

Report for: Cabinet Member Signing – Cabinet Member for Housing and Planning (Deputy Leader)

Item number: CP-00313

Title: Kenneth Robbins House – Contract Variation

Report authorised by: Sarah Sutton – Corporate Director Adults Housing Health

Lead Officer: Peter De-Bique – Head of Housing Investment Delivery

Ward(s) affected: Northumberland Park

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

1. Describe the issue under consideration.

- 1.1. In line with Contract Standing Order (CSO) 8.01 and 18.03.3, this report seeks approval from the Cabinet Member for Housing and Planning (Deputy Leader) to vary the contract sum and programme for the major refurbishment programme at Kenneth Robbins House.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

That the Cabinet Member for Housing and Planning (Deputy Leader):

- 3.1. In line with Contract Standing Orders (CSO) 8.01, and 18.03.3, approval is sought for a variation to the existing contract in the sum of £1,751,359.36, revising the total contract value to £10,164,213.00. Additionally, approval is requested to amend the programme duration from 78 weeks to 150 weeks. This extended timeframe will accommodate the process of obtaining Gateway 2 approval for the works from the Building Safety Regulator (BSR), as well as provide sufficient allowance for final sign-off at Gateway 3.
- 3.2. It should be noted that any variation in the contract sum or programme will not affect the total amount rechargeable to leaseholders, as outlined in the Notice of Estimates issued on 23 August 2024.
- 3.3. Issue a Letter of Intent to the contractor in line with CSO 16.04 for the sum of £900k which is no more than 10% of the revised contract sum. The Letter of Intent will enable the contractor to place an order with their supply chain to enable the revised programme to be met.

4. Reasons for decision

- 4.1. On 08 April 2024, the Council received tenders from eleven bidders for the major works programme at Kenneth Robbins House. Following a comprehensive evaluation process, the contract was awarded to United Living as the successful contractor.
- 4.2. The initial contract award was predicated on an anticipated 8-week period for securing Building Safety Regulator (BSR) approval for the proposed works, which aligned with a projected start date in Autumn 2024. However, due to a significant industry-wide backlog in BSR applications, current estimates indicate approval periods ranging from 30 to 45 weeks. As a result, the commencement of works is now deferred, with Autumn 2026 representing the earliest feasible start date.
- 4.3. Following a series of discussions between the contractor, the multi-disciplinary consultant, and the Council's project team, it was agreed that it would be unreasonable to require the appointed contractor to maintain the tendered price submitted in April 2024, given the extended delay in securing Building Safety Regulator (BSR) approval. Consequently, the contractor was invited to submit a revised financial proposal to account for the prolonged approval period and increased supply chain costs. This review resulted in a contract variation totalling £1,751,359.36.

5. Alternative options considered.

- 5.1. Do nothing was considered and ruled out. This is because the works to Kenneth Robbins House is essential to ensure the building meets current fire safety regulations. Therefore, the Council has no option but to appoint a competent contractor to deliver the works.
- 5.2. Retendering was also considered; however, the appointed contractor was awarded the contract having submitted the most economical and advantageous tender. There is no guarantee that retendering the project will result in a better outcome in terms of cost and programme. It should also be noted that the extended period for securing Building Safety Regulator approval will still apply, therefore any alternatives bids will include a significant risk profile and cost for a delayed start to the works.
- 5.3. The only option available to the Council is to accept the uplifted costs submitted by the appointed contractor. This will ensure the works commence as soon as possible, thus ensuring the building meets current fire safety regulations.

6. Background information

- 6.1. Kenneth Robbins House is a residential purpose-built 17 storey block on the Northumberland Park Estate in North Tottenham. There are 128 self-contained units, of which 64 are 1-bedroom and 64 are 2-bedroom apartments.
- 6.2. Haringey commissioned report to develop a major works programme to the block. The report concluded that major works are required to the block, and in view of

this, a package of work was developed to include replacement windows and spandrel panels, structural repairs, replacement of the internal soil and vent pipe, upgrade to some bathrooms and kitchens, communal decorations, lighting and flooring and general improvements and upgrade to fire safety elements.

- 6.3. Tenders were invited for the above works on 29 January 2024, and 11 bidders were received on 08 April 2024. The contract was awarded to Tenderer A in the sum of £8,412,853.64.
- 6.4. The contract was awarded based on a 78-week programme. As Kenneth Robbins House falls within the category of a High-Risk Building (HRB), the tendered programme initially included an 8-week period for the contractor to secure approval for the works via an application to the Building Safety Regulator (BSR).
- 6.5. Following a series of design meetings with the contractor and the multi-disciplinary consultant, it's noted that the initial 8-week period allocated for the submission and approval of the Building Safety Regulator (BSR) Application was insufficient. Therefore, the project team realigned the design and delivery programme.
- 6.6. The realignment of the programme resulted in a significant delay to the start of the works, as the approval period for securing Building Safety Regulator Approval extended from the initial 8-weeks to a period of between 30-45 weeks.
- 6.7. The initial start date for the works was Autumn 2024. With the Building Safety Regulator Approval period of 30-45 weeks, the revised start date would be Autumn 2026, which is 24 months later than the original programme.
- 6.8. The contractor raised concerns, and these were upheld by the cost consultant. The concerns centred around the delayed start to the works, the commercial exposure to price increases from their supply chain – especially as the works will commence 2 years after their initial tender submission, and the extended preliminary costs associated with managing the extended design and delivery programme.
- 6.9. In view of the above, the contractor was invited to revisit their costs. The costs were jointly assessed by the Cost Consultant and Haringey to ensure they reflect market conditions. Although it was noted that the contractor included a financial risk to account for the unknown period for the Building Safety Regulator Application, the costs were generally acceptable, however it was agreed that should the contractor receive Building Safety Regulator Approval in a period less than 45 weeks, Haringey reserves the right to recover the preliminary costs associated with this.
- 6.10. Prior to the initial award report dated 29 October 2024 leasehold consultation was undertaken and concluded in line with the requirements of Section 20 of the Landlord and Tenants Act 1985.
- 6.11. An initial Notice of Intent was issued on 28 November 2022 to the leasehold flats affected, and no observations or nominations were received.

- 6.12. Notice of estimates were issued on 23 August 2024 to the leasehold flats affected. The period for providing observations in response expired on 25 September 2024.
- 6.13. The total amount rechargeable to leaseholders was estimated at £660,998.64, with an average leaseholder charge of £34,789.40.
- 6.14. The above figures reflect the restrictions placed upon the Council under Part 5 of the Building Safety Act 2022 (“the Act”). Part 5 of the Act contains a number of complex provisions which prevent or limit the Council’s ability to recover service charges from its leaseholders (“tenants”) where it undertakes works to remedy “**relevant defects**” in “**relevant buildings**”.
- 6.15. Officers do not anticipate that there will be any increase in sums rechargeable to leaseholders if the recommendations in this report are adopted.
- 6.16. Subject to approval from the Cabinet Member for Housing and Planning (Deputy Leader) to vary the contract sum by £1,751,359.36 from £8,412,853.64 to £10,164,213.00, the projected spend profile is shown in the following table.

The project will be funded from Asset Management’s Capital Works Programme. Funding will accommodate all works executed on the project and will extend over 3 financial years from 25/26 to 27/28 as shown in the table below.

Description	Year 1 (25/26) £’000	Year 2 (26/27) £’000	Year 3 (27/28) £’000
Kenneth Robbins Hse – Major Works Programme	£200	£9710.107	£254.106

7. Contribution to the Corporate Delivery Plan 2024-2026 High level Strategic outcomes’?

This project will help to contribute to the Corporate Delivery Plan by creating a solid resident experience and enabling success for all residents impacted by the project.

The project will create an opportunity for all residents in the block to participate in the decision-making process. For example, residents will be invited to select colours and finishes for doors, windows, walls, flooring and other key elements of the project. They will be invited via community events, drop in sessions, consultation meetings and general updates where feedback will be offered and incorporated into the final design of the scheme.

By involving residents in developing the project, the project team has ensured that they build mutual trust and confidence through positive interactions with residents, from getting the basics right to involving residents more deeply in Council decision-making, especially in matters that affect them.

8. Carbon and Climate Change

- 8.1 Haringey Council made a commitment to be a Net Zero Carbon Borough by 2041. The Major Works Programme to Kenneth Robbins House will help to achieve this by firstly reviewing the scope of works with the appointed consultants to determine what measures can be incorporated into the programme that will assist the Borough in its aspirations for Net Zero Carbon by 2041.
- 8.2 The project team noted that the main element of work that will impact on reduced carbon is the replacement of windows including spandrel panels and doors to balconies and communal areas. These elements have been carefully selected to ensure they meet the minimum requirements as set-out in Approved Document L of the Building Regulations. Other elements such as lighting to communal and external areas have been selected to reduce energy consumption and extend the time-period between maintenance cycles.
- 8.3 As part of the invitation to tender, bidders were required demonstrate their commitment to achieving the Gold Standard for the Fleet Operator Recognition Scheme (FORS). The appointed contractor and their supply chain must show best practice in the management of their fleet in matters such as safety, efficiency, and environmental protection. This means that the works to Kenneth Robbins House will be managed by a company who considers the environmental impact of the works on the local community and takes measures to reduce carbon when operating vehicles and delivering the project.
- 8.4 Reducing the environmental impact and carbon consumption will include ensuring that materials are purchased locally where possible, to avoid long sustained journeys through London and the local areas. Employing local labour via the contractor's Social Value commitment will also contribute to the Council's Net Zero commitments, as this will provide local employment opportunities which in-turn will reduce the need for travel outside the Borough and thus help to reduce carbon consumption.
- 8.4 It is believed that the above measures will contribute to Haringey's commitment to be a Net Zero Carbon Borough by 2041.

9. Statutory Officer Comments (Director of Finance (procurement), Assistant Director of Legal and Governance, Equalities)

9.1 Finance

The original contract sum is £8.413m; over a period of 3 years. This report recommends a variation of the contract sum by an additional £1.751m, bringing the revised total contract value to £10.164m.

This variation is mainly due to significant delay to the start of the work, which was not covered in the original contract.

This additional sum can be contained within the existing stock capital programme budget/MTFS.

However, this might lead to other existing homes requiring maintenance and improvement works is either being deprived of funding to the tune of £1.751m or additional sum borrowed to fund such works – which will also attract revenue cost in the form of additional interest on borrowing.

It should be noted that this sum does not include sum of £0.535m which has been spent on external and communal works at Kenneth Robbins' house in recent years.

There is a further risk of cost escalation if this contract is not properly managed and monitored.

Further finance comments are contained in the exempt report.

9.2 Procurement

Strategic Procurement (SP) notes that this report relates to the approval to vary the approved spend with supplier on Appendix A.

SP note that the cost for this contract was £8,412,853.64 to £10,164,213, an uplift of £1,751,359.36. Additionally, approval is requested to amend the programme duration from 78 weeks to 150 weeks.

In reference to Paragraph 4 above the reason for this variation has come about due to significant delay to the start of the work, which was not covered in the original contract.

This variation is in accordance with regulation 72(1)(b)(i)(ii) of the Public Contracts Regulations 2015. SP supports the recommendation to approve the award in accordance with CSO 18.03.3 and 2.01.1(d).

9.3 Director of Legal and Governance (Monitoring Officer)

9.3.1 The Director of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.

9.3.2 The works are above the threshold where the Public Contracts Regulations 2015 (the Regulations), the procurement legislation in force at the time of the tender, applied to the procurement. Any variation will therefore be governed by the modification rules set out in Reg 72.

9.3.3 Under Reg 72 (1) c) a contract may be modified without a new procurement (c) where all of the following conditions are fulfilled:—

- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
- (ii) the modification does not alter the overall nature of the contract;
- (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.

- 9.3.4 Because of the value of this contract, it would fall to Cabinet to take a decision on the variation (CSO 2.01 d) (contract variations valued at £500,000 or more). However, in-between meetings of the Cabinet, the Leader may approve or may allocate to a Cabinet Member to take a decision (CSO 0.08).
- 9.3.5 The Cabinet Member also has power to approve issue of a letter of intent which may be for either £100,000 or 10% of the Contract price, whichever is the higher.
- 9.3.6 The Director of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing the Cabinet Member for Housing and Planning to approve the recommendations in this report.

9.4 Equality

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/fait, sex and sexual orientation. Marriage and civil partnership status applies 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 decision is regarding the award of a major works contract for the improvement and upgrade to Kenneth Robbins House. These works are essential to ensure our residential buildings adequately provide a suitable means of escape in the event of fire and separation between the dwellings and the communal areas, and have good modern facilities, and where facilities are not being renewed, the existing services are in a good state of repair and meets current regulations and standards.

Data held by the council suggests that women, young people, disabled people and BAME people and naturally low-income people are over-represented among those living in council housing. These improvement works should there for be expected to have a positive impact on those that share the protected characteristics.

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.

10. Use of Appendices

Exempt Report – **Appendix A**

11. Local Government (Access to Information) Act 1985

Exempt information will include commercially sensitive information for the successful bidder.