

	Decision of Cabinet Member for Regeneration & Planning
	Report from the Corporate Director of Neighbourhoods and Regeneration
AUTHORITY TO VARY THE CONTRACT WITH WATES RESIDENTIAL CONSTRUCTION LTD FOR THE CHURCH END REDEVELOPMENT JCT (DESIGN AND BUILD) CONTRACT	
Wards Affected:	Roundwood
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 – employer’s instruction (exempt)
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Ade Adeyeloja Capital Project Manager – Strategic Projects, Property & Assets. ade.adeyeloja@brent.gov.uk

1.0 Executive Summary

- 1.1. This report outlines the contract variation for the Design & Build (D&B) Contract with Wates Residential Construction Ltd to deliver the Church End Redevelopment Project. This report requests individual Cabinet Member approval to vary the contract with Wates Residential Construction Ltd in accordance with paragraph 13 of Part 3 of the Constitution.

2.0 Recommendation(s)

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

- 2.1 Agrees the variation of the Design & Build contract with Wates Residential Construction Ltd for the delivery of the Church End Redevelopment 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 Church End Redevelopment Project delivers on Strategic Priority 1 (Prosperity and Stability in Brent) of the Council's Borough Plan in that it will provide Desired Outcomes 2 and 3 of 'Safe, Secure and Decent Housing' and 'Brent for Business' as it will deliver ninety-nine new council homes including 5 Commercial units. The scheme forms part of the New Council Homes Programme which is targeting the delivery of 1,700 new homes by 2028.
<https://www.brent.gov.uk/the-council-and-democracy/strategies-priorities-and-policies>

3.2 Background

- 3.2.1 In February 2017, planning permission reference 13/1098 was granted for thirty-four affordable homes, ground floor non-residential use space, a new market square to replace Eric Road and a stopping up of Eric Road. In May 2017, planning permission (ref 13/2213) was granted for sixty-five affordable homes, seven car park spaces and 298 sqm of retain use space.
- 3.2.2 The Church End development consists of two blocks, North Block and South Block. The North Block comprises up to six storeys (ground floor plus five storeys), containing sixty-five residential units, and the South Block comprises up to five storeys (ground floor plus four storeys), containing thirty-four residential units. North and South blocks consist mostly of residential accommodation, but both also have retail areas. The North Block has three retail units located at the southernmost end of its ground floor level. The South Block has two retail units; both located at the northernmost end of the ground floor level. All upper levels and the rest of the ground floor levels consist of residential accommodation and residential ancillary areas. Additionally, the South Block contains a 3-storey house, which is accessed directly from outside.
- 3.2.3 The Church End scheme was identified as a site for 99 London Affordable Rent New Build Council homes plus five commercial leasehold outlets which were presented to and approved by Cabinet in February 2024. This scheme forms part of the New Council Homes Programme and overall target to deliver 1,700 by 2028.
- 3.2.4 On 21st February 2024, Cabinet approved the D&B contract award to Wates Residential Construction Ltd for the delivery of this scheme and works started on site at a fixed price of £41,875,000.
- 3.2.5 Since the commencement of the contract, cost have gone up due to additional variation instructions necessary to reinstate cost items omitted through the

value engineering exercise at the pre-contract stage, increase in Section 278 works specification along Eric Road, in the non-adopted areas plus the extension of time - associated loss and expense settlement, following commercial discussions between the Council and the contractor. In accordance with the Employer's obligations, 'an extension of time was granted due the time elapsed to agree and execute the Substation lease agreement. Appendix A shows in detail the additional Contract Change Variations at the sum of £1,671,194.92. Silver Limited, the appointed Employers Agents, and Cost Consultants provided independent verification of these costs.

3.2.6 The revised anticipated Final Account sum recommended for approval is at the sum of £43,546,194.92. This represents an increase of 3.99%.

3.2.7 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Chief Officers have delegated authority to 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.

3.2.8 There will be no changes to the contract terms and conditions and as mentioned in paragraph 5 below, there is sufficient existing budgetary provision. As mentioned in paragraph 3.2.5 there has been a range of additional Contract Change Variation Instructions as it is allowed under the contract. The value of the variation is less than 50% of the original contract value but it is above £1m, hence the referral to the Cabinet Member for Regeneration and Planning.

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 £41,875,000 plus VAT. The total value of this variation is £1,671,194.92 increasing the contract value to £43,546,194.92. This is an increase of 3.99%.
- 5.2 The total capital budget for the Church End Regeneration is £56,200,000. As at the 31st of March 2026, total spend against the budget was £51,830,034. This means there is £4,369,966 remaining for 2026/27 so there is sufficient budgetary provision to cover the costs of the variation. The budget is financed by a variety of sources including GLA grant and prudential borrowing.
- 5.3 The cost of the contract variation has been verified by independent cost consultants and officers are satisfied that it represents value for money. The additional costs will however worsen the viability of the scheme, which already has a negative net present value meaning the Council will not fully recover the costs of the scheme through rents over the next forty years.
- 5.4 Officers have reviewed the cause of the variation and the costs set out in Appendix A. They consider that they are all valid capital costs because they are necessary to complete the construction of new housing and other assets delivered as part of the regeneration.
- 5.5 The VAT is recoverable under the Council's normal VAT procedures. Following external VAT advice, the Council has opted to tax the commercial units to prevent the spend impacting the Council's partial exemption position.

6.0 Legal Considerations

- 6.1 Officers recommend the variation of the Contract as set out in this report. The Contract was procured through a framework that was established in compliant with the Public Contracts Regulations 2015 ('the PCR 2015'). The variation is subject to the requirements of the PCR 2015 and the Council's Contracts Standing Orders.
- 6.2 As mentioned in paragraph 3.2.7 above, Chief Officers are able to vary contracts and agreements without the need for Cabinet approval under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, provided the conditions set out therein are met. Officers confirm that the value of the variation is above £1m but there is sufficient existing budgetary provision; the Contract allows variations by way of 'Change' Instructions, and the terms and conditions will not be substantially altered.
- 6.3 Regulation 72 of the PCR 2015 allows modification of contracts without commencing a new procurement in the circumstances set out therein and the variation recommended under this report is in line with regulation 72(5) of the PCR 2015. Under paragraph 13 of Part 3 of the Constitution, Cabinet Members,

in consultation with the Leader, have delegated to them authority to approve variation of contracts where the value of the variation is £1m or more and more than £50k and is more than 50% of the original contract value. As the total value of the variation is above £1m, pursuant to paragraph 13 of Part 3 of the Constitution, it is considered that the Cabinet Member for Regeneration and Planning, 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 February 2024, 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 February 2024, 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 None.

10.0 Communication Considerations

10.1 Upon agreement of this variation, officers will engage with stakeholders to update on the contract's progress and expected completion date.

Report sign off:

Jehan Weerasinghe

Corporate Director, Neighbourhoods and Regeneration