

Report for: Cabinet Member Signing – 30 September 2022

Title: Campsbourne BSIEE Phase 1 - Variation to Construction Contract Award

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

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Ward(s) affected: Hornsey

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

1. Describe the issue under consideration

- 1.1 On 15th June 2021 Cabinet approved an award to Mulalley & Company Ltd for Phase 1 of the Construction Contract for Campsbourne Primary School in the sum of £985,887.10 including a 10% contingency allowance. Additional urgent condition works have been identified during the contract. Though cabinet previously approved a further increase of £99,610.10 to the approved contract award sum on 17th January 2022 for a total value of approved value of £1,085,497.10 but since that date further works and associated costs have identified. This report seeks Cabinet Approval a variation to increase the approved construction award value with Mulalley and Company Ltd for £384,472.90 at Campsbourne Primary School, as allowed under Contract Standing Order (CSO) 10.2.1.a.

2. Cabinet Member Introduction

- 2.1 Not applicable.

3. Recommendations

The Cabinet Member is recommended:

- 3.1 Pursuant to Contract Standing Order 16.02, to vary the following construction contract award:
- (i) The original contract award approved by Cabinet for Campsbourne Primary School was in the sum of £985,887, including a 10% contingency amount.
 - (ii) A subsequent variation of the construction contract to Mulalley and Company Limited was granted in January 2022 in the sum of £99,610 giving a revised contract sum of £1,085,497.

- (iii) A further sum of £384,472.90 is now requested to ensure that sufficient funds are available to settle the contractor's final account, based on projected construction variation costs assessed to date for a projected total construction contract value of £1,439,970.00.

4. Reasons for decision

- 4.1 During construction, additional condition works were identified which included remedial works to address saturated and defective sections of roof decking and a requirement for additional mechanical heating works, which were discovered once the contract works commenced at Campsbourne Primary School. Additional works were initially identified and reported for request for a variation to the and increase the approved contract award sum in January 2022. However further additional works were identified, and the contract was further prolonged. Specifically, gym hall roof repair works had a considerable knock effect to the contract delivery which impacted on delivery of the heating system works. This led to the contractor requiring further time to accommodate the additional works; and the requirement for out of hours working to minimise disruption to school service delivery, due to the lack of available decanting space. The project budget is sufficient to cover the contract cost increases.

5. Alternative Options Considered

- 5.1 Do nothing – is not an option as the Council would be in breach contract. This could lead to legal action from the Contractor for non-payment. A decision not to support the increase in the value of the construction works contract could result in reputational damage to the Council for non-payment and non-compliance with payment terms set out in the JCT contract, overarching LCP framework agreement and or other payment legalisation such as Housing Construction and Regeneration Acts Act 1996 (HGRA)

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. Defects at Campsbourne, were considered a high priority for major works due to issues relating to health and safety or risk of school closure.
- 6.3 These condition projects bring several benefits to the schools and the Council, with the primary objective of providing improved educational environments 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 projects will also help the schools reduce its energy demands and thus reduce carbon emissions through technologies and insulation including double glazing. This work also benefits the

Council in reducing the reactive maintenance requirements at the school in future by economically fixing the root cause of the condition issues within a single project whilst avoiding additional temporary repairs costs.

- 6.4 The Phase 1 of the Campsbourne Primary School works involve works primarily linked to the requirements 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. These works are designed to improve the school environment whilst at the same time reducing the school's running costs and carbon footprint. The projects have been granted an allocation of funding £0.243M at Campsbourne Primary School, by Salix (Salix Works). The grant will be used to part fund the scheme thus reducing the amount of borrowing that the Council will need to undertake. The works are being delivered as part of one of the largest investment programmes for our schools in the challenging environment brought about by Covid.
- 6.5 Once works had commenced at Campsbourne Primary School, certain unexpected items were uncovered that required additional condition works to fully address the roofing and heating system.
- 6.6 The project quantity surveyor has verified and confirmed these additional condition work costs are in line with market rates and will not result in the Council paying any additional costs compared with them being included within the tender. However, as referred to in 4.1 above, the loss and expense claim associated with the Extension of Time (EoT) award to the contractor, along with a requirement for 'out of hours' working, is presently being finalised with contractor. **A summary table of cost is provided below:**

Construction contract award value	£896,261.00
Contract variations as reported December 2021 were principally for additional heating and associated works.	£99,610.00
Contract variations projected final additional contract costs (additional roof and mechanical heating works including costs for prolonged construction works period and out of hours working)	£ 444,099.00
Contingency allowance for settlement	£30,000
Total projected final construction contract cost	£1,469,970.00
Approved Contract award value to date (contract sum, 10% contingency allowance and previous variation)	£1,085,497.10
Additional contract award value to be approved	£384,472.90

- 6.7 The contract increases are within the overall project budget for the phase 1 and 2 works and therefore there is no additional funding requirements.

Projected final Phase 1 Construction contract cost	£1,469,970.00
Other Costs	£384,000.00
Projected Total Phase 1 Project cost	£1,853,970.00
Projected Total Phase 2 Project cost	£2,511,444.79
Projected Total Phase 1 & 2 Project Costs	£4,365,414.79
Total Approved Project Budget for Phases 1 and 2	£4,500,000.00

- 6.8 The total anticipated final outturn costs of the scheme can be contained within the approved project budget for each school as the original tenders were awarded below the pre-tender estimate.

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 Campsbourne Primary School falls 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 Capital Programme.

8. Statutory Officer Comments

8.1 Finance

- 8.1.1 The variation of the contract with Mulalley & Co Ltd, by £384,472.90 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 report is in line with the authorities Contract Standing orders and the Public Contract regulations.

Strategic Procurement endorse the recommendation to vary the contract as per the report.

8.3 Legal

- 8.3.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.
- 8.3.2 The contract value (including this proposed variation) is below the threshold (currently £5,336,937.00 for works contracts) where the tendering requirements set out in the Public Contracts Regulations 2015 apply. The variation is therefore governed by the Council's Contract Standing Orders.
- 8.3.3 It would normally fall to Cabinet to approve variations where the total contract value is in excess of £500,000 (CSO 10.02.1 (b)) In-between meetings of the Cabinet, the Leader may take decisions which would ordinarily be taken by Cabinet, or may allocate any such decision to the Cabinet Member with the relevant portfolio (CSO 16.02)
- 8.3.4 The contract for Campsbourne Primary School, is a Key Decision and, as such, need to comply with the Council's governance arrangements in respect of Key Decisions, including publication in the Forward Plan.
- 8.3.5 The Head of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing the Cabinet Member for Children, Education 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.

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

The proposed decision is to vary contracts to Mulalley and Company Ltd up to the value stated in Section 1.1 of this report. It was identified that the condition and suitability deficiencies at Campsbourne, 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 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 Campsbourne Primary School.

As an organisation carrying out a public function on behalf of a public body Mulalley and Company 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 will be 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 N/A

10 Local Government (Access to Information) Act 1995

10.1 N/A