

SURREY COUNTY COUNCIL**CABINET****DATE:** 30 MARCH 2021**REPORT OF:** MR TIM OLIVER, LEADER OF THE COUNCIL
MRS JULIE ILES, CABINET MEMBER FOR ALL-AGE LEARNING**LEAD OFFICER:** PATRICIA BARRY, DIRECTOR OF LAND AND PROPERTY**SUBJECT:** APPROVAL TO PROCURE SCHOOL PROJECTS NOT APPEARING
ON THE 2020/21 ANNUAL PROCUREMENT FORWARD PLAN**ORGANISATION STRATEGY** GROWING A SUSTAINABLE ECONOMY SO EVERYONE CAN
BENEFIT, ENABLING A GREENER FUTURE, TACKLING HEALTH
PRIORITY AREA: INEQUALITY, EMPOWERING COMMUNITIES**SUMMARY OF ISSUE:**

The Annual Procurement Forward Plan (APFP) was approved by Cabinet on 15 December 2020. The APFP does not include individual capital projects.

All projects over the value of £189,330 require Approval to Procure where they do not appear on the APFP and the Service wishes to commence procurement activity.

Individual capital projects, excluding schools that are not included in the 2021/22 APFP and are above the £1,000,000 threshold will be presented to Cabinet for Capital approval and will include Approval to Procure as part of the recommendation in the Business Case.

The governance route for Schools provides the Capital Programme Panel with managerial control to approve capital schemes over £1,000,000, if already approved by Cabinet in the Medium Term Financial Plan (subject to final business case approval).

The Capital Programme Panel cannot however provide the additional Approval to Procure when individual projects are not on the APFP and that approval is now required by Cabinet.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. Gives Approval to Procure the 2021/22 projects listed in Annex 1; specifically the Priority Schools Building Programme (PSBP2), Schools Basic Needs (SBN) and Special Educational Needs and Disabilities (SEND) in accordance with Surrey County Council's (the Council) Procurement and Contract Standing Orders.
2. Agrees that, within the +/-5% budgetary tolerance level, the Executive Director of Resources and Director of Land and Property are authorised to award such contracts, in consultation with the relevant Cabinet Member.

REASON FOR RECOMMENDATIONS:

By approving this recommendation Surrey County Council will avoid the need to submit multiple individual requests for Approval to Procure the school projects, as well as individual contract award approvals for work taking place in 2021/22.

Enable the delivery of the Capital schools programme approved in the Medium Term Financial Strategy.

DETAILS:

Business Case

1. Annex 1 lists all known PSBP2, SBN and SEND projects over £189,330 that are due for procurement in 2021/22 year within Land and Property. This threshold figure is the level at which the Council is currently bound by the UK Public Contract Regulations 2015 to advertise and conduct a public tender for goods and services.
2. The threshold for works contracts is currently £4,733,252 and where we are not using established Framework Agreements, these projects will be publicised in due time using the established e-procurement platforms. From 1 January 2021 a new e-notification service called Find a Tender replaced OJEU to post and view public sector procurement notices. Otherwise the existing public procurement regime remains largely the same until any new legislation is introduced by the Government.
3. Annex 1 has been agreed with the relevant Executive and Service Directors.
4. Under section 1.6 of the Procurement and Contract Standing Orders (PCSO), Cabinet is asked to approve these projects so that they may proceed to procurement without delay and delegate award decisions to Executive Director Resources and the Cabinet Member for Children, Families, Life Long Learning and Culture, provided the tender outcome is within +/-5% of the budget agreed with Finance when each project begins. Any project with a tender outcome not within tolerance will be reported in line with PCSO table 2.7a:
 - Under £1m: S151 Officer
 - Over £1m: S151 Officer and relevant service Portfolio holder
 - Over £5m: S151 Officer and Cabinet
5. By approving the school projects, there will be no need to gain Approval to Procure for each individual project during 2021/22. This will streamline Cabinet input. However, it is likely that unforeseen projects will arise, and officers will need to seek Approval to Procure for these separately.

CONSULTATION:

6. Consultation will take place for individual projects as appropriate to the products or services required.

RISK MANAGEMENT AND IMPLICATIONS:

7. Approval to procure across the 2021/22 schools projects enables an effective and efficient process which prevents any detrimental impact on value for money and delay outcomes. An efficient governance process for schools will enable adequate resources and sufficient time are dedicated to ensure appropriate procurement strategies and commercial negotiations to take place.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

8. All projects listed are included in the 2021-26 Medium Term Financial Strategy (MTFS), approved by Council in February 2021.
9. All projects will be subject to robust cost challenge and scrutiny to drive optimum value as it progresses.

SECTION 151 OFFICER COMMENTARY

10. Although significant progress has been made over the last twelve months to improve the Council's financial position, the medium term financial outlook beyond 2021/22 remains uncertain. The public health crisis has resulted in increased costs which may not be fully funded. With uncertainty about the ongoing impact of this and no clarity on the extent to which both central and local funding sources might be affected in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.
11. The Section 151 Officer supports the approval to procure request for these schemes in line with approved capital budgets within the MTFS. It remains the responsibility of the relevant Executive Director, Director and/or Head of Service to ensure that expenditure committed as a result of these procurements is contained within the approved capital budgets.

LEGAL IMPLICATIONS – MONITORING OFFICER

12. Cabinet is being asked to give formal Approval to Procure projects listed in Annex 1 which do not appear on the 2020/2021 Annual Procurement Forward Plan in accordance with the Council's Procurement and Contract Standing Orders. In making this decision, Cabinet should be cognisant of its fiduciary duty to Surrey residents to ensure services are provided effectively while also maintaining a balanced budget.
13. Notwithstanding Cabinet giving Approval to Procure, officers will have to ensure that the Public Contracts Regulations 2015 and any further legislation introduced after the transition Brexit end date on 31st December 2020 are complied with in relation to any procurements undertaken. Furthermore, commissioners will need to be aware of the 'best value duty' under Section 3 of the Local Government Act 1999 and its requirements on them. It states that the Council "...must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

EQUALITIES AND DIVERSITY

14. This business case does not create any issues which requires the production of an Equality Impact Assessment (EIA), as no group with protected characteristics will be adversely affected as a consequence of its approval, or otherwise.

OTHER IMPLICATIONS:

15. There are no significant implications upon key council priorities and policy areas.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

16. Not applicable for this business case. An Environmental Sustainability Assessment will be carried out for each school project as it goes into development.

WHAT HAPPENS NEXT:

17. Should Cabinet approve this business case the next step will be:

- The approved plans will be delivered during the financial year 2021/22

Contact Officer:

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Consulted:

Service Directors
Finance
Legal

Annexes:

Annex 1 – School Project List FY2021/22

Part 2 report

Sources/background papers:

Annual Procurement Forward Plan 2020/21