

**Report for:** Cabinet

**Title:** Bruce Grove Public Convenience Refurbishment Works – Variation of Construction Contract Award

**Report authorised by:** David Joyce, Director of Placemaking & Housing

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**Ward(s) affected:** Bruce Grove

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

## **1. Describe the issue under consideration**

- 1.1 The Bruce Grove Public Convenience (BGPC) project aims to refurbish and extend the Grade II listed former public convenience building in order to transform this local landmark into a new café with a social value operator and finally remove it from Historic England’s ‘Heritage at Risk’ Register.
- 1.2 In January 2019, following the adoption of the Strategy for Tottenham High Road, the council secured GLA Good Growth Fund (GGF) to support the delivery of this project as part of the Enterprise Tottenham High Road Grant Agreement. This was followed by a successful bid to Historic England enabling the council to enter grant agreement for Tottenham Heritage Action Zone (HAZ) and bring forward the refurbishment of the Grade II listed landmark.
- 1.3 In April 2021, following a competitive procurement process via the Dynamic Purchasing System (DPS), Cabinet approved the award for the construction contract to Lilstone Limited to deliver the BGPC refurbishment works. The award was approved in the sum of £817,175.13, plus a 10% contingency of £81,717.51 with works commencing 16th July 2021 and completing January 2022.
- 1.4 In July 2021, a boundary discrepancy was highlighted during easement negotiations with Network Rail (NR) which delayed the works commencing on site. This delay was caused by the need to redesign the scheme to fit the correct boundary line and to obtain the revised planning approvals needed; these were granted in November 2021. At the same time the contractor was asked to revisit and adjust their tender costs due to the timeframe between their original tender submission in February 2021 and November 2021 when the redesigns were completed.
- 1.5 The impact of the issues highlighted in 1.4 resulted in a Contract Variation Report (no1.) being presented to Cabinet in January 2022 to increase the contract awarded to Lilstone Limited from £898,892.64 to £1,027,414.08.

- 1.6 Since commencing with the works in January 2022, the project has suffered significant delays with obtaining NR technical approvals.
- 1.7 This report also reflects unforeseen and unforeseeable heritage repairs to the Grade II Listed Pavilion building for which Listed Building Consents (LBC) are needed.
- 1.8 The delays detailed in 1.6 have prevented the contractor commencing with the works on the project critical path as programmed which has resulted with elements of the works being completed out of sequence. This has delayed the project completion and led to increased costs and programme delays.
- 1.9 The delay with NR approval has led to the suspension of works on site in line with the original programme. There is currently an LBC application submitted to cover the unforeseen work on site which is to be determined shortly. NR technical approval is now in place. LBC is expected to be obtained shortly to enable further heritage repairs and temporary works to resume as planned in January 2023.
- 1.10 As a result of 1.6-1.8 this report seeks a variation to the contract awarded to Lilstone Limited by Cabinet in January (detailed in 1.5 above), by £473,943.00 to a maximum of £1,501,400.

## **2. Cabinet Member Introduction**

- 2.1. Tottenham's town centres are at the heart of their local communities, providing jobs, services, shops, leisure facilities and social spaces. In Bruce Grove, the council is delivering projects to improve and restore our heritage assets including important community and cultural infrastructure. This includes bringing back the Grade II Listed Bruce Grove Public Convenience into active use with a view to support a new social value operator.
- 2.2. The refurbishment will see the derelict building, located in a prominent location of the town centre, returned to its former glory, and made accessible to the public after 40 years and contribute positively to this area with a new café that responds to our commitments to social value. The project compliments new placemaking approach to Tottenham working closely with our communities to improve the physical environment around Bruce Grove with support from Good Growth Fund, High Streets Heritage Action Zone (HAZ) and Future High Streets Fund (FHSF).
- 2.3. The additional expenditure at this time is significant and the decision to proceed with this project is not taken lightly. Officers have considered contractual and financial implications to support this decision and have engaged with both the GLA and Historic England on current issues, and on balance it is the right course of action.
- 2.4. However, I am confident that the project once delivered will support the ambition for Bruce Grove to be identifiable as a bustling urban village that extends to spaces behind the High Road, where the growing number of local small and independent businesses, as well as large operators, have spaces to flourish; the diverse local

community feel comfortable to shop, proud to work, keen to socialise, and take pride in welcoming visitors.

### **3. Recommendations**

For Cabinet in accordance with 10.02.1 (b) to:

- 3.1 To approve a further variation (no. 2), to increase the Contract Award to Lilstone Limited (no.1) of £1,027,414.08, by £473,934.00 to a maximum of £1,501,400.

### **4. Reasons for decision**

- 4.1 During the construction works, the project has suffered significant delays attributed to the delay in receiving NR technical approvals, unforeseen and unforeseeable heritage repairs, and sequencing of works. This variation Report seeks approval to vary the contract award made by Cabinet on 18<sup>th</sup> January 2022, which in itself was, a variation to the original contract awarded in July 2021.
- 4.2 At the end of March 2022 NR advised that the technical approval process for NR had changed. At the same time, officers were made aware that due to the minor design changes to the accommodate the new building extension within our title boundary a new full technical approvals application would be needed.
- 4.3 The delays with obtaining the NR technical approvals have impacted on the construction programme. The contractor has not been able to commence with the demolition or piling works, which are critical path items, as these are located on the boundary line with NR.
- 4.4 Whilst there have been some movement recently from NR to allow some works to progress with certain elements of work to reduce the impact on the programme, due to the ongoing delays with approvals, the works have reached a critical stage in the project resulting the contractor advising in August 2022 that they had run out of work which could be completed on site.
- 4.5 Due to the nature of the building and dereliction over a number of years, elements of unforeseeable heritage repairs to preserve the Grade II Listed status of the Pavilion Building have been uncovered. Listed Building Consent was also required for these repairs, which has contributed to the delay.

### **5. Alternative Options Considered**

#### **5.1 Option 1: Continue with the refurbishment works**

- 5.1.1 Continue with the refurbishment works whilst the NR and Listed Building Consents are gained; this option was discounted as it would have allowed the contractor to maintain a site presence and charge full preliminary costs whilst they waited for NR approvals and listed building consents to be granted. In addition, the contractor

advised on 25th August 2022 that no further works could be completed on site until NR approvals and listed building consent are received.

## 5.2 Option 2: Temporarily suspend the works

5.2.1 Temporarily suspend the works, decant site and wait for the NR and planning approvals to be gained. This option reduces the preliminary costs charged by the contractor; whilst maintaining the site compound and storage.

## 5.3 Option 3: Contractor to demobilise & remobilise the site entirely

5.3.1 This option involves the contractor decanting the site with removal of the site compound until the relevant NR & Listed Building Consents are in place. With this option preliminary costs will not apply. However, costs for decanting and remobilising will apply. The risk with this option is that the contractor may not be able to reallocate labour or subcontractors to the project. In addition, allowing for current cost increases in the market place the contractor may want to revisit their construction costs before restarting with the works.

## 5.4 Option 4: Do nothing

5.4.1 To stop the refurbishment works due to cost overruns. As BGPC is a Grade II Listed the council has an obligation to preserve the condition of the building and keep it in good repair. Stopping the refurbishment works now would result in further deterioration of the building fabric where elements cannot be refurbished and require replacement. This will also impact on the Grade II Listing of the building as original heritage elements would be lost. The impact with this option will likely result in grant funding being lost if not spent.

5.5 It has been assessed that option 2 offers the Council best value for money.

## 6. Background Information

6.1 Construction works commenced on site in January 2022, and delays in obtaining the required NR technical approvals and LBC's to complete unforeseen heritage repairs have impacted the construction programme. This has led to the council instructing the contractor to temporarily suspend the works on site whilst the approvals are gained. The combined effect of the delays and suspension of the works mean that the construction programme has been extended from 37 to 81 weeks, and the contractor has confirmed the refurbishment works will now not be completed until August 2023.

6.2 The project delays and unforeseen heritage works have resulted in the construction costs increasing substantially. The table below shows the movement from the original award to the anticipated outturn construction cost:

Title	Cost £m
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Original contract award value July 2021 (including contingency)	£0.898
Variation No 1 January 2022 (including contingency)	£0.129
Revised Contract variation dated 18 <sup>th</sup> January 2022	£1.027
Variation No 2 January 2023 (including contingency)	£0.474
Total contract award value	£1.501

- 6.3 The cost consultant has assessed the contractor's loss and expense for the delays to date and the projected completion date and consider these to be reasonable. The cost consultant and designers have reviewed the additional items of heritage repair works the contractor has uncovered on site and confirmed they could not have reasonably been foreseen during the design phase and at the point of the contract award.
- 6.4 Historic England and GLA funding secured for BGPC needs to be expended by March 2023, and there is also a contractual obligation to deliver the refurbishment works at BGPC. If this is not achieved the funding could be withdrawn, with capital grants already expended having to be repaid. A breakdown of the key elements supporting the increase in this variation are detailed below:

Item	Cost £m
Unforeseen Heritage Repairs	£0.143
Prolongation Cost up to	£0.189
Utility Connections	£0.005
<b>Total construction Cost uplift</b>	<b>£0.337</b>
Construction Contingency Uplift	£0.136
Total Uplift	£0.473

- 6.5 The overall funding for the scheme is set out in the table below and compared to the original funding assumptions:

	Original Funding £m	Revised Funding

		£m
HE HAZ	£0.375	£0.601
GLA	£0.325	£0.425
LBH Borrowing	£0.483	£0.922
Total Funding	£1.183	£1.948

- 6.6 The Tottenham Heritage Action Zone (HAZ) budget is a mixture of grant and LBH borrowing. The original budget for the HAZ included £2.6m of LBH borrowing. The additional allocation of borrowing to this scheme does not increase the overall level of borrowing by the Council but will mean that there will be less resources available for other schemes without additional budget allocation.
- 6.7 Subject to Cabinet approval, Lilstone Limited would remobilise on site in January and complete works in August 2023.
- 6.8 If Cabinet agrees this latest variation the overall cost of the scheme would be £1.948m once other non-construction costs are taken into account.

## 7. Contribution to Strategic Outcomes

- 7.1 This project proposal supports outcomes as outlined in the Borough Plan 2019-23, in particular:
- **Priority 2 People** – to contribute to a Haringey ‘where strong families, strong networks and communities nurture all residents to live well and achieve their potential’.
  - **Priority 3 – Place** : a place with strong, resilient, and connected communities where people can lead active and healthy lives in an environment that is safe, clean, and green.
  - **Priority 4 - Economy**: a growing economy which provides opportunities for all our residents and supports our businesses to thrive.
- 7.2 The proposals for the site can help address **Social Value Framework Indicators** by creating economic and social benefits through new employment opportunities, increasing employable skills, community wealth engagement and investing in local supply chains.
- 7.2.1 The Objectives for Bruce Grove Public Conveniences tenant is to secure:
- Sustainable occupation and management arrangements, taking the building’s Listed status and heritage into account.
  - Businesses with a strong social mission to create a positive impact in the community that they serve and the environment which they inhabit, including providing employment opportunities for local people and offering apprenticeships, work experience and training.

- Positive contribution to the vibrancy of the town centre, such as active frontage and long opening hours.
- Proposals which involve vibrant community/cultural activity, allowing use and interaction amongst the diverse local population from all walks of life and businesses; for example, hosting events/renting space at low cost to local community and creative groups, or showcasing local artists' work.

7.2.2 Meeting the above objectives are in keeping with the Public Services (Social Value) Act 2012 to secure economic, social and environmental well-being.

7.2.3 The successful tenant will be able to obtain a discount up to 35% of the rent base if they can prove their delivery of the 'social value outputs' below:

- Number of jobs filled by local people / long-term unemployed / NEET / rehabilitating young offenders / people with disabilities
- Meaningful work paid placements (internships, apprenticeships or student placements) or pre-employment courses
- Spend in Haringey supply chain or with Haringey-based SMEs.

7.2.4 The successful tenant will be required to pay full rent quarterly and will be able to claim the discount at the end of each year upon verifiable evidence. Should the tenant be unable to deliver on these social indicators the council will retain the full rent income. Failure by the tenant to deliver a minimum level of agreed social value outputs over a defined period of time would trigger an automatic review of their lease.

7.3 There is a direct alignment with the Council's emerging Strategic Asset Management Plan; whereby it is seeking to proactively transform its corporate property estate to increase revenue income for the council and in so doing improve the level of service the council can provide for its local community, The pilot 'Community Wealth Building Lease' features within the Strategic Asset Management Plan and Lessons learned from this pilot will help to inform future council policy and operations regarding how it uses its property portfolio.

## **8. Statutory Officers comments (Chief Finance Officer (including procurement), Head of Legal and Governance (Monitoring Officer), Equalities)**

### **8.1 Finance**

8.1.1 Cabinet in January 2022 increased the contract awarded to Lilstone Limited by £0.128m from £0.899m to £1.027m. The recommendation of this report is to further increase the value of the contract to Lilstone for the works at the BGPC by £0.474m. As set out in the report, this will be the second variation to the contract value and if agreed, will take the contract from its original award value of £0.899m to £1.501m as set out in 6.2. This represents an increase of £0.603m or 67% of the original contract award.

8.1.2 The overall project cost is estimated to be £1.948m once other project costs such as surveys, project management fees etc. are taken into account. The scheme is

contained in the approved capital programme and is funded through a range of sources as set out in the report with the most significant element being Council borrowing. The Council borrowing allocated to the scheme is over and above that which was allocated at the project's inception. However, the increased borrowing allocation to the project is contained within the overall HAZ budget which means that the cost to the Council terms of borrowing is not greater than budgeted for the HAZ budget, meaning that there will be less resources to complete other scheme without additional budget allocation.

## **8.2 Procurement**

8.2.1 Strategic Procurement (SP) note that this report relates to the variation of award for the BGPC refurbishment works to Lilstone Limited.

8.2.2 SP have reviewed the option of retendering the project with Legal understand that termination of the existing contract with Lilstone Limited will present risks to the project in terms of costs and further delays.

8.2.3 SP sees no procurement reason the recommendations are not endorsed. The recommendations in this report are in accordance with Contract Standing Orders clause 10.02.1 (b); Variations and Extension. To vary the contract by £473,943 to Lilstone Ltd.

8.2.4 The variation is in line the authorities CSO's and the PCR's

8.2.5 SP notes that as per section 8.1.1 of this report, funding is available for this Contract.

8.2.6 SP support the recommendations within this report and have no objections with awarding this Contract variation to Lilstone Ltd for the value outlined in this 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 works are below the threshold where the modification (variation) rules set out in Regulation 72 of the Public Contracts Regulations 2015 apply. The variation is therefore governed by Contract Standing Orders.

8.3.3 As the overall value of the contract is in excess of £500,000, it falls to Cabinet to approve the variation (CSO 10.02.1 (b) ).

8.3.4 The variation is a Key Decision and, as such, needs to comply with the Council's governance processes in respect of Key Decisions including publication in the Forward Plan (CSO 3.01 (d)).



8.3.5 The Head of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing Members 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.

8.4.2 The proposed work aims to address the dilapidated condition of the Grade II Listed public convenience pavilion building which has been disused for over 40 years.

8.4.3 The building is on the at risk register of the councils properties and the refurbishment works with the construction of a new extension to create a café facility which can be used by the local community and members of the public visiting Bruce Grove.

8.4.4 The proposed decision is to approve a variation to the original Cabinet Award to Lilstone Limited to undertake the refurbishment and improvement works at BGPC. It is expected that this decision will lead to the disused building being brought back into use for the local community.

8.5.5 The variation of contract award is required to enable the refurbishment and extension of the exiting pavilion building. The works will comprise of roofing works, heritage repairs, installation of new mechanical and electrical services and improvements to external areas with new pavement lights and fencing.

8.5.6 As an organisation carrying out a public function on behalf of a public body, the Contractor 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 List of background documents:

- [Cabinet Report \(18 January 2022\): Bruce Grove Public Convenience Refurbishment Works – Variation of Construction Contract Award](#)
- [Cabinet Report \(1<sup>st</sup> April 2021\): Bruce Grove Public Convenience Refurbishment – Construction Contract Award](#)
- [Cabinet Report \(14<sup>th</sup> July 2020\): Tottenham Heritage Action Zone](#)
- [Cabinet Report \(19<sup>th</sup> January 2019\): A Strategy for Tottenham High Road / Award of GLA Grant Funding for the Enterprising Tottenham High Road Project](#)