

Agenda Item 6(e)

DERBYSHIRE COUNTY COUNCIL

CABINET

20 July 2017

Report of the Strategic Director - Corporate Resources

**REFINANCING OF THE DERBYSHIRE SCHOOLS BUILDING SCHOOLS
FOR THE FUTURE (BSF) PROGRAMME
(COUNCIL SERVICES)**

1 Purpose of the Report

To seek Cabinet approval for the Council to conclude the refinancing of the Derbyshire Schools Building Schools for the Future (BSF) programme and to enter into the relevant legal documentation associated with this.

2 Information and Analysis

The Derbyshire BSF programme financial close and award of contract was considered by Cabinet at its meeting on 30 June 2009 (Minute Number 252/09 refers). The contract was awarded to Equitix Ltd to manage the delivery of the BSF programme.

The programme has been successful in terms of delivering a number of new schools which are all fully operational. As part of the delivery of this programme Equitix Ltd secured finance from the market, currently the Nationwide Building Society. Given the recent market conditions, Equitix Ltd is seeking to refinance the programme with the aim of making savings against the existing costs, which would be shared between the Council and Equitix. Initial market research in the form of a funding competition indicates that the Council could generate a refinancing gain of approximately £1,200,000.

The Council needs to ensure that due diligence and value for money are being achieved and to facilitate this independent legal and financial advisers have been appointed. This is in accordance with the decision of the Cabinet Member for Council Services on 27 February 2017. It is anticipated that the bulk of the work will be managed by the Council's own legal and financial sections with the appointment of advisers providing assurance and verification of the process. The potential benefit to the Council diminishes each month due to the shortened remaining timeframe on which to base any refinancing upon.

The Council's Constitution delegates specific powers to Chief Officers in the discharge of the functions of the County Council. The Director of Finance and ICT has delegated authority "To carry out all Treasury Management activities within the Treasury Management Policy Statement and Annual Treasury Management Strategy approved from time to time by the Executive and in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities and the raising of loans and the issuing of County Council bills in the case of emergency."

The Treasury Management Strategy forms part of the Prudential Code report which was approved by Council on 8 February 2017. The following is an extract from the report to the Council meeting on 8 February 2017. "This Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to Cabinet, and for the execution and administration of treasury management decisions to the Director of Finance and ICT, who will act in accordance with the organisation's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management."

The Director of Finance and ICT routinely deals with treasury management activities which includes refinancing deals for all other County Council debt, both short and long term.

Whilst the Director of Finance and ICT has delegated authority in respect of the proposed refinancing of the Derbyshire BSF Programme, Cabinet approval is sought for the amendment of various legal documents which formed part of the original BSF contract and for any additional documents which may be required.

3 Financial Considerations

The refinancing package would generate overall savings, in the form of a refinancing gain, for the Council in the region of £1,200,000 over the life of the contract. The Director of Finance and ICT will negotiate the timeframe for the receipt of the savings with Equitix Ltd.

4 Legal Considerations

A number of documents which formed part of the original BSF contractual arrangements will need to be amended to facilitate the BSF refinancing deal, including some to which the Council is a party. There may also be a requirement for additional documentation to be provided purely for that purpose, but there will be no amendments or documents other than as necessary to facilitate the refinancing. The Director of Legal Services will work in consultation with the external legal and financial advisers to review these amendments and documents to ensure that financial close is achieved.

5 Other Considerations

In preparing this report the relevance of the following factors has been considered: - prevention of crime and disorder, equality of opportunity; environmental, health, human resources, property, social value and transport considerations.

6 Key Decision

No.

7 Call-In

Is it required that call-in be waived, in respect of the decision proposed in this report? **No**

8 Officer's Recommendation

That Cabinet authorises the refinancing of the Derbyshire BSF Programme and the management and completion of that refinancing by the Director of Finance and ICT under the delegations given via the Council's Treasury Management Strategy and further authorises the Director of Legal Services to sign and execute the necessary documents to facilitate the refinancing. In particular, Cabinet authorises:

1. execution of the deed of variation to the Project Agreement and entry into the Lender's Direct Agreement;
2. the issuing of necessary certificates under section 3 of the Local Government (Contracts) Act 1997 in respect of the PA DoV and the Lender's Direct Agreement; and
3. the signing and execution of any other documents required for the refinancing;

in all cases with authority to the Director of Legal Services to sign such documents in accordance with the Council's Standing Orders.

JUDITH GREENHALGH

Strategic Director – Corporate Resources