

London Borough of Enfield

Delegated Authority Report

Portfolio Decision Of
Cabinet Member for Children's Services

Subject: **Bush Hill Park School** - Award of Contract for the re-build of the 'life expired' modular build school kitchen

Cabinet member: Councillor Abdul Abdullahi, Cabinet Member for Children's Services

Executive Director: Tony Theodoulou. Executive Director – People

Key Decision: **KD 5443**

Purpose of Report

1. This report seeks approval to award a contract utilising the Procure Partnerships Framework for the re-build of the old modular style Kitchen to "Contractor A" (as detailed in the Restricted Appendix A of this report) for the construction works comprising a new kitchen and servery.
2. To note details of the total project expenditure relating to the works, professional and technical fees and project contingency as noted in the Restricted Appendix A of this report and to approve the addition of £184,046 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-provision of the old modular build kitchen at Bush Hill Park Primary School and, for the avoidance of doubt, approves the Council entering into the works contract and ancillary documentation.
4. Notes details of the total project expenditure relating to the works, fees and disbursements as detailed in Restricted Appendix A to this report.
5. Approves the addition of £184,046 to the Capital programme KD5383 and notes the proposed new budget of £1,184,046 which will be managed within the School Capital Allocation fund.

6. To note that the Cabinet meeting in March 2022 (KD5383) states that contract award for professional services and works above £500,000 will also conform to the councils standing orders with approval sought at the appropriate authority level, following the key decision process as required.

Reason for Proposal(s)

7. This scheme proposal is to replace the life expired modular kitchen building at Bush Hill Park Primary School.
8. The new kitchen will provide for a new servery with direct access from the school Hall.

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

9. KD 5383 approved the funding for the new kitchen in the sum of £1,000,000.
10. The Building Contract Sum is summarised at Appendix A attached hereto and is to be considered an agreed maximum contract sum.
11. 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

- 12.** The existing kitchen facilities are inappropriate for the provision of school meals and the new facility will provide for an efficient and comfortable environment for the staff and pupils.

Safeguarding Implications

- 13.** This is an improvement to the school and the defined works area will be cordoned off from the school community to ensure adequate safeguarding for the school community. The proposed capital works on the cleared site of the old kitchen will be undertaken in full accordance with Health and Safety and CDM regulations.

Public Health Implications

- 14.** 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

- 15.** The provision of facilities and local schools across the borough ensures equality of rights to good education provision. A EQiA has been approved for this subject report.

Environmental and Climate Change Considerations

- 16.** 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 of replacement parts are also essential for the facility to operate smoothly and efficiently.
- 17.** The Council has ambitions to reduce carbon emissions and move away from the use of fossil fuels. This project will be developed without the need for a gas supply to the kitchen. Currently the kitchen appliances use gas and the proposed upgrade to the electrical supply will allow for all appliances to be electric. Decarbonisation for the main building and moving towards zero carbon is a long-term project and needs to consider the viability of replacing the gas fired boilers and addressing the fabric of the building and is therefore excluded from this project.

Life Expectancy

18. 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.

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

19. If the existing kitchen facility is not replaced the School will face further issues with the safe and adequate supply of catering needs.

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

20. The key risks to this project relate to time, cost and quality.
21. 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

Summary

22. Cost estimates for kitchen re fit are higher than originally anticipated by £184k therefore this report seeks approval to transfer this amount from holding code within same programme.
23. Financial Regulation (para 5.12) permits virement of budgets within same programme

24. Full amount of £184k to be transferred in 2022/23 with slippage dealt with through quarterly monitoring cycle which will be approved by Council (under financial regulation 6.16)
25. All capital expenditure funded entirely from LA Basic Needs and Maintenance grant funded by the Education and Schools Funding Agency.
26. Costs of meal provision £25k to be funded by School whilst kitchen refit is in progress.
27. DAR report permitted under section 4.2 of Constitution

Budget impact – capital

28. Council approved full life budget £850k 24th Feb 2022 (KD5353) which then reduced to £834k
29. Revised cost estimates transfer of £166k from holding cost approved by Cabinet 9th March 2022 permitted by Financial Regulations para 5.12
30. Further £184k now required to complete contract – holding code has budget 2022/23 only therefore full amount to be transferred within programme (Financial Regulation 5.12) with slippage to be dealt with through quarterly monitoring cycle, table below summarises.

Bush Hill School kitchen (£'s) C101416	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Contract Award			560,000	217,046	16,000	793,046
Prof & Tech fees incl disbursements	40,700	89,500	118,500	17,300	6,000	272,000
Client Contingency and Risk			119,000			119,000
Rounding	47	5	-52			0
Capital expenditure – estimates	40,747	89,505	797,448	234,346	22,000	1,184,046
Council approved 24th Feb 2022 (KD5353)	40,747	75,253	734,000			850,000
Post p8 adjs		-16,000	0			-16,000
C/fwd adjustment 6th, 13th July 2022 (KD5464)		30,252	-30,252			0
Sub total	40,747	89,505	703,748	0	0	834,000
Transfer from holding code C101185 9th March 2022 (KD5383)			166,000			166,000
Additional transfer requested			184,046			184,046
Revised budget	40,747	89,505	1,053,794	0	0	1,184,046
Budget (excess) shortfall – to be re phased as part of Quarterly monitoring cycle	0	0	-256,346	234,346	22,000	0

Budget impact – revenue

31. Meals provision estimated at £25k will not qualify as capital under Council's Capitalisation Policy therefore this cost to be met by School, not the Council's revenue budgets.

Debt

32. Capital expenditure is fully grant funded therefore no additional borrowing required.

Taxation

33. VAT continues to be recoverable in respect of applicable supplies.

Risks

34. Table below sets out significant risks and mitigations

Significant risk	Mitigation
1. Further unforeseen cost increases	This risk is dealt with under item 21 above.
2. Refit takes longer than anticipated resulting in meal re-provision costs falling on Council's revenue budgets	Robust monitoring of the construction programme - also covered under item 21 above.

Legal Implications

35. 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). In addition, under Section 106 of the Children and Families Act 2014, schools are required to provide free school meals for all pupils in Reception, Year 1 and Year 2. As landlord for community schools, the Council is under general landlord duties in relation to those school buildings, and as an employer, is subject to general health and safety duty for employees and others who may be affected (Health and Safety at Work etc Act 1974).
36. Section 111 of the Local Government Act 1972 enables local authorities to do anything, including incurring expenditure or borrowing, which facilitates or is 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.
37. The value of the proposed contract with Contractor A is below the EU threshold for Works, however officers must ensure that it is procured and awarded in accordance with the Council's Contract Procedure Rules (CPRs). Use of a framework is a compliant route to award, provided it represents best value, and the Procurement & Commissioning Hub have carried out due diligence on the framework in question. The selection of the contractor and the award of the call off contract must be carried out in accordance with the terms of the framework.

38. Under the CPRs, for contracts with a value of £500,000 to £1million, sufficient security from the Supplier should be considered to manage risk. The Service Department must also undertake a risk assessment to ensure that the levels of insurance are adequate seeking advice from the Council's Insurance team as required.
39. This report constitutes a Key Decision under the Council's Constitution and the Key Decision process under the Council's Constitution must be followed.
40. All legal agreements (including all associated documentation) arising from the matters described in this Report must be in a form approved by Legal Services on behalf of the Director of Law & Governance. Contracts whose value exceeds £500,000 are required to be executed under seal.

Workforce Implications

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

Property Implications

42. the school is a community school and therefore there are no landlord issues arising.
43. In relation to planning consent, this has been gained via Planning Application 21/02866/RE4 which was approved at Planning Committee on 18th November 2021
44. 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, including revised site plans, floor plans, asset information, etc.
45. 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.
46. All other property implications are to be found throughout this report

Other Implications

Procurement implications

47. As the contract is over £500k the service must ensure that sufficient security has been considered to manage risk.

48. The service must ensure that any call-off from a framework must be carried out in line with the relevant framework process and via the E-tendering Portal with all documentation retained.
49. The service must ensure that authority to procure has been obtained and must be uploaded onto the London Tenders Portal.
50. The procurement and 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.
51. The awarded Contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

Options Considered

52. To do nothing is not an option as the current kitchen facilities are 'obsolete' and do not provide for an adequate catering experience in terms of the environment of the facility or for the pupils.

Conclusions:

That the Cabinet member for Children's Services:

53. Approves award of the construction Contract to 'Contractor A' as detailed in restricted Appendix A for the re-build of the old modular kitchen and, for the avoidance of doubt, approves the Council entering into the works contract and ancillary documentation.
54. Approves the addition of £184,046 to the Capital Programme KD5383 and notes the proposed new budget of £1,184,046 which will be managed within the School Capital Allocation fund.
55. Notes details of the total project expenditure relating to the works, fees and disbursements as detailed in Restricted Appendix A to this report
56. To note that the Cabinet meeting in March 2022 (KD5383) gave its approval to deliver the programme to provide the facilities.

Signed Date.....

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

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Appendices

Restricted Appendix 'A'

Background Papers

KD 5383 March 2022 - updated School Condition and Fire Safety Programme 2022/23 to 2023/24 (Updated Schools Capital Programme)