cost should be the first call on the capital receipts to be generated during the overall BSF programme. Assuming that this is the case, then the total unused project contingency will still stand at £12.83 million as per Annex A (comprising £12m of prudential borrowing and £0.83m of capital receipts). However, if the receipts are not generated, then the £3m would be funded by developer contributions of £0.5m and prudential borrowing of £2.6m, which would be the first call on the £12m of prudential borrowing included in the funding model.

1.6 The actual funding that the Council receives is linked to an inflation factor, known as the Pubsec Index. Predicted construction prices have fallen sharply over the last year and as a consequence the Council faced the prospect of having the funding for these two schools reduced by 25% after the maximum price had been agreed with the LEP. After lengthy negotiations with PfS, they agreed to provide more funding for these projects (Crown Hills and Rushey Mead) which reduced the shortfall to about 10% or £3m. The Council is now expecting the LEP to reduce its costs, and should this result in any change to the design included in this report it will be reported back to Cabinet.

1.7 There may be a requirement for some short-term funding to balance cash flows, since surplus land cannot be sold until school projects are completed and the land becomes available.

1.8 It is imperative that the LEP is held to account for the scheme costs that it is presenting, particularly since the fall in construction prices in the public sector index since New Project Request was issued. These matters are currently being pursued with the intention of reducing costs on both fast-track schemes.

Revenue Affordability

1.9 This appendix is primarily concerned with the long-term (25 years) revenue commitment required. The annual costs will include the unitary charge for PFI schools and the Facilities Management (FM) and Lifecycle (revenue and capital building maintenance and replacement). These are set out in more detail in subsequent paragraphs.

1.10 Any difference between these ongoing costs and the Council's and schools' current agreed budget provision is often referred to as the "[revenue] affordability gap".

1.11 Leicester is no different to most other local authorities in that the cost of maintaining the school building stock to a standard acceptable to the Government (to protect their investment and to maintain the standard of teaching and learning facilities) is higher than the amount that the Government, Council and schools have historically spent on school maintenance.

1.12 When the original BSF Business Case was approved in 2005, an annual affordability gap of £4.1m per annum was identified and the Council and participating schools agreed to meet that gap on a 70:30 basis. The Council has planned to set aside an annual budget of £3m from its General Fund, and secondary schools had agreed to contribute up to £1.3m (over and above their scheduled / planned contributions to BSF costs).

1.13 The current programme is now larger and more expensive than in 2005, due mainly to the inclusion of special schools and schools being enlarged to provide an increased number of places to cater for a projected population increase. As a starting point therefore, it would be expected that any affordability gap previously identified would be exacerbated by the increase in the size of the programme, the number of schools and the fact that special schools are generally smaller than secondary schools and may have diseconomies of scale for ongoing FM and lifecycle arrangements within the current model.

2.0 Revenue commitments and funding

2.1 The ongoing commitment that the Council and schools have to make over the next 25 years falls into a number of areas.

(a) PFI Unitary Charge. This is the annual amount that the Council agrees to pay to private investors to build and maintain new PFI schools. It comprises an element of 'mortgage repayment', lifecycle (an investment fund for future planned maintenance) and charges for facilities management such as cleaning, security, grounds maintenance, utilities, etc. This is largely funded by Government PFI credits, with the exception of facilities management and site operating costs;

(b) For refurbished schools, a facilities management charge, utilities charges and appropriate lifecycle charges as may be negotiated with the LEP; and

(c) An annual repayment cost of any prudential borrowing to provide a programme contingency. A prudent contingency has been assessed as a potential to borrow up to £12m, being 5% of the estimated cost of outstanding construction works. (For phase 1 projects the contingency used was 3% of the final costs with a large amount of this attributable to asbestos removal from the old schools)

2.2 It should be noted that schools will need to meet the revenue and refreshment costs of the ICT managed service, infrastructure and equipment. Although not directly within the revenue affordability calculation in this appendix, the charges will impact upon the amount that schools can afford to pay for BSF as a whole. These are noted in the financial implications in the main report.

2.3 As noted above, the proposed capital programme is larger then previously envisaged. If the facilities management and lifecycle arrangements adopted for Phase 1 were rolled out across the rest of the programme, the affordability gap would increase. In the current economic climate, funding settlements for the Council and schools are expected to restrict the ability to meet increased costs. The approach that has been taken, therefore, is to model various scenarios to assess how the affordability gap can best be managed.

2.4 Four different options for the extent of the FM, Lifecycle and out-of-hours opening are set out below, with a view to identifying different affordability positions. The costs, existing budget and affordability gap that arise are then set out in Table 1.

OPTION A: This model assumes that all schools in the BSF programme will receive facilities management and lifecycle on the same basis as schools in Phase 1, and is essentially the full vision set out in the Strategy for Change.

OPTION B: This model assumes that voluntary-aided schools will either continue to make their own, equivalent arrangements for lifecycle and FM or will buy these services from the LEP at cost.

This option is put forward as the Council has a lesser obligation for the capital maintenance of voluntary-aided schools, for which the Governors / Diocese are responsible. The Council has a ‘duty to maintain’ VA Schools under the School Standards and Framework Act 1998, S22, except for capital items for which schools may receive grant from the Secretary of State. This would generally cover lifecycle expenditure.

It also assumes that the out-of-hours availability of all schools is less than fully 6pm to 10pm, Monday through to Friday. The current FM arrangements allow for BSF school buildings to be fully open for community and school use until 10pm in the evening, Monday to Friday. It is unlikely that all rooms would be fully occupied during the evening and costs such as heating, lighting and security could be reduced by allowing for approximately 20% of the school to be open. Electronic and physical zoning of the building will enable the community facilities to be fully accessible whilst areas exclusively for student use will be kept separate. There are environmental benefits to this model since heating and lighting requirements will be reduced.

OPTION C: This would extend the approach in Option B to also exclude the smaller sites affecting special schools and Pupil Referral Units from FM and Lifecycle. This assumes that these schools would continue with their existing lifecycle and FM arrangements, although certain assurances may be required by PfS that these can be provided to an acceptable standard. Since it is difficult to demonstrate value for money for small schools this option is recommended.

OPTION D: A further extension of Options B and C, with lifecycle not (automatically) provided for future D&B secondary schools. This assumes that those schools would continue with existing lifecycle arrangements, which would need to be of an equivalent standard, unless individual schools were to commit to alternative arrangements with the LEP.

Table 1 – Annual Revenue Cost and Affordability Models

	OPTION A **All schools receive FM and lifecycle as Phase 1**	**OPTION B** **VA Schools excluded from FM and Lifecycle. Assumed flexible community useage of school facilities.**	**OPTION C** **VA Schools, special schools and PRUs excluded from FM and Lifecycle. Assumed flexible community useage of school facilities.**	**OPTION D** **All Future Schools excluded from Lifecycle, except PFI schools and Phase 1 D&B. Assumed flexible community useage of school facilities.**
	£m	£m	£m	£m
Cost of FM and Lifecycle	20.7	16.8	**13.8**	7.2
Cost of borrowing £12m construction contingency	0.6	0.6	**0.6**	0.6
Additional PFI credits negotiated with PfS	(0.3)	(0.3)	(0.3)	(0.3)
Central Maintenance Fund (CMF) Contribution	(0.4)	(0.4)	(0.4)	0
Estimated contributions from schools	(12.5)	(11.4)	**(10.1)**	(7.2)
= Affordability gap	8.1	5.3	**3.6**	0.3
Schools' contribution to affordability gap (30%)	2.4	1.6	**1.1**	0
Council contribution to affordability gap (70%)	5.7	3.7	**2.5**	0.3

Notes:

Using Option C for reference, a £1.1 million affordability gap for the schools would equate to a contribution of around £73,000 p.a. for a typical secondary school which, under this scenario, would be the non-voluntary-aided secondary schools.

The CMF funding shown above is the contribution from the CMF to cover the Council's Landlord responsibilities for secondary schools that will transfer to the BSF Lifecycle fund. This was agreed as part of the original financial planning for BSF.

Officers have recently negotiated a much more favourable PFI settlement with PFI (effectively giving the Council additional funding of around £450,000 p.a. over the standard settlement and £300,000 over the settlement for Phase 1).

2.5 It will be seen from Table 1 above that the affordability gap arising from Option C (£3.6m) is less than the gap that the Council and secondary schools have already agreed to fund (being £3m and £1.3m respectively).

3.0 Commentary on estimated costs and funding

3.1 Estimated costs

Facilities management, lifecycle and utilities cost estimates have been derived from rescaling the FM charges as contracted for the Phase 1 schools based on the estimated size of the latest programme, and then inflated up to an April 2009 base date. A combination of benchmarking data, with additional interpretative support from the LEP and the facility management service contractor, was then applied to refine the base cost model input. PFI unitary charges have been estimated from the shadow unitary charge model prepared by the council's financial advisors GTUK.

3.2 Estimated funding

The revenue funding model has been developed by the Authority and its advisers and incorporates the various funding streams already allocated and agreed with schools within the existing BSF programme. The Authority's revenue model incorporates agreed Secondary School funding contributions and estimated PRU and Special School contributions and builds in an appropriate allowance for the rising pupil numbers anticipated within Leicester as set out in the SFC submission. Each revenue option relates to the alternative cost scenarios developed for closing the headline affordability gap.

Secondary school funding for BSF is calculated on the basis of an agreed 11% of the total headline delegated budget, after deducting certain payback, ring-fenced and pass through contributions. VA schools would make no contribution if excluded from FM and Lifecycle arrangements. Special schools and PRUs are not funded on the same basis as mainstream schools and estimated contributions are based on an analysis of the relevant premises-related elements of existing budgets.

It is also assumed that the current agreement with secondary schools that all costs and scheduled funding will be pooled across all the schools, with all schools bearing a share of any resulting affordability gap, would continue (barring the VA schools). This will need to be confirmed with schools.

4.0 Commentary on the options presented

4.1 Option A – all schools to receive full FM and lifecycle services as Phase 1.

This option would guarantee that all schools would be maintained and operated to a common standard. Leicester is one of few authorities nationally that elected to provide its Phase 1 'design and build' schools with an FM and lifecycle service equivalent to its PFI schools. If the Phase 1 model was rolled out to all other schools it would create an estimated annual affordability gap of £8.1m. It might be possible to ask Schools Forum to agree to more schools funding being allocated to premises costs but in general terms, given the anticipated level of future funding settlements, it is doubtful whether schools and the council could commit to closing an affordability gap of this magnitude for 25 years.

4.2 Option B – voluntary aided schools to continue with their own arrangements for FM and Lifecycle and the assumed availability for out of school hours community and school use to be reduced.

There are two RC Voluntary Aided schools in the programme, St. Pauls and English Martyrs. The Council has a slightly lesser obligation for the capital maintenance of these schools than for community schools. The Nottingham Diocese has its own arrangements for pooling school capital funding and arranging for capital maintenance. Provided that the Diocese can give assurances that their schools will be maintained to a standard equivalent to the 'BSF' standard, they could continue to operate existing arrangements. The Diocese / VA schools could be offered the option of taking the FM, lifecycle and utilities services provided by the LEP on an 'at cost' basis.

The standard FM contract currently contains a very generous allowance for availability of school out of hours. An option to reduce cost (which would result in lower fuel costs and benefits to the environment) would be to tailor the availability of evening / out of hours access to community needs and to set this initially at 20% of the building. Careful design of access controls and building services would allow community users access to facilities without having to open the whole school.

It is believed that an 'out of hours' availability matched more closely to community needs, in conjunction with more carefully designed 'community zones' would be an acceptable way of reducing costs and improve value for money. Full availability of 20% of the building has been used for the purposes of modeling but this will need further, more detailed investigation.

It is noted that the FM contract allows for an annual review of performance requirements at each school and, over time, these can be changed or amended from year to year to better reflect usage requirements during the long-term operation of the FM service contract.

4.3 Option C – as Option B but with special schools and Pupil Referral Units excluded from FM and Lifecycle.

The commentary in Option B above applies. In addition, it is felt that the FM and lifecycle service provided to secondary schools would not be appropriate for these smaller, specialist schools and they may not benefit from the same economies of scale or offer best Value for Money for the smaller sites involved, in the context of the available funding budgets. Special school heads have already intimated that their preference would be to continue with their current facilities management arrangements. There may be opportunities to be gained from special schools and PRUs purchasing FM services from nearby schools. For example, the Children's Hospital School could share premises management arrangements with the co-located Eyres Monsell Primary School which, like all Leicester primary schools, will not be party to the BSF FM contracts as currently proposed.

In order for the Council and schools to satisfy PfS and the Government that assets would be properly maintained, the Council is likely to be required to ensure that the lifecycle arrangements, hitherto funded by Government capital funds, schools and the Council's Central Maintenance Fund (CMF) and capital programme, would be suitably funded.

4.4 Option D – as option C but no lifecycle arrangements for future D&B secondary schools.

Without doubt, this option would not be acceptable to PfS as the current level of spending on property maintenance is insufficient to keep school buildings in good repair and ensure that school building fabric does not deteriorate. In addition, the Council has procured a LEP with the intention of purchasing FM and lifecycle services for its secondary schools. Reducing the scope of the services to be provided by the LEP to this extent could well bring into question its future viability and be a fundamental variation of the agreements that the Council has entered into.

It would, however, limit the on-going revenue commitment of the Council and schools, which could be seen as advantageous given the outlook for public spending. The decision, and funding implications, could be delegated to individual schools.

5.0 Managed ICT Contract

5.1 In addition to the premises-related services discussed previously, all schools in the BSF programme will receive a managed ICT service. This comprises a Government capital allocation equivalent to £1450 per pupil, for new ICT hardware and infrastructure together with £225 per pupil, for the ICT buildings infrastructure already included within the capital funding for the programme. This is followed by an ongoing managed ICT service, the cost of which is met entirely by schools and which does not directly impact upon the affordability position considered in this appendix.

5.2 The true cost of the ICT managed service is around £120,000 p.a. for a secondary school, which substantially exceed the Phase 1 schools' contribution of £67,500 p.a. This will be addressed for future phases and in addition the level of contracted service and therefore the costs will need to increase. This will impact upon schools' capacity to meet other BSF related revenue costs, including the possible share of an affordability gap.

In addition, the current managed service contains no provision for renewal of out of date equipment and schools will need to invest in a fund to replace equipment as required (usually after 3-5 years).

Separate discussions are taking place with schools about ICT funding with a conclusion to these discussions anticipated by Easter 2010.

5.3 The need for schools to provide additional funding for ICT will impact on their ability to provide additional premises-related funding, which is why it is important that cost increases are limited.

6.0 Recommendations

6.1 Having considered the likely availability of funding, it is recommended that OPTION C should be adopted as the preferred model. This will result in an affordability gap in line with the Council's forward budget plan and towards the top end of the existing agreement with secondary schools. The implications of adopting this model will be as follows:

(a) Voluntary Aided schools will need to make their own arrangements for facilities management and lifecycle maintenance or buy into the services provided by the LEP on an 'at-cost' basis, and satisfy PfS that the arrangements will protect the Government's investment.

(b) Special schools and PRUs will similarly not receive facilities management and lifecycle maintenance from the LEP under the BSF contract. Existing premises management arrangements can be continued, but the Council will need to ensure that there is sufficient funding to conduct proper lifecycle maintenance to protect the assets.

(c) Schools will be available to community users out of school hours on a flexible basis. Approximately 20% of the space in secondary school buildings will be available during the extended hours. Under this proposal, schools may still elect to buy additional facilities management services from time to time, depending on school circumstances and service requirements may be amended and modified from year to year as circumstances may change for example significant greater demand for community useage.

(d) It should be acknowledged that the LEP company, which was procured under an exclusivity arrangement to supply BSF schools and services at Leicester, would be affected by any proposals to detach FM and/or lifecycle services for future BSF school sites. Similarly, PfS will require to approve future specific schemes and it is therefore recommended that future affordability options for the BSF programme be kept under review as contract negotiations proceed further and projects are presented to Cabinet prior to financial close.