

Haringey Council
Written Statement/Record of a decision made by an officer under delegated authority

Decision Maker (Post Title)	AD for Regeneration & Economic Development
Subject of the decision	To vary an existing contract to DK-CM Architects for provision of Multi-Disciplinary Design Consultancy Services (RIBA Stages 0-6) for the Bruce Grove Public Conveniences (BGPC) Refurbishment Works delivering a new Community Café Facility.
Date of decision	16/06/2023
Decision	For the Assistant Director of Communities and Housing Support to approve a variation of contract to DK-CM by £64,198.20 varying the approved contract sum from £177,917.50 to £248,327.75 as allowed under Haringey's Contract Standing Orders 10.02.1a
Reasons for the decision	The project construction works have been delayed because of additional time needed to obtain required Network Rail (NR), and Listed Building Consent approvals. The project was temporally suspended in August 2022 to enable the required approvals to be obtained. This resulted in an overall project delay of 11 months to that originally tendered by the supplier with the requirement to deliver additional Multi Disciplinary Design services during the construction phase of the project, and delays experienced on site due to unforeseen heritage repair works. These changes have been approved under strict change control procedures. DK-CM fees are based on agreed lump sum for RIBA stages 1-4, and a seven month construction period for RIBA stage 5-6. Due to the suspension of the project and prolonged construction period DK_CM have a contractual entitlement to adjust their fee in line with the projected construction period. DK-CM's fees have been adjusted on review of a business case for prolongation fees approved by RED and Capital Property Boards in November 2022.
Details of any alternative options considered and rejected by the officer when making the decision	With construction works on site re-tendering consultancy resources at this late stage would be detrimental to the council in terms of time and cost. This would further impact on the delivery of the Café facility which is already in delay. There are no available resources within the Council that have the capacity or expertise to

	deliver this cost consultancy resource in house.
<p><u>Conflicts of interest – Executive decisions</u></p> <p>Details of any conflict of interest declared by a Cabinet Member who is consulted by the officer which relates to the decision and details of dispensation granted by the Council’s Head of Paid Service</p>	N/A
<p><u>Conflicts of interest – Nonexecutive decisions</u></p> <p>Where the decision is taken under an express delegation e.g. by a Committee, the name of any Member who declared a conflict of interest in relation to this matter at the committee meeting,</p>	N/A
<p>Title of any document(s), including reports, considered by the officer and relevant to the above decision or where only part of the report is relevant to the above decision, that part)</p> <p>These documents need to be attached to the copy of this record/statement kept by the Authority but must not be published if they contain exempt information</p>	Bruce Grove Public Conveniences (BGPC) Refurbishment Works - Variation of Contract - DK-CM Architects
<p>Reasons for exemption with reference to categories of exemption specified overleaf or</p> <p>Reason why decision is confidential (see overleaf)</p> <p>Decisions containing exempt or confidential information falling within the categories specified overleaf are not required to be published.</p>	Information relating to the financial or business affairs of any person (including the authority holding that information)
Signature of Decision Maker	

Peter O'Brien

Name of Decision Maker

Peter O'Brien

Does the decision need to be published?

Yes

No

Yes

Not for Publication by virtue of paragraph 3 and paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972

This document is **not for publication** as it contains information classified as exempt under Schedule 12A of the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Report for: Assistant Director for Regeneration & Economic Development

Item number: Not Applicable

Title: Bruce Grove Public Convenience Refurbishment (**BGPC**)- Variation of Contract - DK-CM Architects

Report

Authorised by: Claire Barnes, Delivery Manager Major Projects Delivery Team

Lead Officer: Sukh Lall, Project Manager, Major Projects Delivery Team

Ward(s) affected: Bruce Grove

Report for Key/

Non Key Decision: Non Key decision

1. Describe the issue under consideration

- 1.1 To vary an existing contract to DK-CM Architects for provision of Construction Related Multi-Disciplinary Design Consultancy Services for the Bruce Grove Public Conveniences (BGPC) Refurbishment Works as allowed under CSO 10.02.1 (a).

2. Cabinet Member Introduction

- 2.1. Not Applicable for this contract award.

3. Recommendations

- 3.1. For the Assistant Director for Regeneration and Economic Development pursuant to Contract Standing Order 10.02.1(a) to approve a variation of contract to DK-CM Architects for £64,198.20 increasing the contract value from £177,917.50 to £248,327.75

4. Reasons for decision

- 4.1. DK-CM's commission is based on agreed lump sum fees for RIBA stages 1-4, and a seven month construction period for RIBA stage 5-6. A fee adjustment for RIBA Stages 5-6 is required due to:
 - 4.1.1. The construction period has increased due to delays with obtaining Network Rail (NR) technical approvals, Listed Building Consents (LBC), and client instructions to temporarily suspend the works. This prevented the contractor commencing with the works on the project critical path as planned. This has impacted on the construction programme and prolongation of the works.
 - 4.1.2. The contractor has been awarded an Extension of Time of 37 weeks (from the original 23rd October 2022 completion date), for the delays reported with a revised completion date of 26th July 2023 agreed. A further Extension of time for the temporary suspension period (4 months) is expected to be submitted by the contractor in due course for the period September – December 2022. This will extend the completion date by another 12 weeks to 18th October 2023.

5. Alternative Options Considered

- 5.1. With construction works on site, re-tendering consultancy resources at this late stage would be detrimental to the council in terms of time and cost. More importantly this would impact operationally on the Council's commitment to repurpose a heritage asset which is on the at risk register, and to deliver the refurbishment works to meet Heritage England and GLA funding deadlines and commitments.
- 5.2. There are no available resources within the Council that have the capacity or expertise to deliver this multi disciplinary consultancy resource in house.

6. Background Information

- 6.1. 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 **remove it from Historic England's 'Heritage at Risk' Register.**
- 6.2. Tender returns for the consultancy services were received March 2018. In April 2018 DK-CM were appointed for the Multi-Disciplinary Lead Consultant by the Regeneration Team to deliver RIBA design stages 1-4 in the sum of £100,770.00. In November 2019 a contract variation, (No1.) of £31,735.25 was approved by the Project Sponsor for the delivery of additional RIBA 3-4 services.

This increased the original DK-CM RIBA Stage 0-4 fees by £31,735.25 from £100,770.0 to £132,505.25. This represented a 31.5% uplift on the original contract value of £100,770.

- 6.3. In October 2020 a further contract variation (No2.), was approved by the Regeneration Team to extend DK-CM fees by £45,412.50 to cover RIBA stages 5-6 for a construction period of 7 months.
- 6.4. This increased DK-CM total fees to £177,917.75. This represented a 76.5% uplift on original contract value of £100,770.
- 6.5. As detailed in 6.3 DK-CMs fees for RIBA stages 5 – 6 were based on a projected construction period of 7 months. The project has suffered significant delays due to obtaining Network Rail technical approvals and Listed Building Consents for unforeseen heritage repairs. The delays have impacted on the project critical path activities and resulted in the construction works being temporally suspended between September to December 2022 (4 months).
- 6.6. The contractor re commenced with the construction works in January 2023 with a planned completion by the end of October 2023 (10 months).

	Start	Finish	Duration
Construction period No 1 to temporary Suspension of works due to NR & LBC consents	31/01/2022	31/08/2022	7 months
Suspension of works	01/09/2022	31/12/22	4 months
Re-start construction works	09/01/2023	18/10/2023	10 months
Total DK-CM RIBA Stage 5			21 months

- 6.7. Due to the delays with the project DK-CM have requested a further uplift to their fees and purchase order value to cover the prolongation period detailed above.
- 6.8. Allowances for the projected uplift in the RIBA 5-6 fees were included in the overall project cost estimate of £1.948m approved as part of the Exception Report submitted to RED Board in November 2022.
- 6.9. Adjustment to DK-CM fee based on their original tender submissions, contract variations (1 & 2) approved by the Regeneration Team, and revised total projected fee position is detailed below:

	Award	Original Contract Value/Fee	% Variance Over Original fee
1.	DK-CM original contract award RIBA 1-4, April 2018	£100,770.00	
2.	Variation of Award No 1 - November 2019 RIBA Stages 3-4 (value was not separated into fees & disbursements)	£31,735.25	
	Sub total	£132,505.25	31.50%

3.	Variation of Award No 2 - October 2020 for RIBA Stages 5-6	£45,412.50	
	Sub total	£177,917.75	76.55%
Variation of Award No. 3 (this variation)			
4.	Prolongation Fees (suspension of works) September to December 2022	£8000.00	
5.	Prolongation for delayed re start of the construction works for RIBA stages 5 from January to October 2023 (Fixed monthly fee approved by Regeneration team before project transfer to the Major Project)	£45,000.00	
6.	RIBA Stage 6 October 2023 – October 2024	£5,450.00	
	Sub total	£236,367.75	
7.	Fee Contingency - this may only be required if construction works were delayed beyond 18 th October 2023	£11,960.00	
	Total	£248,327.75	146.50%

6.10. The latest Financial Statement issued by the QS (23/03/23) shows the anticipated final account in the sum of £1,349,120.00. Therefore, the total estimated fee percentage based on the anticipated final account value will be 18.40%.

7. Contribution to Strategic Outcomes

7.1. This proposal will enable the Council to meet its obligations to protect the Grade II Listed building within its ownership. The refurbishment will also bring back into use a building which had become dilapidated and not used since the 1980s, to create a new café facility for operation by a social value operator in Bruce Grove as part of the Tottenham Heritage Action Zone initiative approved by Cabinet in July 2020.

Strategic Asset Management Plan

7.2. This project supports 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.

7.3. This proposal will enable the Council to assist the Bruce Grove & Tottenham High Road Regeneration generally **and to support the Council's strategic priorities**.

Corporate Delivery Plan

7.4. The Bruce Grove Public Conveniences project supports the Council in responding to the following themes in the **Council's** Corporate Delivery Plan (CDP).

7.4.1. Theme 1: Resident experience, participation and collaboration

7.4.2. The project responds to Theme 1 of the CDP by putting the resident voice at the heart of decision making: this project came about through a campaign by the Last Elm residents group, who have been engaged throughout the design development process and will contribute towards the selection of an operator for the café through participation in the evaluation panel for tenders.

7.4.3. Theme 2: Responding to the climate emergency

7.4.4. The project responds to Theme 2 of the CDP by serving as a model for a Corporate Property Model through the use of sustainable construction techniques and achieving a high standard of energy efficiency on completion.

7.4.5. Theme 3: Children and young people

7.4.6. The project responds to Theme 3 of the CDP by providing employment opportunities for young people, including those with SEND and NEETS, under the terms of the Council's Social Value Lease with the **café's** operator.

7.4.7. Theme 4: Adults, health and welfare

7.4.8. The project responds to Theme 4 of the CDP by providing a new café use that will

- serve as a meeting place for local residents, enabling them to feel more connected to their neighbours and feel they live in an area where people help each other; and
- work to address food poverty by offering an affordable local food option.

7.4.9. Theme 6: Safer borough

7.4.10. The project responds to Theme 6 of the CDP by offering

- a new development that will encourage increased community connections, and positive social interactions, and
- improved street lighting.

7.4.11. Theme 7: Culturally Rich Borough

7.4.12. By conserving a Grade II listed building on Historic England's Heritage at Risk register, the project responds to Theme 7 of the CDP, increasing public knowledge of and access to local history and heritage, highlighting the rich cultural heritage and stories of innovation and creativity in our borough, and enhancing **Haringey's cultural** reputation and profile in London and beyond.

7.4.13. By bringing this heritage asset back into use as a café and community centre, the project also responds to Theme 7 by increasing resident, cultural sector and community collaboration and participation in culture.

7.4.14. Theme 8: Place and economy

7.4.15. The project responds to Theme 8 of the CDP by

- improving the accessibility of high streets and town centres through provision of a fully accessible facility with public access to a disabled toilet;
- supporting the high street in Tottenham to continue to adapt to the post-Covid landscape, including changed consumer and visitor behaviour, through bringing a disused heritage asset back into use as a multipurpose facility, and future-proofing it through the incorporation of disabled access and measures to sustain a high level of energy efficiency;
- the introduction of a new business into a disused building;
- creating new employment opportunities for local people, young people and people with SEND;
- piloting a new Social Value Lease model;
- spearheading the renewal of Bruce Grove Town Centre, where the growing number of local small and independent businesses have spaces to flourish, and the diverse local community feel comfortable to shop, proud to work, keen to socialise, and take pride in welcoming visitors; and
- serving as an example of public involvement in planning, design and management of their local spaces/places across South Tottenham, and creating that promotes increased social value from investment in Bruce Grove.

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

8.1. Finance

8.1.1. The recommendation for the Assistant Director for Regeneration and Economic Development to approve a variation of contract to DK-CM Architects for £0.064m increasing the contract value from £0.178m to £0.248m will be funded from the project budget

8.2. Legal

8.2.1. The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of the report.

8.2.2. An Assistant Director has authority to approve variations of a contract provided the value of the variation is less than £500,000.

8.2.3. It is difficult to advise with certainty if this variation is consistent with Regulation 72 of the Public Contracts Regulations 2015 (PCR). Regulation 72 governs modifications of contracts that are within the scope of the PCR. Given the circumstances there appear to be good grounds to support the view this variation is not substantial for the purposes of Regulation 72(1)(e) and is therefore consistent with the PCR.

8.2.4. Subject to 8.2.3 above the Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing the Assistant Director for Regeneration & Economic Development from approving the recommendation in the report.

8.3. Procurement

8.3.1. Strategic Procurement (SP) note the content of the report. The report notes the considerations and alternative approaches that could be undertake.

8.3.2. SP notes that the previous variation value of £177,917.50 together with this variation request value of £64,198.20 brings the variation total to £248,327.75.

8.3.3. SP notes that the total variation value of £248,327.75 equates to 144.50% of the original order value of £100,770.00 which is in breach of CSO 10.02.1 and PCR Reg 72.

8.3.4. From the content within this report, SP cannot determine whether there was provision to accommodate this significant variation as part of the original contract.

8.3.5. SP notes that a new tender exercise for the Multi Disciplinary Design Team Lead Consultant role for the refurbishment works at BGPC would not be efficient in terms of time, costs and loss of knowledge.

8.3.6. In consideration of the project, risks and what is in the overall best interest of authority Procurement agree with the recommendation.

8.4. Equality

8.4.1. Based on the value of this report (original award value and variation) equalities comments are not required.

9. Use of Appendices

9.1. Not applicable

10. Local Government (Access to Information) Act 1985

10.1. Not applicable