

## ITEM 3

### Ashburton Private Finance Initiative (PFI) – Oasis Academy Shirley Park

Schools Forum – 6 December 2021

#### **Recommendations**

##### **The Schools Forum is asked to:-**

1. Note the outcome of the soft services (catering, caretaking, cleaning and grounds maintenance provision) benchmarking exercise PFI Benchmarking exercise on the Ashburton PFI project – Oasis Academy Shirley Park – which results in an uplift of 14.1% on the annual Unitary and Facilities Management charges payable by the school – Oasis Academy Shirley Park - and the Council with effect from 1 April 2021.
2. Note the proposed increase of £28,828 per annum for the cost of the contract following the benchmarking exercise
3. Evaluate the options presented in Table 1 this paper and choose an option for the payment of the PFI factor in 2022-23. As the Schools' Block working party has already considered this at length Forum will consider that working party's recommendations.

**Members of Forum allowed to vote:** - All school and academy members are able to vote. Only early years representatives from the non schools members are able to vote. Non-school members even if represented by school staff are not eligible to vote.

#### **1. Ashburton PFI - Oasis Academy Shirley Park – Benchmarking exercise**

- 1.1 Introduction.** PFIs (Private Finance Initiatives) were introduced in the UK in 1992, to deliver major capital projects while avoiding Government borrowing. Private contractors pay for the construction then the end user pays a regular charge for use of the capital asset for a set period of time.
- 1.2 Ashburton Learning Village** In May 2004, Croydon Council entered into an agreement with Ashburton Services Limited to provide accommodation in Shirley Road, Croydon then known as "Ashburton Learning Village". Ashburton Services Limited was a special purpose company established for this project. The contract is for a period of 30 years and is due to end in 2034.
- 1.3 Benchmarking and market testing.** Benchmarking is where the Contractor compares costs for "soft" services against market costs. It is aimed at ensuring that the quality and competitiveness of the soft facilities management services within the unitary charge is reflective of the market rate and the option of testing the market and comparing costs to ensure continued value for money. Where the market costs sit within a +/- 5% tolerance of the current charge, no change shall be made to the charge. Where the market costs sit outside a +/- 5% tolerance of the current charge the parties shall agree any changes to be made to the Unitary Charge. If no agreement is reached the Contractor shall undertake actual Market Testing. Market testing, on the other hand, is where the project company re-tenders the soft services to the open market which may result in a replacement of the provider of some or all of the soft services by the preferred tenderer.
- 1.4** In this contract, the services are: cleaning, grounds maintenance and waste management. The market testing is carried out every five years after the start of the contract. This may

result in a proposal to increase the costs for these services. The Authority may challenge the benchmarking exercise.

- 1.5 The first benchmarking exercise took place in 2011 and this did result in an increase to costs. This was initially borne by the Authority but the arrears are now being recovered from the building users. The preview review carried out in 2016 did not result in any further increase of costs.

## 2. Benchmarking exercise - April 2021

- 2.1 The benchmarking exercise is aimed at ensuring that the quality and competitiveness of the soft facilities management services within the UC is reflective of the market rate and offers up an opportunity to test the comparative costs of the current service provision to ensure continued value for money. This is achieved by comparing the standards and prices of the Benchmarked Services and the costs of providing them with the standards and prices of equivalent services. The results suggests the service element is 14.1% below the median benchmark (market cost) which equates to an additional £32,575 per annum for their services in order to bring their prices in line with the median benchmark quoted in the report. Where the market costs sit within a +/- 5% tolerance of the current charge, no change shall be made to the charge. Where the Market Costs sit outside a +/- 5% tolerance of the current charge the parties shall agree any changes to be made to the Unitary Charge. If no agreement is reached the Contractor shall undertake actual Market Testing. The council has the option of proceeding to Market Testing but the option is unlikely to improve on the outcome of the benchmarking exercise.

### 2.2 Findings

The findings from the benchmarking exercise shows that the service element is **-14.1%** less than the Market Cost (Median), which is well below the 5% tolerance as stated in clause 27 of the Service Agreement. The 14.1% uplift mean that the Unitary Charge and subsequently the Annual Service Payment should be uplifted by £32,575.45 (20/21 prices) effective 1st April 2021. This equates to an additional £32,575 per annum, of which, 88.5% (£28,828) would be apportioned to the school with the remaining 11.5% (£3,747) being covered by the Council.

- 2.3 The Council requested further evidence on why there should be an increase in budget; and why it is below market average? What will be provided extra for the uplift? The response was the uplift identified within the benchmarking report only relates to cover service costs currently provided through the Project agreements and does not offer to include additional provision. The table below demonstrates that the service element per m2/p.a. for the Cleaning, Waste and Pest Control is below the benchmark range, whilst the Grounds Maintenance Service is above the median benchmarked value. The overall Project service element is £2.96m2/p.a. less than the Median Market Cost.

Benchmarked Service	Oasis Academy FM Fee per £m <sup>2</sup> /p.a	Lower Range Cost £m <sup>2</sup> /p.a	Median Benchmark Cost £m <sup>2</sup> /p.a	Upper Range Cost £m <sup>2</sup> /p.a	£m <sup>2</sup> /p.a against the Median Costs	% Oasis Academy vs AUK Median (£m <sup>2</sup> /p.a)
Cleaning & Waste Management	£17.36	£19.22	£20.36	£22.84	(£3.00)	14.7%
Grounds Maintenance	£0.74	£0.69	£0.70	£0.71	£0.04	5.71%
<b>Total</b>	<b>£18.10</b>	<b>£19.91</b>	<b>£21.06</b>	<b>£23.55</b>	<b>(£2.96)</b>	<b>14.1%</b>

**2.4** The Council further requested an extension of 6 months (April to October) to complete negotiations in relation to the bench mark uplift. Market testing would be required to commence from 12th October 2021, in accordance with the Project Agreement, should an agreement on payment adjustment not be reached from the benchmarking exercise.

**2.5 Benchmarked Services, saving Proposals.** The Council requested and received savings proposals through a review of the scope of services and Vinci Facilities identified 2 areas where savings can be proposed. These are: Grounds Maintenance; and Third Party Use which represents a total saving of £4,065.47 per annum.

### **2.5.1 Grounds Maintenance**

*Lawns and Grass Areas* - move to input spec of 16 visits. Currently they are carrying out 32 visits per year to meet the operational services specification.

- a) Spiking/quadroplay over winter - move to input spec of 2 visits per year. Currently, 4 visits per year to meet the operational services specification
- b) Cricket - Pre-season preparation and wicket preparation

However, in the current climate – Covid - it might be difficult to justify reducing the grounds maintenance work, which would include less mowing lawns and grass areas and impact negatively on sports. In addition, it would require variation of the contract which would include legal and therefore be counter-productive.

### **2.5.2 Third Party Use**

For savings to be realised, Vinci Facilities would require a guaranteed annual income of the net of the cost of providing the service before any payment is made to mitigate any risk of reduced income by events such as school closures, impact of COVID restrictions, lack of bookings from the community. The school – Oasis Academy Shirley Park and our finance team advised against this saving option as we should not be using the income to offset the payment and for auditing purposes, it would be difficult to clearly demonstrate the difference between income and expenditure.

## **3. Background**

**3.1 Ashburton Learning Village - Original project scope.** In May 2004, Croydon Council entered into an agreement with Ashburton Services Limited to provide accommodation in Shirley Road, Croydon then known as “Ashburton Learning Village”. Ashburton Services Limited was a special purpose company established for this project.

**3.2** Ashburton Learning Village comprised a new building and grounds for Ashburton Community School (a senior community school) plus Ashburton Community Library, Croydon Music Service and CETS (continuing education and training services).

**3.3** Construction was completed in March 2006 and the contractor was then responsible for delivering the services set out in the output specification, for 30 years. These services included: the building itself, building maintenance, grounds maintenance, cleaning, site supervision, catering, portering services and maintenance of furniture and fittings.

**3.4 Subsequent changes to scope.** In September 2009, Ashburton Community School transferred to Oasis Community Learning (OCL) and became the senior department of an all-through academy: Oasis Academy Shirley Park. The entire site was leased to OCL. At the

same time, the library, Music Service and CETS areas were subleased to Croydon Council.

**3.5** In 2012, CETS - which had by then become CALAT (Croydon Adult Learning and Training) - vacated the building, and the area which they had occupied was re-modelled for use by the academy's sixth form.

**3.6 Managing the contract.** There are three main functions carried out by the School Place Planning team:

- a) Ensuring that regular payments are made to the Contractor correctly, on time, and that the academy is subsequently invoiced as required.
  - b) Monitoring the contractor's performance and ensuring that appropriate payment deductions are made where performance falls below the level specified.
  - c) Ensuring that the contractor is operating in a safe manner in compliance with the appropriate statutes, regulations and policies.
- The Schools Finance team manage the overall PFI budget including the quarterly PFI credits from the Government and the annual financial reconciliation of the Unitary Charge.

**3.7 Oasis Community Learning (OCL).** Oasis Academy Shirley Park is an all-through school, with the secondary phase located at Ashburton Learning Village. The primary phase is located in two other locations and is *not* covered by the PFI contract

**3.8 Service provider (The "Contractor")** In the contract, Ashburton Services Limited (ASL) is known as "The Contractor". ASL is a "special purpose vehicle" (SPV) set up by the contractor (Jarvis) that constructed the building. All PFI payments from Croydon Council are made to ASL.

### **3.9 Funding Streams**

In 2020/21:

- a) DfE paid the majority = £1,798,568
- b) LA paid £99,796
- c) School – Oasis Academy Shirley Park = £898,160 - Resulting in a total cost of £2,796,524.
- d) Schools forum then pays £607,831 to the school to offset the £898,160 cost above.

## **4 Overall Finance implications and ESFA Operational Guide on PFI factor**

**4.1** Croydon has only one PFI school compared to other local authorities. Schools Forum and the local authority have over the years supported the Oasis Academy Shirley Park school as recommended in the ESFA operation guide through the PFI factor.

**4.2** The purpose of the factor is to fund the additional costs to a school of being in a PFI contract. The Schools' Block Working Group evaluated the 8 options listed below in Table 1 below and will make an appropriate recommendation or recommendations to Forum.

**Table 1 - Appraisal of 8 funding options for 2022/23 PFI Factor**

Options	ESFA Recommended formulas	Amount	% change	Comments
Option 1	A percentage of the school's budget share	484,476	-20.29%	This is based on agreed 5% of schools budget of £9,689,529. (Basis for 5% is the use of the schools forum approved MFG)
Option 2	A rate per square metre of floor area	548,000	-9.84%	68,500 metres covering site area @ £8 per metres sq
Option 3	A historical lump sum previously agreed and indexed by a percentage per year + Market testings and less contribution from school	586,142	-3.57%	£607,831 +£9,483 for infla index + £28,829 market testing = £646,143 less £60,000 contribution from school
Option 3b	A historical lump sum previously agreed with no (indexation for inflation and Market testings) less contribution from school	547,831	-9.87%	£607,831 less £60,000 contribution from school
Option 4	A historical lump sum previously agreed + Market testings and less contribution from school (No indexation)	576,660	-5.13%	£607,831 + £28,829 market testing = £636,660 less £60,000 contribution from school
Option 5	A per-pupil rate	734,000	+20.76%	1468 pupils (NOR) recorded on APT funded at £500 per pupil
Option 6	Allocation based on the difference between the PFI contractual cost, and the grant received by the local authority, less any local authority contribution	923,244	+51.89%	£2.825m less both £1.798m DFE grant + Local Authority contribution £103k
Option 7	Allocation based on original governors' agreement	N/A	N/A	Does not exist
Option 8	A historical lump sum previously agreed with no inflationary index	152,622	-74.89%	50874 pupils in Croydon recorded on APT funded at £3 per pupil

\*Please note that the £8 and £500 used in option 2 and 5 were all taken as a starting point or baseline to come up with a reasonable amount. The operational guide did not provide much details how to work out a methodology for funding. Those percentage change highlighted in red and yellow shows severe and mild financial effect respectively if those options were to be selected.

Please note that the effective date for the £28,828 market testing increased is April 2021 which is outside the request presented in this paper which relates to 2022/23 financial year.

## 5. Conclusion

**5.1** The DFE had confirmed that, if the factor is not used, then funding would be adjusted accordingly as those schools would not get an allocation through the DSG. This could be a consideration for future years.

**5.2** Whatever decision is taken by schools forum on the PFI factor affects only the local authority and the PFI school involved. This means that keeping the factor or stopping it has no financial implications on the other schools.

- 5.3** The funding is based on the Actual Premises Funding. Reference (page 34) of the Schools Block NFF: technical note. The two organisations to be affected is the local authority and the school due to the transfer agreement and the financial commitment regarding the Unitary charge. The final amount recommended should however reflect the ESFA funding principles.

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