

## CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**20 MAY 2010**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

### **CABINET DECISION**

**Regeneration & Transport - Lead Cabinet Member - Councillor Cook**

#### **STREET LIGHTING - PRIVATE FINANCE INITIATIVE**

1. Summary

The purpose of this report is to advise Cabinet of the current position with regard to the Street Lighting PFI joint bid with Durham County Council. Also, to receive approval to continue to work with Durham County Council and appoint advisors to assist with the production of the Outline Business Case (OBC).

2. Recommendations

It is recommended that :

1. Cabinet note the successful bid for Street Lighting PFI credits following the Expression of Interest submission in December 2009.
2. Cabinet note the DfT announcement that £620M Street Lighting PFI credits has been approved nationally to six successful applicants.
3. Cabinet note the provisional allocation of £125.47M PFI credits to Stockton/Durham. This indicative allocation equates to approximately £31.3M for Stockton Borough Council.
4. Cabinet approve the development of the OBC for submission to DfT in September 2010 (provisional date).
5. Cabinet approve the procurement of external advisors to assist with the completion of the OBC. The costs to be shared proportionally by the Councils.
6. Cabinet note that Durham County Council are carrying out a Scrutiny of the OBC and have asked if Stockton Members would like to participate in this process.

3. Reasons for the Recommendations/Decision(s)

The approval will enable the Council to proceed from the Expression of Interest stage to Outline Business Case with a view to securing the PFI Street Lighting Credits, as detailed by the DfT.

#### 4. Members'

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

**Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.**

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**DETAIL**

1. In October 2009, the Department for Transport (DfT) announced that, following the success of two rounds of PFI Street Lighting projects, it was inviting Expressions of Interest (EOI) for a third round and was making a total of £440m in PFI credits available nationally. Following discussions with neighbouring authorities, a joint EOI with Durham County Council was submitted. If successful, the Councils jointly would be able to replace approximately 124,000 units including street lights, illuminated and non-illuminated highway signs and bollards. This includes approximately 30,000 units in SBC.
2. The Councils developed the EOI with Local Partnerships, formerly 4Ps, who are nationally recognised within street lighting PFI whilst also working with an external financial advisor (Grant Thornton). The EOI was submitted on 7th December, in accordance with DfT

requirements. The EOI indicates that there would potentially be a combined funding gap for the Councils estimated at £0.523M. This would be split with £0.138M being contributed by Stockton and £0.385M by Durham although this is on the basis that maintenance and energy budgets would be inflated from 2010 to 2013.

3. In the EOI, the PFI option secured the highest benefit/cost ratio score when comparing this to the cost of the Council self-financing the required investment in improvements to street lighting. If the Council does not find additional resources to invest in its street lighting stock over the medium term and merely maintains investment at its current levels, then, given the age profile of its existing stock, the standard of street lighting will start to deteriorate. It is also likely that the Council will find it hard to maintain its current level of street lighting investment in the future due to expected financial constraints.
4. DfT advised the Councils on the 17<sup>th</sup> February 2010 of the success of their submission and have provisionally awarded £125.47M PFI credits. SBC's share would be around £32M. The Councils' bid is one of six that have been approved. DfT have requested these approved Councils to develop their EOI's into an OBC. These include Essex £163.86M, Gloucestershire £80.183M, Hertfordshire £139.8M, Kirklees £65.8M and Warrington £45.5M. The total funding that has actually been made available is £620M in PFI Credits nationally.
5. In order to maximise interest in all projects DfT have decided to submit the projects to the market in two tranches. The Council have been identified to be in the first tranche with a deadline of the end of June 2010 for submission of our OBC.

### **Expression of Interest**

6. The Council has recently received feedback from the DfT with regard to the EOI and overall scored 72 out of 100. This detailed feedback identified a number of strengths as detailed below:
  - a. Clear corporate rationale and a strong strategic case for investment;
  - b. Our joint bid was clear about how the Council would work effectively together with Durham CC;
  - c. Strong project management arrangements;
  - d. Significant experience of staff involved.
7. Areas for Improvement and matters for the Council to strengthen through the development of the Outline Business Case were noted as follows:
  - a. Asset inventory needs greater external verification,
  - b. Clarification and testing of the benefit/cost ratio,
  - c. Use of energy consumption savings to assist the affordability gap.

### **OBC Delivery**

8. The EOI detailed an approach to the project management of the PFI. The Councils developed a robust delivery structure for this project with a single project board and single project team for the development and procurement phases. The project governance, management plan with roles and responsibilities is detailed in the following paragraphs. These groups will enable a focused approach to delivery of the OBC.

9. Proposed Project Board:
- *Project Owner – Corporate Director, Neighbourhood Services – Terry Collins (Durham)*
  - *Lead Member – Councillor Bob Young (Durham)*
  - *Lead Member – Councillor Bob Cook (Stockton)*
  - *Senior Technical Officer - Head of Technical Services – Steve Keetley (Durham)*
  - *Senior Technical Officer – Acting Head of Technical Services – Richard McGuckin (Stockton)*
  - *Senior Financial Officer – Head of Finance & Assets – Gary Cummings (Stockton)*
  - *Senior Legal Officer – Head of Legal & Democratic Services – Collette Longbottom (Durham)*
  - *Senior Environmental Officer – Head of Finance, HR & Business Support – Paul Darby (Durham)*
10. The Project Team will support the Board with management, technical, legal, financial, HR, communications, insurance, procurement and carbon reduction work streams with lead and supporting officers.
11. Over the coming months the Council will need to commence the appointment of a Project Director to potentially take this project through to completion. This post is not essential to be in place for the development of the OBC but it is necessary to have this person named within the OBC document.
12. Durham County Council are carrying out a Scrutiny review of the OBC process and have made a request to the Cabinet Member for Regeneration & Transport to consider how Stockton's Elected Members may wish to have an involvement. It was suggested that a way forward may be for Executive Scrutiny to consider co-opting some Stockton Members onto the Durham Committee to avoid duplication.
13. In order to improve the existing knowledge of the street lighting asset, reduce risks and consequently costs at a later stage through PFI, the Council need to undertake an extensive survey of the street lighting and lit signs stock and associated cabling. This is essential to address the major area for improvement in the EOI and will need to be undertaken over the next three months.
14. There is a significant amount of work involved in developing an OBC, the procurement timescales required to appoint advisors, together with the consultation aspects and requirement to have the OBC approved by Cabinet prior to submission. Clearly, the Council will need to fully understand the asset data and ensure that the affordability model is robust in order to minimise risks and maximise benefits within the PFI before a final commitment is made to move to the procurement phase.
15. Representations have already been made to DfT with regard to submission of the OBC by the end of June being unrealistic. An approval in principle has been reached to delay the OBC submission to the end of September. The Council are awaiting confirmation of this from DfT in the next couple of weeks.

### **Procurement Options**

16. In order to assist with the development of the street lighting PFI we require external technical, financial and legal advisors. Durham County Council have agreed to lead on the procurement of these services with support from appropriate Stockton Borough Council officers.
17. To secure the external services that the Council requires there are two options available for the procurement as described below. These are:

- *Two Phase Procurement* i.e phase 1 development of the OBC and phase 2 – post OBC
- *One Phase Procurement which addresses both pre and post phase OBC requirements.*

### *Two Phase Procurement*

18. For the development of the OBC we will need technical and financial advice. The values for this phase will be c. £25,000 for each advisor. We will also require project management/specialist support for a value of c. £20,000 from an organisation who are experienced in preparing OBC's and financial resources for detailed surveys/inventory record management c. £75,000. These processes would be conducted in compliance with the Council's Contract Procedure Rules.
19. For the activities post-OBC, we will require external technical, financial and legal advisors along with similar project management/specialist support again. The values for this phase are likely to exceed OJEU thresholds and therefore the Council will be required to undertake either an OJEU procurement procedure and/or the utilisation of a legally compliant National or Regional Framework Contract.
20. The advantages/disadvantages to this procurement route are as detailed in the table below:

Advantages	<ul style="list-style-type: none"> <li>• Advisors for the OBC can be appointed and start work quickly.</li> </ul>
Disadvantages	<ul style="list-style-type: none"> <li>• There is not much work for the advisors to do until the Councils have undertaken the inventory and condition surveys required.</li> <li>• More resource implications are required as two phases of procurement will be undertaken.</li> <li>• If the advisors change post OBC then there will be a lack of continuity.</li> </ul>

### *One Phase Procurement*

21. The values for this option will exceed OJEU thresholds and therefore the Council will be required to undertake either an OJEU procurement procedure and/or the utilisation of a legally compliant National or Regional Framework Contract.
22. Should a One Phase approach be selected as the preferred approach then the Council will put a break clause within any agreement so as not to be committed to activities post OBC should Cabinet approval not be given to proceed through to the procurement stage.
23. The advantages/disadvantages to this procurement route are as detailed in the table below:

Advantages	<ul style="list-style-type: none"> <li>• Appointment timescales may fit with the availability of inventory and condition data.</li> <li>• Single procurement exercise reduces resource implications.</li> <li>• Maintains continuity between pre and post OBC phases.</li> </ul>
Disadvantages	<ul style="list-style-type: none"> <li>• Will take up to three months to get advisors in place. Will need to start the process immediately to achieve OBC timescales for September submission.</li> </ul>

### *Preferred Procurement Route*

The preferred procurement route is for a one phase procurement.

## FINANCIAL IMPLICATIONS

24. Should Cabinet approve the development of the OBC then funding needs to be set aside for the costs that will be incurred in developing the OBC. These costs are likely to be in the region of £200 to 300K, inclusive of contingency sums. This will be funded from Managed Surpluses already contained within the Medium Term Financial Plan.
25. Any costs through the development of the PFI will be split between Durham and Stockton on a 75% to 25% nominal split. This is based proportionally around the numbers of street lighting assets each Council has.
26. The costs to develop the OBC are likely to be as detailed below.
  - Surveys: £75k - SBC
  - Financial advisor: £25k - shared
  - Technical advisor: £30k - shared
  - Strategic/Project Management advisor: £20k - shared
  - Contingency: £50k - shared
27. These costs are broad estimates based on the experience of other street lighting PFI schemes and expenditure is likely to be incurred between March and September 2010.
28. Should it be determined that the OBC is not subsequently submitted to DfT for approval, then the survey information that will have been collected will have a value to the Council and assist with the future management of the street lighting stock, enabling investment to be better targeted to priority areas.
29. The EOI compares the costs and implications that the Council will face if it continues with the existing levels of investment, with the benefits and costs associated with a PFI funded increase in investment and a self-financed increase in investment. All financial forecasts will be verified through the OBC.
30. **Appendix 1** to this report summarises frequently asked questions that relate to the street lighting PFI project.
31. A provisional programme timetable is shown below:

### **EOI Submission and Approvals**

7/12/09	EOI Submission	- ACHIEVED
11/2/10	DfT announcement on EOI decision	- CONFIRMED

### **Provisional Next Stages:**

30/6/2010	Authorities submit draft OBC	- SLIPPED by DfT to September
31/10/10	DfT/PRG approval of OBC	
30/11/10	Authorities invite tenders	
31/05/12	Authorities award Contract	
01/09/12	Operational Start of first Contract.	

## **LEGAL IMPLICATIONS**

32. There are TUPE considerations to be considered during the process. This relates to both the internal staffing and current street lighting service provider. Consultation will ensue as the OBC progresses. Further detail will be brought for a September report.

## **RISK ASSESSMENT**

33. The project is considered to be low risk at this stage because the Council is not yet legally bound to proceed with the PFI.
34. A further report will be brought to Cabinet in September providing detail on the OBC and associated risks. This should cover technological risks that take into consideration advancement in street light technology over the term of the contract.

## **SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS**

### **Economic Regeneration and Transport**

35. The street lighting PFI will bring major investment to upgrade the street lighting asset and improve the quality of lighting across the Borough.

### **Safer Communities**

36. Improved quality of street lighting will reduce crime and the fear of crime leading to a safer community.

### **Children and Young People**

37. N/A

### **Healthier Communities and Adults**

38. N/A

### **Environment and Housing**

39. Improved street lighting will improve the environment by reducing energy consumption and, hence, CO2 emissions

## **EQUALITIES IMPACT ASSESSMENT**

40. This report is not subject to an Equality Impact Assessment because the improvement of street lighting assets is considered to be to the overall benefit to the whole community.

## **CONSULTATION INCLUDING WARD/COUNCILLORS**

41. The Street Lighting PFI is a Borough-wide project and, as such, all members will be consulted as part of the process.
42. A Members Seminar will be held to enable all Members to fully understand the PFI process.
43. Consultation will continue throughout the development of the OBC with staff and Trade Unions.

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Education related?

No



## Background Papers

The following background papers should be noted:  
Expression of Interest submission, 7 December 2009.

## Ward(s) and Ward Councillors:

This is a Borough-wide project that aims to deliver improved street lighting for the benefit of the community.

In due course we will hold a Members Seminar to enable all Members to fully understand the PFI process.

## Property

N/A