

	Decision of Cabinet Member for Regeneration, Planning & Property
	Report from the Corporate Director of Neighbourhoods and Regeneration
	Lead Member – Cabinet Member for Regeneration, Planning & Property (Councillor Teo Benea)
AUTHORITY TO VARY THE CONTRACT WITH HILL PARTNERSHIPS LTD FOR THE WATLING GARDENS DESIGN AND BUILD CONTRACT	
Wards Affected:	Cricklewood & Mapesbury
Key or Non-Key Decision:	Key
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 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 A – Detailed Variation costings
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Jas Yembra Senior Capital Project Manager, Property & Assets 020 8937 2379 Jas.yembra@brent.gov.uk

1.0 Executive Summary

- 1.1. This report outlines the contract variation for the Design & Build (D&B) Contract with Hill Partnerships Ltd (contractor) to deliver the Watling Gardens project and seeks individual Cabinet Member approval to vary the contract with Hill Partnerships Ltd in accordance with paragraph 13 of Part 3 of the Constitution.

2.0 Recommendation(s)

That the Cabinet Member for Regeneration, Planning and Property, having consulted with the Leader:

- 2.1 Agrees the variation of the Design & Build contract with Hill Partnerships Limited for the delivery of the Watling Gardens project as set out in paragraph 3.2 of this report.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

- 3.1.1 The Watling Gardens project delivers 125 new council homes including 45 single person supported living homes and forms part of the New Council Homes Programme which is targeting the delivery of 1,700 new homes by 2028.

3.2 Background

- 3.2.1 Watling Gardens was identified as a site for 125 new Council homes including 45 single person supported living homes and was presented to and approved by Cabinet in June 2021. This scheme forms part of the New Council Homes Programme and overall target to deliver 1,700 by 2028.
- 3.2.2 In June 2022, Cabinet approved the D&B contract award to Hill Partnerships Ltd for the delivery of this scheme and works started on site in November 2022 at a fixed price of £39,015,634.
- 3.2.3 In December 2022, a report was approved by the then Cabinet Member of Residents Services to increase the budget from by £2,964,971 to £41,980,605 to reflect the increased costs within the construction industry.
- 3.2.4 The Council entered into a D&B contract for the delivery of the Watling Gardens project with Hill Partnerships Limited ('the Contractor') dated 8th November 2022 ('the Contract') which was before major aspects of the Building Safety Act 2022 became effective.
- 3.2.5 Officers consider that the Contract needs to be varied to enable the Council to comply with additional requirements arising from the Building Safety Act 2022 and have therefore entered discussions with the Contractor to vary the Contract. The Act specifically require a redesign of the scheme to ensure sufficient means of escape in the event of a fire. The cost of the re-design and the associated second staircase core stands at a value of £1,955,983 as detailed in Appendix A
- 3.2.6 Additional variations as detailed in Appendix A relating to a range of additional works, for example, internal doors, asbestos removal and utilities connections at a value of £848,630. These variations relate to costs that did not form part of the original works contract with Hill.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 The Council completed stakeholder engagement ahead of submitting the planning application and as part of the planning application process.
- 4.2 The Council has continued to deliver quarterly residents panel meetings and as and when required ward member briefings.

5.0 Financial Considerations

- 5.1 The original contract value was £39,015,634, this was increased to £41,980,605 as approved by the Cabinet Member of Residents Services in December 2022.
- 5.2 The cost of the redesign for Block B is £1,955,982.67, and the additional works listed in 3.2.6 is £848,630.
- 5.3 The total value of this variation is £2,804,612.27 increasing the contract value to £44,785,217.27.
- 5.4 This represents a total contract sum increase of £5,769,583.27 or a 14.79% increase.
- 5.3 The total approved project budget is £52.3m, to date the Council has spent £45m and the forecasted project spend is £52.3m. The increase in contract value has been contained within the contingency element of the project budget.

6.0 Legal Considerations

- 6.1 Officers recommend the variation of the Contract as set out in paragraphs 3.2.
- 6.2 The Contract was procured under the Public Contracts Regulations 2015 ('PCR'/'Procurement Legislation'), through Network Homes Framework established by Network Homes (now Sovereign Network Group (SNG)) and in collaboration with Network Homes. Officers sought and obtained relevant approvals as required under the Council's Constitution for the use of the Framework, the procurement and award of the Contract.
- 6.3 Under section 3(b) of the table at paragraphs 9.5 and 9.7 of Part 3 of the Constitution, Chief Officers are able to vary contracts and agreements without the need for Cabinet approval provided that variation would not be in breach of Procurement Legislation, does not substantially alter the terms and conditions of the contract, there is sufficient existing budgetary provision for the variation, the total value of the variation is less than £1m and 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 and where the value is above £1m or more than 50% of the original contract value, the decision is to be referred to the relevant Cabinet Member in accordance with paragraph 13 of Part 3 of the Constitution.
- 6.4 The Contract does not contain express provision allowing for the variation recommended, although it does contain provision permitting variations of the Contract generally. A contract may only be modified without a new procurement procedure where this is done in accordance with Regulation 72 of the PCR 2015. Regulation 72 sets out various circumstances in which it is possible to vary a contract. Regulation 72(1)(b) provides that contracts may be modified to allow additional works by original contractor that has become necessary and were not included in the initial procurement, where a change of contractor

cannot be made for technical reasons or would cause significant inconvenience or substantial duplication of costs, provided that any increase in the price is not more than 50% of the original contract value. Regulation 72(3) requires that a notice of the modification/variation under regulation 72(1)(b) be published in accordance with regulation 51.

6.5. The works resulting from the variation will be undertaken on the same terms and conditions of the original Contract, so the terms and conditions will not be substantially altered. Officers confirmed in paragraph 5.3 that there is sufficient budgetary provision for the variation.

6.6 As the total value of the variation is above £1m, the approval of the Cabinet Member is required to vary the Contract in accordance with paragraph 13 of Part 3 of the Constitution and on that basis, it is considered that the Cabinet Member for Regeneration, Planning and Property, following consultation with the Leader of the Council has delegated powers to approve the proposed variation of the Contract.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 As detailed in the Cabinet Report in June 2022, the proposals in this report have been subject to screening and officers believe that there are no equality implications.

8.0 Climate Change and Environmental Considerations

8.1 As detailed in the Cabinet Report in June 2022, the revised design does not negatively impact the climate change and environmental objectives submitted during the original planning application.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 As detailed in the Cabinet Report in June 2022.

10.0 Communication Considerations

10.1 As detailed in the Cabinet Report in June 2022

Report sign off:

Alice Lester

Corporate Director of Neighbourhoods and
Regeneration