

London Borough of Enfield

## Delegated Authority Report

Portfolio Decision Of  
Cabinet Member for Children's Services

---

**Subject:** Fern House School – Award of Contract for the re-build of the 'life expired' school building

**Cabinet member:** Councillor Mahtab Uddin, Cabinet Member for Children's Services

**Executive Director:** Tony Theodoulou. Executive Director – People

**Key Decision:** **KD 5218**

---

### Purpose of Report

1. This report seeks approval to award a contract from the Construction Framework for the re-build of the old School formerly known as Aylands School to "Contractor A" as detailed in the Restricted Appendix A of this report) for the construction works comprising a new 9 classroom double storey building to include staffroom, main hall, kitchen, siteworks and all ancillary facilities associated with a modern new build school.
2. To note details of the total project expenditure relating to the works, professional and technical fees, project contingency and loose furniture and equipment as noted in the Restricted Appendix A of this report and to approve the addition of £1,083,000 to the Capital Programme.

### Proposal(s)

That the Cabinet Member for Children's Services:

3. Approves award of the construction Contract to 'Contractor A' as detailed in restricted Appendix A for the re-build of the old school formerly known as Aylands School.
4. Notes details of the total project expenditure relating to the works, fees, loose furniture and ICT contributions as detailed in Restricted Appendix A to this report.
5. Approves the addition of £1,083,000 to the Capital programme KD5276 and notes the proposed new budget of £10,983,000 which will be managed within the School Capital Allocation fund.

6. To note that the Cabinet meeting in November 2019 (KD 4594) gave its approval to deliver the programme to provide the SEN spaces and delegated a portfolio decision to the Cabinet Member for Children's Services in relation to the approval of tenders for any proposals exceeding £500,000 in value including professional and technical expenses.

### **Reason for Proposal(s)**

7. This scheme proposal is to replace the life expired clasp buildings at Fern House School (formerly Aylands School) which have since been demolished to be replaced with a modern fit for purpose school.
8. The new school will provide for much needed SEND places and with the provision of nine classrooms that will be able to accommodate up to 72 pupils.
9. The design has been future proofed to enable the accommodation to be reorganised should room requirements and use change.

### **Relevance to the Council's Plan**

#### **Sustain strong and healthy communities**

The Borough needs to ensure appropriate infrastructure is in place to allow for the growth of the population. This project will assist in the delivery of construction related activity within the borough and its associated employment and economic benefits

#### **Build our local economy to create a thriving place**

The provision of good quality schools and buildings helps to ensure a stable strong community.

#### **Good homes in well-connected neighbourhoods**

This programme will assist the Council to deliver its construction related projects and programmes which in turn help support the delivery of education services to the benefit of the community.

### **Background**

10. KD 5249 was approved in January 2021 to enter into a Multi Contractor Framework Agreement with up to 3 contractors for the design and construction of Fern House School as identified in Appendix A to this report.
11. KD 5249 granted approval to enter into the Pre Contract Services Agreement (PCSA) to 'Contractor 'A' as identified in Appendix A to this report. Total project budget approved in KD 5249 was £9,900,000 and as stated in point

5 above the total project budget is now reported at £10,983,000, an additional funding requirement of £1,083,000.

12. During the PCSA stage the subject 'Contractor A' has been engaged to implement value engineering (VE) savings. The expectation was to achieve VE savings in the region of £400k (including £212k for the fire sprinkler system). The actual savings achieved are £92k and do not include for the omission of the sprinkler system as discussed below.
13. A new London Planning Document issued March 2021 states the requirement to install a sprinkler system for the proposed type of school building. A specialist fire engineer is currently preparing a report for Building Control that will support the omission of the Sprinkler system and until such time as a decision is forthcoming (expected October 2021) the Sprinkler costs have been included in these costs. This is a primary reason for the large discrepancy in actual achieved VE savings.
14. The Building Contract Sum is summarised at Appendix A attached hereto and is to be considered an agreed maximum contract sum.
15. The Contractor has satisfactorily progressed the design and cost elements to proceed to the construction stage. The framework requirements to proceed to contract award are included in accordance with clause 2.7 of the JCT Pre-Construction Services Agreement (PCSA). The contractor has diligently progressed the PCSA Compliance Statement works in accordance with this contract. The next stage is to issue the "Notice to Proceed" with work under the Construction Phase of the Project (as such terms are defined in the Pre-Construction Services Agreement)
16. All the insurance requirements and documents will be requested as evidence of compliance prior to entering into a contract. A bond will be required for the subject contract award at 10% of the contract value.

### **Main Considerations for the Council**

17. It is the Council's statutory duty to provide SEN spaces and reduce high cost of out of Borough provision. A maximum of 72 pupils can be accommodated at the new school and on the assumption 16 additional pupils could be educated at the proposed new Fern House school this would equate to an annual saving to the LA of circa £480k per annum (£3.36m over a 7-year period) for out of borough education costs.

### **Safeguarding Implications**

18. As this is a new build project there are no safeguarding implications. The proposed capital works on the cleared site will be undertaken in full accordance with Health and Safety and CDM regulations.

## **Public Health Implications**

- 19.** The provision of good quality schools helps to ensure a stable, strong community. All contractors and visitors to the building site will be advised of arrangements and restrictions relating to the current covid-19 pandemic and will adhere to any specific requirements made by the contractor and Officers.

## **Equalities Impact of the Proposal**

- 20.** The provision of local schools across the borough ensures equality of rights to good education provision. Head of Service has agreed that there are no impacts and a EQiA is not required for this subject report.

## **Environmental and Climate Change Considerations**

- 21.** Materials have been selected with due regard to their suitability, for purpose and performance, durability, ease of maintenance and repair, resistance to accidental or malicious damage and their environmental impact. Minimal maintenance and economical availability or replacement parts are also essential for the facility to operate smoothly and efficiently.
- 22.** The BREEAM Excellent rating required as a Planning Condition is targeted to be achieved. This includes but is not limited to: The design of the external building fabric which utilises passive design measures and achieves on average across all elements a 40% reduction of U values against current minimum Building Regulation U values. Photovoltaic panels are to be installed on the 700m<sup>2</sup> teaching block roof (the non-shaded roof) to provide 465.24kWp of green electricity for small power demands. 98% efficiency boilers are provided for heating and hot water.
- 23.** The sustainable drainage design retains all rainwater on the site for the 1 in 100-year storm through soakaways, rain gardens and rainwater pipe discharge into plant beds.
- 24.** This building was designed in 2019 and obtained planning approval later that year before the Council declared a Climate Emergency and has been designed to be heated by gas fired boilers. The Council now has ambitions to reduce carbon emissions and move away from using fossil fuels. The project team is currently exploring the additional capital costs of replacing the gas boilers with Air Source Heat pumps along with the calculation of the revenue implications for running and maintaining this plant. This will have to be reported in a future report if deemed to be feasible and allows the construction to be delivered within the programmed dates to ensure the school places are available for January 2023.

## Life Expectancy

25. The service lifespan assessment shall be as defined in ISO 15686 Part 1 Buildings and Constructed Assets – Service Life Planning, General principals. The structural and non-replaceable components for buildings shall be specified as having a life of 60 years or more. Replaceable components shall have a life appropriate to the structure.
26. The principal elements of the building structure, external envelope and external civil engineering elements shall have a minimum life expectancy at handover as set out in the table below and confirmed by the Architect.

## Service Life Table

Building element	Service life (minimum year)
Structure/Sub-structure	60
Floor Structure	60
Roof structure	60
Roof cladding	20
External wall/cladding	40
External doors	30
Internal partitions	25
Internal finishes	15
Ceilings	25
Internal doors	30
Internal fixtures and fittings	15
Sanitary and catering fittings	20
Mechanical plant	10
Electrical plant	10
Engineering services distribution systems	10
CCTV installations	12
Fire installations	12
Security installations	12
Communication installations	12
Underground drainage	60
External finishes (i.e. tarmacked areas, hard – standings)	25
External fences	30

## Risks that may arise if the proposed decision and related work is not taken

27. If the existing derelict school is not replaced the Borough will face further shortfalls in the demand for SEN/SEMH pupil places. The current facilities at Chesterfield School are inadequate and they will not be able to provide for the future and rising demand of pupil places. As stated above the out of borough costs for an estimated 16 pupils are circa £480k per annum.

## Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

28. The key risks to this project relate to time, cost and quality.

29. There will be robust contract monitoring to ensure the contract programme is maintained and delivered within the contracted dates. There are provisions in the contract for Liquidated and Ascertained Damages to be levied on the contractor should they not meet the contracted completion dates which will keep them focussed on meeting the programme. Any variations to the programme will be robustly managed to minimise the risk of any contract extensions. There will be robust financial monitoring to ensure the project is delivered within the approved budget and this includes a Client contingency (that is not part of the Contract sum) that is approximately 5% of the contract sum. The works will be closely monitored for compliance on site by the CMFM team and this team will include a Clerk of Works to ensure quality is not compromised.

## Financial Implications

### 30. Budget – capital

Table below shows some £1.920m has already been spent on the scheme (capital code C101313) with a further £7.288m allocated in the approved budget.

A further £1.775m will need to be transferred from the Education holding capital code (C101185) in order to bring the full life cost up to £10.983m which is the final full life cost estimate for the scheme.

The transfer of £1.775 will not require approval as a virement as it constitutes a movement within the Education budgets (source Financial Regulations 2019, para 5.5).

Fern House School scheme	Historic spend 2016/17 to 2020/21	2021/22	2022/23	Full life cost
<b>C101313 Aylands School re-build</b>				
Spent 2016/17 to 2020/21 incl	1,919,911			1,919,911
Virement		7,800,000		7,800,000
Re profile		-4,100,000	4,100,000	0
Outturn adj		-511,680		-511,680
<b>Approved budget Q1 monitor</b>	<b>1,919,911</b>	<b>3,188,320</b>	<b>4,100,000</b>	<b>9,208,231</b>
Transfer from Education holding		1,774,769		1,774,769
<b>Revised forecast</b>	<b>1,919,911</b>	<b>4,963,089</b>	<b>4,100,000</b>	<b>10,983,000</b>

**Full life cost estimate - final****10,983,000****Funding :**

Basic Needs Grant (from ESFA)	-1,919,911	-4,963,089	-4,100,000	-10,983,000
Borrowing	0	0	0	0

**C101185 Education Holding budget**

Original budget	Not applicable	31,143,272	2,578,498	33,721,770
Outturn adjustment		956,335		956,335
Re-profiling		-7,000,000	7,000,000	0
Allocation to schemes		-21,886,628		-21,886,628
<b>Approved budget Q1 monitor</b>		3,212,979	9,578,498	12,791,477
Transfer to Aylands School re-build, above		-1,774,769		-1,774,769
<b>Revised forecast</b>		<b>1,438,210</b>	<b>9,578,498</b>	<b>11,016,708</b>

Confirmed by service the transfer of £1.775m from Education holding budget will have no impact on schemes earmarked for delivery from these budgets in 2021/22 or future years.

Capital budgets approved by Council 2<sup>nd</sup> March 2021 (KD5210) and addition calculated by reference to approved budget at this Committee as it supersedes all prior approvals.

**31. Budget – revenue**

No additional impact identified

**32. Debt**

Scheme continues to be funded from Basic Needs Funding grant from ESFA; no additional impact on debt

**33. Taxation**

VAT continues to be recoverable in respect of applicable supplies.

**Legal Implications**

**34.** The Council has a general responsibility for education and to secure efficient primary, secondary and further education to meet the needs of the population in its area under Section 13 of the Education Act 1996 (as amended).

- 35.**Section 111 of the Local Government Act 1972 further enables local authorities to do anything, including incurring expenditure, borrowing, which facilitate or are conducive or incidental to the discharge of their functions. Furthermore, the Council has the power under section 1 (1) of the Localism Act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. The recommendations within this report are in accordance with these powers.
- 36.**The construction contract is above threshold public works contract under the Public Contracts Regulations 2015 (PCR 2015). The proposal in this report is for the award of a call off contract under the terms of the Framework Agreement set up by the Council in accordance with the PCR 2015. In awarding the call off contract, the Council must ensure compliance with the process set out in the Framework Agreement for the award of call off contracts. The terms of the call off contract must further be consistent with the Framework terms and conditions.
- 37.**The Council must further ensure compliance with its Constitution, its Contract Procedure Rules (CPRs). CPR 6 (Insurance) states that contracts with direct advice and/or design services provided by the supplier (including all consultancy and construction arrangements) must have a requirement for professional indemnity insurance. The Service Department must undertake a risk assessment to ensure that the levels of insurance are adequate seeking advice from the Council's Insurance team.
- 38.**This report constitutes a Key Decision under the Council's Constitution and the Key Decision process under the Council's Constitution must be followed.
- 39.**For contracts with a value above £1,000,000, contractors must be required to provide sufficient security in one of the forms outlined in CRP 7.3.
- 40.**All legal agreements (including all associated documentation) arising from the matters described in this Report must be in a form approved by the Director of Law & Governance. Contracts whose value exceeds £500,000 are required to be executed under seal.
- 41.**The Council must comply with the PCR 2015 prior to the award of any professional services contract that is above the threshold for public services contracts under the PCR 2015 (currently £189,330). The Council must further comply with the procurement rules in the CPRs for all professional services appointments relating to the works. Any professional services contract that is above the Key Decision threshold (£500,000) must comply with the Key Decision process under the Constitution of the Council.
- 42.**The Council should be mindful that in the year 2017 the old School formerly known as Aylands School converted to an Academy status. As a result of the conversion the Council transferred its existing assets and liabilities, such as land and employees, to Enfield Learning Trust. In compliance with the



Academies Act 2010 the Council granted a lease for a term of 125 years to Enfield Learning Trust. The lease was completed on 31<sup>st</sup> October 2017. As the Council is no longer in control of the old School formerly known as Aylands School the Council and Contractor A must seek to enter into a relevant license with Enfield Learning Trust (on or before completion of the construction contract) to access and carry out the construction works on the School land. The Council must act in accordance with its Property Procedure Rules in relation to entering into such licence.

### **Workforce Implications**

**43.** There are no workforce implications as a result of the proposed works.

### **Property Implications**

**44.** The works that the Construction Contract is intended to deliver are to be carried out on Council land that is subject to a long lease to Enfield Learning Trust (ELT), and for the benefit of Enfield Learning Trust. This gives rise to the critical need for legal documentation to be put in place prior to the commencement of site construction works to deal with:

- Site access for LBE and its contractors,
- Confirmation of what LBE is committing to deliver,
- Confirmation of the obligations, responsibilities, risks and liabilities of each party,
- The part that ELT will play in the construction, including its ability to vary the design/works and the funding of such,
- Handover of the buildings
- Landlord consent for the works/additions to the leased premises

**45.** Additionally, the existing lease will need to be reviewed to determine whether the addition of new buildings will require any variation to the terms of the lease, potentially regarding additions, description of the leased property, repairing obligations etc, where these matters cannot be satisfactorily addressed in any other document.

**46.** The Planning Application 19/01183/RE4 was approved at Planning Committee on 18<sup>th</sup> September 2019.

**47.** All new or revised asset data arising out of the proposed works must be sent by the Project Manager to Strategic Property Services for input onto the Asset Management Data System, ATRIUM, including revised site plans, floor plans, asset information, etc.

**48.** An inventory list of any material procured and produced will need to be kept. In the event of failure, appropriate arrangements will need to be made for these supplies to be retained and secured for the Council until a decision is made on how best to dispose of them.

## **Other Implications**

### **Procurement implications**

- 49.** The Procurement for the award of the Fern House Framework Agreement and PCSA (KD5249) was carried out accordance with the Public Contract Regulations 2015 and the Council's Contract Procedure Rules using the London Tenders Portal using the Restricted procedure. (Contract Notice reference 2020/S 054-129718 / Contract Award Notice 2021/S 046-116829).
- 50.** The main works contract was also part of the Procurement that was carried out but was to be awarded based on the successful completion of the PCSA
- 51.** Further information on the Procurement process that was previously carried out can be found in report KD 5249.
- 52.** The award of the works contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contract must be undertaken on the London Tenders Portal, including future management of the contract.

### **Options Considered**

- 53.** To do nothing is not an option as the current school buildings were 'obsolete' and 'time expired' and have since been demolished. The current housing of the Fern House pupils at Chesterfield School is temporary in nature and the increased pupil intake in the borough necessitates the requirement for additional school places. The re-build of the school is therefore essential.

### **Conclusions:**

That the Cabinet member for Children's Services:

- 54.** Approves award of the construction Contract to 'Contractor A' as detailed in restricted Appendix A for the re-build of the old school formerly known as Aylands School.
- 55.** Approves the addition of £1,083,000 to the Capital Programme KD5276 and notes the proposed new budget of £10,983,000 which will be managed within the School Capital Allocation fund.
- 56.** Notes details of the total project expenditure relating to the works, fees, loose furniture and ICT contributions as detailed in Restricted Appendix A to this report

57. To note that the Cabinet meeting in November 2019 (KD 4594) gave its approval to deliver the programme to provide the SEN spaces and delegated a portfolio decision to the Cabinet Member for Children's Services in relation to the approval of tenders for any proposals exceeding £500,000 in value including professional and technical expenses.

Signed .....Date.....

Cabinet Member – Children's Services  
Tony Theodoulou (Executive Director – People)

---

Report Author: Brendan Bannister  
Client Project Manager  
Email: [brendan.bannister@enfield.gov.uk](mailto:brendan.bannister@enfield.gov.uk)  
Mobile Number: 07952 583726

Date of report 7<sup>th</sup> September 2021

### **Appendices**

Restricted Appendix 'A'

### **Background Papers**

KD 4594 November 2019 - The update on the strategy and approach to delivering pupil places

KD5276 March 2021 - Updated School Condition and Fire Safety Programme 2021/22 to 2022/23 (Schools Capital Programme)

KD5249 January 2021 – Award of Contractors Framework and PCSA for Fern House School

KD5082 February 2020 - 10-year Capital programme Central Government Grant