

| | |
|--|---|
|  | Decision of Cabinet Member for Finance and Resources |
| | Report from the Director Property & Assets |
| | Deputy Leader and Cabinet Member for Finance and Resources |
| Authority to Vary the Pre-Construction Services Agreement for 381-397 Edgware Road, London, NW9 | |

| | |
|---|--|
| Wards Affected: | Kingsbury |
| 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 1 is exempt as it contains 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)" |
| List of Appendices: | Appendix 1 - EXEMPT |
| Background Papers: | None |
| Contact Officer(s): <small>(Name, Title, Contact Details)</small> | Name: Alan Fernandes Job Title: Project Manager Email: alan.fernandes@brent.gov.uk |

1.0 Executive Summary

- 1.1. This report requests individual Cabinet Member approval to vary a Pre-Construction Services Agreement (PCSA) in respect of works at 381-397 Edgware Road, Colindale, London NW9 with Higgins Partnerships 1961 PLC (Higgins) in accordance with paragraph 13 of Part 3 of the Constitution. The report summarises the reasons for the request to vary.

2.0 Recommendation(s)

That the Cabinet Member for Finance and Resources, having consulted with the Leader:

- 2.1 Approves the variation of the contract for a Pre-Construction Services Agreement (PCSA) in respect of works at 381-397 Edgware Road, Colindale, London NW9 with Higgins at a value of £144,069.00 in accordance with paragraph 13 of Part 3 of the Constitution.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 The proposal in this report which relates to the redevelopment of 381-397 Edgware Road, Colindale, London NW9 aligns with the Borough Plan 2023 - 2027 priority, 'Prosperity and Stability in Brent' in that it leads to delivery of new Council homes including affordable homes within the Borough. It will improve the quality of housing in Brent and result in providing safe, secure and decent housing for the community.

3.2 Background

3.2.1 In July 2021, 381-397 Edgware Road, Colindale, NW9 6NJ received planning permission to deliver 110 homes and commercial (retail) space. In March 2022, Cabinet approved the freehold acquisition of this site with the existing planning permission.

3.2.2 Following a mini competition under the Notting Hill Genesis Contractor's framework, the Council entered into a Pre-Construction Services Agreement with Higgins Partnerships 1961 PLC for a contract price of £402,381.00 on 30/03/2023. Since the PCSA was entered into, it has had the following variations/cost uplifts:

- April 2024: Variation of £199,188.49 to enable RIBA Stage 1 and Stage 2 scheme redesign for incorporating a third lift to meet London Fire Brigade's fire safety requirements, utilities disconnections and site security costs.
- May 2024: Variation of £97,881.00 to allow for additional design work including options for additional height and investigating the potential for increasing the number of affordable homes.
- June 2024: Variation of £489,097.18 to allow consultant fees, reports for planning submission, security, utility diversion and contractor preliminaries to enable a detailed/full redesign.

3.2.3 The £144,069.00 variation that is being sought under this report will enable a further report for planning, security costs, utility diversion costs, and contractor preliminaries to be prepared. As Higgins has worked closely with Brent Planning, statutory consultees such as the London Fire Bridge, and have detailed knowledge of the project, it is more efficient and effective for this design work to be undertaken them and that requires variation of the current PCSA. Appendix 1 provides a full breakdown of the services that are to be provided by Higgins.

3.2.4 The necessity of this variation is driven by the need to accommodate additional design services for a Section 73 planning application, which involves increasing the height of the building and reconfiguring each floor to accommodate a second stair-core and a third lift. Additional costs are included for the disconnection and diversion of utilities, and security costs.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 Opportunities for consultation were made available with local ward members and other stakeholders throughout the planning process.
- 4.2 Local ward members have been consulted in relation to the Section 73 application, with details of the proposals provided, and an invitation to discuss in detail.

5.0 Financial Considerations

- 5.1 The recommendation outlined in this report pertains to the approval of a contract variation for pre-construction services for the Edgware Road project under the New Council Homes Programme. The original contract value was £402,381.00. This was first varied by £199,188.49, followed by a second variation of £97,881.00, and a third variation of £489,097.18. The proposed contract variation of £144,069.00 will bring the revised total contract value to £1,332,616.67.
- 5.2 The additional cost of £144,069.00 will be managed within the existing programme budget. However, the budget for 2024/25 is currently overspent. While the proposed contract variation is within the current programme budget framework and aligns with the strategic goals of the New Council Homes Programme, the increased borrowing and development costs for the scheme, and uncertainty around funding present ongoing viability challenges.

6.0 Legal Considerations

- 6.1 Officers recommend the variation of the Contract as set out in this report.
- 6.2 The value of the original contract is such that it is subject to the application of the Public Contract Regulation 2015 (PCR 2015).
- 6.3 The contract contains express provision allowing for the variation as recommended and is permitted in accordance with the PCR 2015.
- 6.4 Under section 3(b) of the table at paragraph 9.5 (and 9.7) of Part 3 of the Constitution, Corporate Directors (and Directors) may only vary contracts and agreements provided that:
 - (a) The extension, variation, renegotiation, novation or assignment would not be in breach of the Procurement Legislation.
 - (b) The extension, variation, renegotiation, novation or assignment does not substantially alter the terms and conditions of the contract.
 - (c) there is sufficient existing budgetary provision.
 - (d) provided that in the case of any variation (other than an extension):

- (i) the total value of the variation is less than £1m; and
- (ii) if the total value of the variation (and any previous variations agreed under this provision) is more than £50k it is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).

(e) The relevant cabinet member shall be consulted prior to a decision within (d) (i) or (ii) above and may request that the decision instead be referred to them.

6.5 For the reasons detailed in paragraph 5.4(d)(ii) the Corporate Director and Director do not have delegated powers to agree the variation but pursuant to paragraph 13 of Part 3 of the Constitution, the Cabinet Member for Finance and Resources, having consulted with the Leader has delegated powers to agree contract extension, variation or termination where the decision is excluded from officer delegated powers because:

(a) in the case of any variation (other than an extension):

- (i) the total value of the variation is £1 million or more; and
- (ii) the total value of the variation is more than £50k and is more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract)

6.6 As the contract variation is above 50%, subject to consultation with the Leader, the Cabinet Member for Finance & Resources, has delegated powers to agree the proposed variation.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

7.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 7.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 7.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.
- 7.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

8.0 Climate Change and Environmental Considerations

- 8.1 The proposed development has been assessed under Part L 2021 of the Building Regulations. The energy strategy has been developed in line with the London Borough of Brent Local Plan 2019-2041 (February 2022), the London Plan 2021 (March 2021) and associated GLA Energy Assessment Guidance (June 2022).
- 8.2 The proposed development will be an all-electric non-combustion development, with onsite energy generation.

9.0 Human Resources/Property Considerations (if appropriate)

- 9.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from the variation of the Contract.

10.0 Communication Considerations

- 10.1 Communication strategies have been considered and have included public and stakeholder engagement prior to planning application submissions, and will continue during construction and at key milestones.

Report sign off:

Tanveer Ghani

Director, Property and Assets