



Decision of Cabinet Member for Schools, Employment and Skills

Report from the Strategic Director of Regeneration & Environment

AUTHORITY TO VARY THE CONTRACT WITH COSMUR (CONSTRUCTION) LTD AS THE DESIGN AND BUILD CONTRACTOR FOR UXENDON MANOR PRIMARY SCHOOL EXPANSION PROJECT IN ACCORDANCE WITH PARAGRAPH 13 OF PART 3 OF THE CONSTITUTION

Wards Affected:	Kenton
Key or Non-Key Decision:	Non-Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix A is exempt as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	One Appendix A (exempt) Contract Variation details
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Jas Yembra, Capital Project Manager, Property & Assets Jas.yembra@brent.gov.uk 020 8937 2379

1.0 Purpose of the Report

- 1.1 This report concerns the Uxendon Manor Primary School Expansion Project. This report requests individual Cabinet Member approval to vary the contract with Cosmur (Construction) Ltd as the Design and Build Contractor for Uxendon Manor Primary School Expansion in accordance with paragraph 13 of Part 3 of the Constitution.

2.0 Recommendation(s)

- 2.1 That the Cabinet Member for Schools, Employment and Skills, having consulted with the Leader:
- 2.2 Agrees to vary the contract with Cosmur (Construction) Ltd as the Design and Build Contractor for Uxendon Manor Primary School in accordance with paragraph 13 of Part 3 of the Constitution.

3.0 Detail

- 3.1 In February 2020, Cabinet approved a virement of £6m to increase the project budget in order to meet the expected costs to complete the expansion project at Uxendon Manor Primary School following the collapse of the previous contractor, Lakehouse Contracts Ltd.
- 3.2 In April 2020, a Design and Build contract was awarded to Cosmur Construction (London) Ltd under an Officer Key Decision approved by the Operational Director, Property & Assets as detailed in Appendix A.
- 3.3 Cosmur Construction (London) Ltd took possession of the site on 11 May 2020. Since this time, the contracted scope of works has increased in order to address quality issues with the building from the works completed by Lakehouse Contracts Ltd. as well as weather related deterioration.
- 3.4 The additional works were identified to ensure the buildings are safe, compliant and appropriate for the school to utilise. The contracted scope of works has increased in order to address quality issues with the building from the works completed by Lakehouse Contracts Ltd as well as weather related deterioration. Examples in the teaching block include removal and replacement of ceilings on the ground and first floors, additional fire barriers, electrical testing and associated remedial works. Examples in the hall include ceiling removal and replacement, works to the link roof, screed replacement with associated works to the stage. Examples of external works include the installation of a temporary haul road to resequence on site removal of temporary classrooms blocks, additional drainage and landscaping works.
- 3.5 Whilst the works continue to progress on site, the Council's Cost Consultants continue to review costs, prior to the Council approving the changes. Due to the nature of this project, the project has experienced multiple changes to the contract value. These variations are detailed in Appendix A.
- 3.6 The contractor has completed the majority of the works on site and the teaching block and main hall have been handed back to the school for use. There are some additional works in the main hall link area outstanding and approximately 15% of the landscaping works outstanding which is scheduled to complete in October 2021.
- 3.7 As the contract is approaching its end, negotiations between the Council's and the Contractor's Cost Consultants are ongoing to close out the final cost for all

the variations and agree the final account. Officers are requesting approval to vary the contract in order to release payments for works completed to date.

- 3.8 In accordance with paragraph 13 of Part 3 of the Constitution, the Cabinet Member has been delegated authority to make this decision in consultation with the Leader. The individual Cabinet Member is asked to give their approval to these proposals as set out in the recommendations and in accordance with the Constitution.

4.0 Financial Implications

- 4.1 The contract award value is as detailed in paragraph 4.1 of Appendix A.
- 4.2 Cost report 15 submitted by the Council's Quantity Surveyor anticipates the cost of the works to be as detailed in paragraph 4.2, Appendix A. However, the Contractor has offered to settle the final account at the value detailed in paragraph 4.2, Appendix A which is currently under consideration.
- 4.3 This report outlines the cost of new variations agree to date agreed by the Council's Cost Consultants and approved by the Council and requests approval to increase the contract value accordingly.
- 4.4 The total cost of additional variations and claims issued by the Contractor as detailed in paragraph 4.4, Appendix A. Negotiations between the Council's and the Contractor's Cost Consultants have not yet concluded to close out the final cost for these variations and the claims. However, the Contractor has completed the majority of the works on site. The teaching block was handed back to the School in 22nd March 2021 with some minor outstanding snagging and has been operational since March 2021. The hall was handed back to the School on 24th September 2021 and the School has started to use this space. There are some additional works in the main hall link area outstanding and approximately 15% of the landscaping works outstanding.
- 4.5 The total cost of the additional variations and claims is detailed in paragraph 4.5, Appendix A and this report requests approval to increase the contract value as detailed in paragraph 4.5 which represents 25% of the above additional variations under review by the Council Cost Consultants to ensure there is sufficient funds on the purchase order to permit payment in line with our contractual obligations.
- 4.6 In summary, this report requests approval to increase the contract sum as detailed in paragraph 4.3 and 4.5 above by the total value detailed in paragraph 4.6, Appendix A.
- 4.7 This increases the contract sum which increases the contract value as detailed in paragraph 4.7, Appendix A.

5.0 Legal Implications

- 5.1 Under Paragraph 9.5(3)(b)(f) of Part 3 of the Constitution, variation of contracts may be agreed without the need for Cabinet approval, provided that the variation would not be in breach of the Procurement Regulations; does not substantially alter the terms and conditions of the contract; there is sufficient existing budgetary provision and provided that in the case of any variation, the total value of the variation is less than £1m; and if the total value of the variation is more than £50k it is not more than 50% of the original contract value. The relevant Cabinet Member shall be consulted prior to a decision and may request that the decision instead be referred to them.
- 5.2 Clause 29.2 of the contract provides that the Council may from time to time require the addition of new Services, or increasing or decreasing the Services or specifying the order in which the Services are to be performed for any reasons whatsoever and such a change may also result in the contract price variation and as already mentioned the contract is not subject to the requirements of the Procurement Regulations. The contract will continue on the same terms and conditions.
- 5.3 The increase in the contract price will be more than 50% of the original contract value. Paragraph 13 of Part 3 of the Constitution also provides that Individual Cabinet Members have delegated to them, authority to agree variation of contract where the total value of the variation is more than 50% of the original contract value. It is considered that the Individual Cabinet Member for Education, Employment and Skills, has the authority to approve the variation of the Council's contract with Cosmur (Construction) Ltd as the Design and Build Contractor for Uxendon Manor Primary School.

6.0 Equality Implications

- 6.1 Members are referred to the Equalities Impact Assessment from previous Cabinet reports as outlined below
- Uxendon Manor Primary School
 - Cabinet Meeting Date: 24th August 2015
 - Item 5
 - Appendix 4
- 6.2 The proposals in this report have been subject to screening and officers believe that there are no equality implications.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Ward Members are kept up to date with the progress on the project.

8.0 Human Resources/Property Implications (if appropriate)

- 8.1 Should this recommendation not be approved there is a risk that this project may not complete in line with the current programme and the School will not have access to the hall and external areas.

Related Document:

Uxendon Manor Primary School Expansion Project 2020 Cabinet Paper, Item 9
<https://democracy.brent.gov.uk/ieListDocuments.aspx?CIId=455&MIId=5363&Ver=4>

Report sign off:

Alan Lunt
Strategic Director of Regeneration & Environment