

	<h2>CHIEF OFFICER IN CONSULATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT</h2>
<p style="text-align: right;">Title</p>	<p>Oakleigh Road Depot Works – Authorisation to vary the JCT contract with Willmott Dixon.</p>
<p style="text-align: right;">Report of</p>	<p>Deputy Chief Executive</p>
<p style="text-align: right;">Wards</p>	<p>Brunswick Park</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Enclosures</p>	<p>N/A</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Matthew Waters, Assistant Director, Capital Delivery, Matthew.Waters@barnet.gov.uk Megan Hallett, Project Manager, Capital Delivery Megan.Hallett@barnet.gov.uk</p>

Summary

The London Borough of Barnet has undertaken a project to create a new Depot facility at Oakleigh Road, and relocate depot activities from the old Depot in Mill Hill. This is part of the wider plans to facilitate the comprehensive redevelopment of the Mill Hill East area in line with the Mill Hill East Area Action Plan (MHEAAP). The new Depot replaces an old one that would have required significant investment to keep it operational, with capital costs for the new site lower than the capital receipts generated through disposal of the old site.

Construction of the new Council Depot at Oakleigh Road has been undertaken via a JCT Design and Build Contract with Willmott Dixon. Further to agreement of the Final Account this report is now seeking approval to vary the contract to a revised value of £12,581,020. This variation can be contained within the existing budget.

Decisions

- 1. To approve a variation to the existing JCT Design & Build Contract between the Council and Willmott Dixon Construction for works at Oakleigh Road Depot, from the previously approved contract value of £ 11,819,666 to a revised value of £ 12,581,020.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The construction of new Depot facilities at Oakleigh Road is a project that has been undertaken as part of the Council's strategic plans for the Mill Hill East area and the need to relocate Depot facilities from the former Mill Hill East Depot.
- 1.2 The works were delivered via a JCT Design & Build (D&B) Contract with Willmott Dixon Construction. Approval to enter into this D&B Contract, at a cost of £11,819,666, was gained via DPR in April 2016 as referenced in section 8 below.
- 1.3 The Final Account for these works has been agreed at a revised cost of £12,581,020. This revised price covers all valid changes and issues arising during site works following appropriate scrutiny and cost assessment by the technical team and discussion and approval by Depot Board.
- 1.4 This report is seeking approval to vary the contract in line with the recommendations set out above and enable final payments to be made to include the release of retention fees.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Council has an existing contract with Willmott Dixon, and these changes have come about during the course of the contract. They have all passed through the appropriate contractual processes, including the approved change control process, and been subjected to appropriate scrutiny and sign off by relevant stakeholders. The project team are confident that the payments to be made are what they should be for the works that have been received.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 3.1 None. The works have been completed.

4. POST DECISION IMPLEMENTATION

- 4.1 Following approval to vary this contract an additional PO will be raised to all the outstanding invoice to be paid.

5. IMPLICATIONS OF DECISION

- 5.1 **Corporate Priorities and Performance**

- 5.1.1 In 2016, at the time of the initial decision giving approval to enter into contract with Willmott Dixon, the Depot Programme supported the Council's priorities to
- Promote responsible growth, development and success across the borough
 - Improve the satisfaction of residents and businesses within the London Borough of Barnet as a place to live, work and study,
- 5.1.2 The Council's 2015-20 Corporate Plan included a core principle to make sure Barnet is a place where services are delivered efficiently to get value for money for the taxpayer. Creating a new Depot facility to replace an old one that would have required significant investment to keep it operational, and at a lower capital cost than the capital receipts generated through disposal of the old site, has supported this.
- 5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**
- 5.2.1 The value of the revised JCT D&B contract is £12,581,020 plus VAT, This figure covers all construction costs and can be contained within the overall project budget when taking into consideration construction costs, PM and technical team fees, IT costs, legal and statutory fees, relocation costs and a contingency sum. This is funded from the Capital Programme Depot Relocation budget.
- 5.2.2 The revised JCT D&B total is £ 12,581,020, which is the agreed Final Account figure and includes an additional cost of £761,354 when compared to the originally approved JCT D&B cost of £11,819,666. The additional cost covers changes and issues raised by the Contractor whilst the works were on site but only where they have been deemed valid and appropriately costed after thorough scrutiny by the technical team.
- 5.2.3 The procurement for the works was undertaken via the Southern Construction Framework (SCF), Lot 3 London, as per details set out in the original approval report.
- 5.2.4 The nature of complex construction projects require change control procedures to be in place so that on site issues and opportunities can be dealt with swiftly without unnecessary delay and cost to the employer. The JCT contract contained the relevant mechanisms and all required changes were managed in accordance with the mechanisms defined within the contract. All changes were reviewed by the Council's appointed technical team and formally authorised by the project Board.
- 5.2.5 Varying the contract has not changed implications for staffing, IT, property or sustainability issues when compared to entering into the contract.
- 5.3 **Social Value**
- 5.3.1 The procurement was carried out in accordance with the Public Services (Social Value Act) 2012.
- 5.4 **Legal and Constitutional References**
- 5.4.1 Public procurement processes must comply with the Public Contracts Regulations 2015

(PCR); regulations 72 (5) of the PCRs allows for modifications of contracts during its term, without the need for re-advertisement, where it is a minor change; such change is one that does not alter the overall nature of the contract, does not exceed the relevant threshold and does not exceed 15% (works) of the initial value. The proposed extension and price increment meets these requirements. Public Procurements must also comply with the European Treaty obligations of transparency, equality of treatment and non-discrimination as well as the Council's Contract Procedure Rules.

5.4.2 Under the Council's Contract Procedure Rules, clause 11.4, contracts may only be varied provided all the following conditions are met:

- *the initial contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;*
- *the value of the extension or variation added to the value of the original contract does not exceed the original Authorisation threshold as defined in Article 10 of the Constitution, Table B;*
- *the extension or variation has an approved budget allocation;*
- *the extension or variation is in accordance with the terms and conditions of the existing contract;*
- *if the initial contract was subject to EU regulated tender procedure, that the extension option was declared within the OJEU notice and the original Acceptance (Delegated Powers Report/relevant Committee Report); and*
- *the contract has not been extended before;*

The conditions above have been met.

5.4.3 Thresholds for Contract Extensions and variations are set out in Constitution, Article 10 Table B of the Constitution. For contract variations where the total value of the contract including variation is £500,000 and above, if within budget, acceptance documentation is Full DPR (Chief) Officer Decision in consultation with Theme Committee Chairman.

5.5 Risk Management

5.5.1 No further risks are associated with the contract, the works are complete and only the final invoice is outstanding.

5.5.2 It is considered that any issues involved are unlikely to raise significant levels of public concern or give rise to policy considerations.

5.6 Equalities and Diversity

5.6.1 There are no equalities implications arising directly from the decision set out in this report and the awarding this contract does not compromise the Council in meeting its statutory equalities duties.

5.7 Corporate Parenting

5.7.1 N/A

5.8 Consultation and Engagement

5.8.1 A formal consultation is not required in relation to this contract variation and no further consultation is required for the works as they are complete.

5.8 Insight

5.8.1 N/A

6. BACKGROUND PAPERS

6.1 Officer DPR providing Authority to enter into a Pre-Construction Agreement with Willmott Dixon under the Southern Construction Framework Agreement for Oakleigh Road Depot dated 28 July 2015:

<https://barnet.moderngov.co.uk/ieDecisionDetails.aspx?Id=5903>

6.2 Capital Programme and Procurement Forward Plan reported to the Policy and Resources Committee in December 2015:

<https://barnet.moderngov.co.uk/mgCommitteeDetails.aspx?ID=692>

6.3 Full Council Approval to enter into an agreement to purchase Abbotts Depot, Oakleigh Road South:

<https://barnet.moderngov.co.uk/mgCommitteeDetails.aspx?ID=162>

6.4 Full Council Decision to approve the re-assignment of the Waste Operation Lease at Oakleigh Road South

<https://barnet.moderngov.co.uk/mgCommitteeDetails.aspx?ID=162>

6.5 Officer DPR, dated 22 April 2016, providing authority to enter into a JCT Design and Build contract with Willmott Dixon for construction of the new Council Depot

<https://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=6234>

7. DECISION TAKER'S STATEMENT

- 7.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision-making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations. The decision is compliant with the principles of decision making in Article 10 of the constitution.*

8. OFFICERS DECISION

- 8.1 **To approve a variation to the existing JCT Design & Build Contract between the Council and Willmott Dixon Construction for works at Oakleigh Road Depot, from the previously approved contract value of £ 11,819,666 to a revised value of £ 12,581,020.**

Chairman of the Policy and Resources Committee
Has been consulted

Date: 30 November 2020

Deputy Chief Executive
Decision maker having taken into account the views of the Chairman

Date: 30 November 2020