

Report for: Cabinet Member Signing – 11 May 2022

Title: Lordship Lane Primary School - New Nursery Building – Variation of Construction Works Contract

Report authorised by: Ann Graham, Director Children’s Services



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Ward(s) affected: Woodside

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issues under consideration

- 1.1 On 9 November 2021, the Cabinet Member for Early Years, Children, and Families approved an award to CityAxis Ltd for the Construction Contract for Lordship Lane Primary School New Nursery in the sum of £1,258,057.47. This was broken down into an initial award of £1,143,688.61 and 10% contingency allowance of £114,368.86.
- 1.2 This report seeks Cabinet Member approval to vary the contract with CityAxis Ltd for Lordship Lane New Nursery as allowed under Contract Standing Order (CSO) 10.2.1.b and CSO 16.02.

2. Cabinet Member Introduction

- 2.1 As this report is being presented to Cabinet Member Early Years, Children, and Families for a decision, Cabinet Member introduction is not required.

3. Recommendations

For Cabinet Member for Early Years, Children, and Families pursuant to Contract Standing Order 16.02 to:

- 3.1 Approve a variation of the construction contract for Lordship Lane New Nursery to CityAxis Ltd in the sum of £243,574.84, giving a varied contract value from £1,143,688.61 to £1,387,263.45.
- 3.2 Approve an increase to the contingency allowance totalling 12.5% from £114,368.86 to £173,407.93 offering a varied award value up to £1,560,671.38. The contingency will be managed under strict change control governance

4. Reasons for decision .

- 4.1 Following the appointment of CityAxis Ltd some internal design changes were requested by the Client, Haringey Schools and Learning, increasing the scope of the works, to support the

developed needs of the school curriculum and community. This required re-design of the internal spaces within the new nursery building, in full collaboration with the School's senior leadership team, providing a revised package of employer's requirements to be priced by the contractor. An increase has been realised during this period on material prices which has been taken into consideration with this variation.

- 4.2 The Cabinet Member approval (received on 9 November 2021) to award the construction contract, was subject to receipt of planning approval, which was received on 24 January 2022. Draft planning conditions were included in the tender package for the contractor to price following some pre-planning consultation, as approval was not yet available. The issue of the planning decision with associated conditions resulted in an increase in project scope, with elements to the conditions that had not previously been allowed for (specifically related to ecology and sustainability). The full planning permission with conditions was issued to the contractor, to price the uplift and variance to deliver the full planning approval and manage its conditions.
- 4.3 The Children's Services Capital Programme Budget is sufficient to cover this contract increase.

5. Alternative Options Considered

- 5.1 Do nothing – a decision not to support the increase in the value of the construction works contract will result in delays in completing urgent condition and replacement works, would leave the school with inadequate facilities to meet curriculum requirements, further disruption to children's education and would risk the loss of a large portion of Salix Public Sector Decarbonisation Grant, see paragraph 6.4.
- 5.2 Re-tender – an option to cancel this procurement exercise and re-tender the new nursery works was considered with Strategic Procurement, Legal and Finance. However, as the previous tenders were returned in September 2021, it is believed due to construction inflation, changes in market rates, reduction in suppliers, material shortages and increase in material costs and the impact of the war in Ukraine, that a re-tender would likely incur substantial cost increases as realised in the market over recent months. It is also believed that these increases would be higher than those being witnessed for this variation. Re-tender would substantially lengthen the delivery programme and would not meet the Salix (Public Sector Decarbonisation) Grant spend deadline, see paragraph 6.4. The extended delivery programme would also create further disruption to the school environment into their 2022-23 academic year, prolonging the impact to their external play areas. In addition, a re-tender would risk challenge from CityAxis Ltd and expose the Council to reimbursement of any costs incurred as part of the procurement exercise and notification of acceptance of their tender.

6. Background Information

- 6.1 London Borough of Haringey are seeking to identify and address building condition and suitability issues across the Education/schools estate.
- 6.2 A major review of the condition and suitability of the Children's Services estate has been undertaken, which informed the Children's Service's asset management plan (CSAMP). This identified condition and suitability deficiencies in the primary, secondary, and wider Children's Service estate that need addressing in the short, medium, and long-term. Lordship Lane Primary School was considered high priority for major works due to issues relating to health and safety and/or risk of school closure.

- 6.3 As outlined in the original report, this condition project brings several benefits to the school and the Council, with the primary objective of providing an improved educational environment for children in line with Haringey’s borough plan. Along with improving educational outcomes, this project will significantly reduce the risk of a health and safety incident or school closure through condition failure such as mechanical failure or roof leaks. The project will also help the school reduce its energy demands and thus reduce carbon emissions through technologies, insulated walls and double glazing. This work also benefits the Council in reducing the reactive maintenance requirements at the school in future by economically fixing or replacing the root cause of the condition issues within a single project whilst avoiding additional temporary repairs costs.
- 6.4 The works at Lordship Lane, include works as part of the public sector decarbonisation programme, a government initiative sponsored by the Department for Business, Energy & Industrial Strategy and administered by Salix (Salix works) grant i.e. improvements in roof and loft insulation, new heating and water services pipework, new boilers, roofing repairs / replacements. The primary works within this contract are the provision of insulated wall panels. These works are designed to improve the school environment whilst at the same time reducing the schools’ running costs and carbon footprint. The Lordship Lane projects have been granted an allocation of funding of £539,000 (combined with the building services improvement and external envelope works contract currently being delivered on site as Phase 1) by Salix (Salix works). The grant is being used to part fund the scheme thus reducing the amount of borrowing that the Council will need to undertake.
- 3.3 The project had a prudent allocation of contingency funding of 10% of the contract value. However, this will be almost exhausted meeting the design variation and planning requirements. Going forward and to take account of the increase in construction projects costs being experienced locally and being seen nationally, due to construction inflation, an increase in market rates, shortages of supplies and in some part the war in Ukraine, it is proposed to take forward a 12.5% contingency in the contract. The contingency will be managed under strict change control governance.
- 6.5 The quantity surveyors have verified and confirmed the uplifts in cost to allow for the design changes and planning requirements is in line with market rates and will not result in the Council paying any additional costs compared with them being included within the tender.
- 6.6 The contract increase is within the Children’s Services Capital Programme Budgets for the works and therefore there is no additional funding requirement.
- 6.7 The total anticipated final outturn costs of the Lordship Lane New Nursery can be contained within the approved Children’s Services Capital Programme Budget:

Description	Lordship Lane
Construction Cost (including contingency) = £1,387,263.45 + 12.5% at £173,407.93	£1,560,671.38
Other Costs	£739,029.01
Total Cost	£2,299,700.39

7 Contribution to Strategic Outcomes

- 7.1 This project proposal supports outcomes as outlined in the Borough Plan 2019-23, in particular:



All projects commissioned by Officers of the Council are expected to align with this plan and will be reflected in key capital project documentation such as project briefs, design briefs, business cases, project initiation documents (PID) and award reports. The relevant Borough Outcome for this project is: **People** - our vision is a Haringey where strong families, strong networks and strong communities nurture all residents to live well and achieve their potential.

7.2 Lordship Lane Primary School fall into wave 1 (priority 1) of the Children’s Service’s asset management plan (CSAMP) and is therefore procured in accordance with the priorities set out in the Children’s Services Capital Programme.

8. Statutory Officers comments (Chief Finance Officer, Procurement, Head of Legal and Governance, Equalities).

8.1 Finance

8.1.1 The recommendation of the report is to vary the contract value for works for Lordship Lane Primary School New Nursery. If agreed the revised contract award value will be as follows:

	Original Award (m)	Variation (m)	Revised Award (m)
Lordship Lane	£1.258	£0.303	£1.561

The above figures include contingency.

8.1.2 The revised contract sums (including contingency) are an increase of £0.293m (23%) over the original award and can be contained within the overall Children’s Services Capital Programme.

8.2 Procurement

8.2.1 Strategic Procurement note the content of the report. The variation noted in the paper is in line with the authority’s CSO’s and the PCR’s. Strategic procurement approves the variation for Lordship Lane of £302,613.91.

8.3 Legal

8.3.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report. The aggregate values of the original contract award and the variation referred to in the report are below the threshold where the rules on contract modifications set out in Regulation 72 of the Public Contracts Regulations 2015 apply. The variation is therefore outside the scope of Regulation 72.

8.3.2 Pursuant to CSO 16.02 and CSO 10.02.1(b) a Cabinet Member with the relevant portfolio responsibilities has authority to approve the variation referred to in the report.

8.3.3 The variation for Lordship Lane Primary School is a key decision and, as such, needs to comply with the Council’s governance arrangements in respect of Key Decisions, including publication on the Forward Plan.

8.3.4 The Head of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing the Cabinet Member for Early Years, Children, and Families from approving the recommendations in this report.

8.4 Equality

8.4.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

8.4.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex, and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.

8.4.3 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

8.4.3 The proposed decision is to request approval to vary the award of contract to CityAxis Ltd up to the value stated in Section 3.1 and 3.2 of this report. It was identified that the condition and suitability deficiencies at Lordship Lane Primary School are a high priority for major works due to issues relating to health and safety or school closure risks. It is expected that this decision will continue to lead to improved health and safety of all students and members of staff. No negative consequences are identified for those who share a protected characteristic, and it is concluded that the works will have a wholly positive impact by improving the health and safety of the schools.

As an organisation carrying out a public function on behalf of a public body CityAxis Ltd will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above. Appropriate contract management arrangements are established to ensure that the delivery of the major works does not result in any preventable or disproportionate inequality.

9 Use of Appendices

9.1 None

10 Local Government (Access to Information) Act 1995

10.1 None