

Report for: Cabinet 8 October 2019

Title: Contract variation report for Broadwater Farm District Heating works

Report

Authorised by: Dan Hawthorn, Director of Housing Regeneration & Planning, Haringey Council

Lead Officer: David Sherrington, Director of Broadwater Farm, Homes for Haringey

Ward(s) affected: West Green

Report for Key/

Non Key Decision: Key Decision

1. Describe the issue under consideration

1.1 Cabinet received a report on 14 August 2018 which described how 11 of the 12 blocks on Broadwater Farm had failed key structural tests relating to Large Panel System blocks, and set out the works necessary to address that failure. This report describes additional works and variations required under the contract between the Council and Engie Regeneration Ltd (the contractor), which have resulted in additional costs. The report seeks Cabinet's approval for the additional costs.

1.2 Specifically, the report requests approval for additional funding for variations to the Broadwater Farm District Heating contract which was approved by Cabinet on 14 August 2018. This request is made under CSO 10.02 which sets out the requirements of contract variations above £500k.

1.3 The contract commenced in 2018 and since work commenced on site, the Council and Homes for Haringey have agreed a number of variations from the original scope. These have been to enhance the outcomes for residents and deliver additional works in tandem with the district heating project. These are listed in more detail under section 6.7 but include new kitchens and bathrooms, new cold water supplies throughout homes and enhanced management systems for the district heating system to ensure ongoing efficiency and lower bills for residents.

2. Cabinet Member introduction

2.1 Since the health and safety issues at Broadwater Farm became known, the Council has taken decisive action to manage the risks and ensure the safety of residents. This includes the replacement of all gas cookers, estate wide door knocking and engagement, the fitting of gas interrupter valves and the decant of two blocks.

2.2 This report relates to the ongoing works to install a new modern District Heating system on the estate. Since the inception of the project, officers have identified a number of enhancements to the programme to improve outcomes for residents and the quality of the upgraded heating system. These are detailed under 6.7. This report seeks to extend the existing contract to allow for these additional works to be completed.

3. **Recommendations**

It is recommended that Cabinet:

3.1 Approves the variation of the District Heating contract with Engie LTD (formerly Keepmoat LTD) of an additional £5,531,172. More details of the variations required are set out in section 6.7 of this report.

3.2 Approves the additional consultancy fees of £180k as set out in paragraph 10.1 in this report.

3.3 Agrees not to seek to recharge leaseholders their proportion of the cost of these works

4 **Reasons for decision**

4.1 The nine medium rise blocks on Broadwater Farm (Croydon, Debden, Hawkinge, Hornchurch, Lympe, Manston, Martlesham, Rochford and Stapleford) have failed structural tests for Large Panel System buildings.

4.2 To mitigate the risks, Cabinet gave authority to enter into the contract with the contractor on 14 August 2018. The work set out in the original contract was established following structural surveys which identified that it was not safe to have individual gas supplies within each flat on Broadwater Farm.

4.3 The project was divided into two substantive elements. Firstly, the Council was required to remove all gas supplies from flats and replace them with a new heating system by the end of October 2018. This deadline was set by the statutory gas body, Cadent (who have statutory responsibility for the provision of gas supplies) and required the switch over of 725 flats from gas to district heating over a six week period (this deadline was met last year).

4.4 The second element of the scheme was to complete the site wide distribution of the new energy network and upgrade the energy centre, from which the new network would be powered. The current forecast date of completion for this element is November 2019.

4.5 Due to the time constraints, officers focussed on developing a detailed strategic design for the heating system in the absence of some survey data, such as survey data within flats and survey data of the other mechanical and electrical systems across the estate

4.6 Since the project has commenced, a number of technical opportunities and constraints have arisen which have allowed Homes for Haringey to amend its approach. These have led to the variations in 6.7. The variations mean that

Homes for Haringey will be delivering additional works for residents and reducing future disruption.

5. **Alternative options considered**

5.1 The option of undertaking this work under a separate contract was considered but was discounted on the basis that it would: -

- Prevent the technical completion of the existing agreed district heating contract. For example:
 - Fire stopping in flats is essential where compartmentation issues are identified
 - Renewal of floors where they have collapsed is essential to upgrade kitchens and bathrooms
 - Renewal of kitchens and bathrooms essential as re-piping of water pipes required removal of units. Due to condition some units are impossible to retrofit.
- Cost the council considerably more to deliver if separated out into different contracts. For example:
 - Returning to flats to complete kitchen and bathroom upgrades would require additional visits from contractors which would be an additional cost to the Council.
 - Similarly, returning to flats to upgrade water supplies to the bathrooms and separate WCs would require additional visits from contractors which would be an additional cost to the Council.
- Cause considerably more disruption to residents if delivered through a separate contract. For example:
 - Doing as much work inside people's flats at the same time reduces the number of visits required to people's flats and the amount of disruption each resident experiences. By upgrading all water supplies, kitchens, bathrooms and WCs where necessary, we reducing the number of times we are disrupting the residents.
 - Returning to flats to complete kitchen and bathroom upgrades would leave residents without essential services for an unacceptable period of time

6. **Background information**

6.1 In the summer of 2017, Homes for Haringey initiated structural surveys on the Broadwater Farm estate. The surveys were commenced following a letter from the MHCLG asking Local Authorities to check their records regarding large panel system buildings to ensure buildings passed the required standards.

6.2 Following a review of the archive data, the Council could not satisfy itself that the records it held were comprehensive, which led to the commissioning of structural engineers to provide up-to-date survey data for the 12 blocks on Broadwater Farm.

- 6.3 The first set of survey results were received in December 2017 and identified that some of the blocks did not meet building regulations. In particular, 10 of the blocks did not meet the standards necessary for large panel system buildings with individual gas supplies.
- 6.4 Guidance on Large Panel System buildings stipulates that where individual gas supplies are present, they must be able to withstand the explosive force caused by a gas explosion. 10 blocks failed this test, meaning that they were at risk of progressive collapse in the event of a gas explosion.
- 6.5 An option appraisal was carried out to determine the most appropriate solution and the consulting engineers concluded that a new district heating system was the most appropriate solution. A copy of the option study is available on the Homes for Haringey website.
- 6.6 Ahead of the district heating, the Council removed all gas cookers across the estate and replaced them with electric cookers, installed gas interrupter valves in flats to shut the gas off in the event of a leak, and undertook a significant programme of engagement and communications with residents. The Residents' Association were consulted throughout the process and officers continue to meet the Residents' Association every two weeks to discuss concerns and issues.
- 6.6 Since the District Heating contract was awarded in August 2018, all gas has been disconnected from the estate and all flats now receive heating and hot water via a centralised system.
- 6.7 Key proposed variations to the contract since it was let are as follows:
- **Inclusion of kitchen and bathroom upgrades:** The re-piping of cold water feeds for the energy network within flats required the removal of existing kitchen and bathroom units. A significant number of kitchens and bathrooms did not meet the Decent Homes standard and once removed, would have been impossible to retrofit. Replacing kitchens and bathrooms under a separate contract would have left residents without kitchen and/or bathroom services for an unacceptable period of time. Officers therefore recommend that kitchen and bathroom upgrades are included as part of the work where existing units cannot be retrofitted. Delivering the works as part of the heating scheme is more cost effective for the council and will lead to less disruption to our residents. The council has an existing programme of works to upgrade kitchens and bathrooms and this work is being funded through that pre-existing programme budget.
 - **Inclusion of full upgrade of cold-water systems:** The existing contract envisaged the re-piping of cold-water feeds to kitchens only. Further survey work identified that the remaining cold water systems for bathrooms and separate WCs was at the end of its life cycle. Therefore it is proposed to upgrade all cold water supplies across the estate. It is more cost effective for the Council to do the work together with existing cold water feed upgrades to kitchens, as it requires fewer visits from the

contractor, it is less disruptive to residents and it tackles persistent issues of leaking pipework on the estate.

- **Upgrade to the existing energy centre:** The original contract had an allowance for a Building Management System within the central Energy Centre. Working with the Council's Carbon Reduction team and their specialist advisors, WSP, Homes for Haringey has enhanced designs for Building Management System in the energy centre and technology that supports the ongoing running of an efficient system. The enhancements ensure the network is closely aligned with the Council's broader strategy of decentralised energy, will lead to lower energy bills for residents and will enhance our ability to identify potential fuel poverty on the estate.
- **Additional oil costs:** All heating and hot water is currently provided by temporary oil boilers, installed in advance of the connection to the new energy centre. Costs for the temporary boilers were included within the contract but oil costs were omitted in error and form part of the costs for the boilers. These are now included within the contract sum.
- **Fire stopping to flats:** Survey work on the kitchen and bathroom programme has identified some fire stopping required behind services and in ducts to ensure that compartmentation within flats is maintained. It was not possible to identify this work until the kitchens and bathrooms were removed in the relevant flat and as fire stopping is required by fire safety legislation, it is being completed as part of the contract. The current figure used for budgeting purposes is a provisional sum subject to further survey work.
- **New flooring in flats:** Detailed survey work identified a number of failing suspended floors in flats when cold water pipes have been replaced. When identified these are being upgraded as part of the programme.
- **Additional heating pipework:** Some additional pipework has been installed across the estate to allow the energy network to be extended to the Broadwater Lodge site in the future.
- **Various other minor additions:** Includes a number of additional smaller additions, including new secure doors on plant rooms, roofing upgrades to the energy centre, car park upgrades and protective bollards in car parks. All additions are proposed pursuant of completing the existing contract.

6.8 Because these elements were not included within the original contract, Cabinet is requested to approve the variation of the contract as per the Council's Contract Standing Orders.

6.9 The project is due to conclude in February 2020 following the connection of new water supplies, the upgrade to the estate's central boiler house, fire stopping works, kitchen and bathroom upgrades and the installation of metering equipment.

7. Leasehold Implications

- 7.1 As a result of applications made under the Right to Buy legislation, there are 116 leaseholders living in properties affected by the works, detailed in this report.
- 7.2 Under the terms of their lease, the lessee is required to make a contribution towards the costs of maintaining in good condition: The main structure, the common parts and common services of the building. These works would be covered by that contribution obligation. Such contributions are recovered by the freeholder (the Council) through the lessees' service charge account.
- 7.3 At its meeting on 14 August 2018 awarding the contract Cabinet decided that leaseholders should however not be recharged for the District Heating works, noting that unrecovered charges would be no greater than £2m.
- 7.4 The recommended variation to the contract will not lead to unrecovered charges to leaseholder increasing beyond £2m.

8 Contribution to strategic outcomes

- 8.1 The works are being carried out in line with the Borough Plan Outcome three, which states: We will work together to drive up the quality of housing for everyone: Deliver the Capital Programme

9. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 9.1 This report seeks approval for the additional works amounting to £5,531,172 and additional consultancy fees of £180K. This brings the total cost of the scheme to £18,720,435.
- 9.2 Cabinet approved a £13m budget for Broad water farm heating scheme in August 2018 and approved a direct contract award to Engie of 12.6m.
- 9.3 This variation represents a 44% increase in the original sum (£12.6m) approved by Cabinet in August 2018.
- 9.4 The total variation sum will be funded from the Broadwater Farm District Heating budget within the 2019/20 Housing Capital programme; currently forecasting an underspend.
- 9.5 Phasing of estimated expenditure is set out below:

Financial Year	Building Works	Consultancy Fees	Total
2017/2018	£0	£65,000	£65,000
2018/2019	£10,456,853	£255,108	£10,711,427

2019/2020	£7,674,853	£269,433	£7,944,008
Totals	£18,131,172	£589,263	£18,720,435

- 9.6 It is estimated that potential recharges to leaseholders for these works will not be in excess of £2m, which will represent lost income if leaseholders are not recharged for these works.

Strategic Procurement (SP)

- 9.7 Strategic Procurement (SP) notes the 2018 Cabinet Approval of £12,600,000 for the BFW District Heating Contract.
- 9.8 SP notes the request for a variation of £5,531.172 to the contract to Engie Limited for additional Works for the District Heating Contract and the agreed final account sum of £18,131,172, including contingency.
- 9.9 SP acknowledges recommendation 3.1 of the report for the Cabinet to approve a contract variation to Engie Limited for the key variations summarised in section 6.7 of the report.
- 9.10 SP also notes the request for additional consultancy fees of £180k as set out in paragraph 8.2 within this report.
- 9.11 SP has no objections to recommendations 3.1 and 3.2 of the report subject to CSO 10.02.1 Variations and Extensions, pursuant to PCR Regulation 72(1) (b) (ii) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement , where change of the contractor would cause significant inconvenience or substantial duplication of costs to for the contracting authority (The Council), provided that the increase in price does not exceed 50% of the value of the original contract.
- 9.12 SP has no objections under CSO 10.02.1(b) Variation and Extension to the above variation request to extend the contract value by £5,531.172 which is an increase of 44% of the original contract sum.

Legal

- 9.13 The Assistant Director for Corporate Governance has been consulted in the preparation of this report.
- 9.14 It is open to the Council in the circumstances outlined in this report and that considered by Cabinet on 14 August 2018 not to seek to enforce leaseholders' obligations to pay charges under the terms of the lease.
- 9.15 Regulation 72(1)(b)(ii) of the Public Contracts Regulations 2015 allows the Council to vary a contract on the ground that additional works, services or supplies which were not included in the initial procurement have become necessary and a change of the contractor would cause significant inconvenience or substantial duplication of costs to for the Council, provided that the increase in price does not exceed 50% of the value of the original contract. Paragraph 5.1 of this report demonstrated that a change in contractor would not only have resulted in significant inconveniences but would have

resulted in considerable additional cost to the Council. Additionally, the additional cost of £5,531,172 is less than 50% of the original contract price.

9.16 Pursuant to the Council's Contract Standing Order 10.02.1(b), Cabinet may approve the variation of a contract if the value of the contract is £500,000 or more.

9.17 The Assistant Director of Corporate Governance sees no legal reasons preventing the approval of the recommendations in the report.

Equality

9.18 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.

9.19 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 applies to the first part of the duty.

9.20 The report is to approve costs associated with works on the Broadwater Farm estate, noted at para. 6.7. Those most affected by the decision will be Homes for Haringey tenants, among whom BAME communities, women, and those with long-term health conditions and/or disabilities are overrepresented relative to the population of Haringey. Tenants can expect to benefit from upgrades and measures to improve safety.

10 Use of Appendices

10.1 None

11 Local Government (Access to Information) Act 1985

11.1 The background papers relating to this report are:

11.2 Cabinet meeting August 2018 – award of contract

<https://www.minutes.haringey.gov.uk/documents/g8908/Public%20reports%20ack%2014th-Aug-2018%2018.30%20Cabinet.pdf?T=10>

11.3 Options appraisal on solutions (see 6.5)

https://www.homesforharingey.org/sites/default/files/broadwater_farm_heating_and_hot_water_options_appraisal.pdf

11.4 Structural reports on blocks

<https://www.homesforharingey.org/your-neighbourhood/safety-estates/broadwater-farm/broadwater-farm-reports-june-2018>