

Item No.	Classification: Open	Date: 22 January 2024	Meeting Name: Strategic Director of Finance
Report title:		Gateway 3 - Variation to Works Contract valued over £500,000 (Works) - Rye Hill	
Ward(s) or groups affected:		Peckham Rye	
From:		Managing Director, Southwark Construction	

RECOMMENDATIONS

That the Strategic Director of Finance:

1. Approves the following variations to the Rye Hill new build contract with Equans Ltd (previously trading as Engie) totalling £3,961,805.34 comprising of:
 - an additional contract cost for deed of variation of £2,254,845.93 making the revised contract sum to £8,294,526.59 from £6,039,680.66 to be executed via a deed of variation based on the 14 December 2022 position
 - an additional contract cost of £1,706,959.41 for the additional contract instructions making the revised contract sum £10,001,486 from £8,294,526.59, of which £661,790.35 is a retrospective approval
2. Notes the revised anticipated contract completion date of 19 January 2024 from 16 May 2022, which is an increase of 86 weeks.

BACKGROUND INFORMATION

3. This report seeks approval to increase the total scheme cost to cover the increase in the construction cost and instructions for the contract with Equans Ltd, for the construction of a four/six storey block of 23 dwellings for social rent.
4. Planning permission was granted on 7 February 2018 for the redevelopment of the site to create 23 new homes (five x one-bed, 14 x two-bed and four x three-bed flats) in two linked buildings of four/six storeys with associated landscaping and children's play space.
5. In September 2019 Engie Regeneration Ltd (Equans Ltd) was awarded the works for Rye Hill Park Garages for the contract sum of £6,039,681 commencing from 17 February 2020 for a period of 70 weeks.

KEY ISSUES FOR CONSIDERATION

Key aspects of proposed variation

6. The report identifies the variation of £3,961,805.45, which relates to increased contract costs due to variations and instructions issued by Southwark as a result of changing legislative requirements (since scheme inception 2015) and unforeseen site conditions.
7. Part of this increase was anticipated as part of, and recorded in, the Capital Refresh exercise in November 2022. Due to the increase in cost, the wider programme will be re profiled.
8. Since planning approval there have been a series of changes in our building requirements that led to variations being made to meet the council's enhanced specifications. The Rye Hill scheme is using the 2015 (since revised 2022) employer's requirements and therefore there are a number of additional variations and instructions which will also need to be issued.

Reasons for variation

9. Since planning approval in February 2018 and from inception of the contract in July 2020, there have been a series of changes in building regulations and fire safety guidance that has resulted in Southwark amending specifications to meet the enhanced requirements.
10. One of the significant reasons for the variations include the volume of asbestos removal and extensions of time in relation to the delays caused by the Virgin Media cable removal, not identified during the site survey due diligence

Future proposals for this service

11. No future proposals recommended for this service. There is a potential for a further GW3 report if the anticipated variations exceed the requested contingency.

Alternative options considered

12. The council has entered into a build contract with Equans Ltd. The instructions number one to five were agreed to enable the contract works to continue, and therefore require approval.

Identified risks for the variation

13.

RISK		RISK LEVEL	MITIGATION ACTION
1	Financial Risk to Southwark	High	The cost of this scheme has significantly increased. A large proportion of this cost was due to the asbestos and cable found on site. The additional

RISK		RISK LEVEL	MITIGATION ACTION
			<p>cost was allowed for in the November 2022 capital refresh programme.</p> <p>Due to the increase in cost, other schemes across the programme will be required to be reviewed.</p>
1.	Project delivery delays (general)	Medium	<p>Delay in the contractor being able to claim the retention.</p> <p>Any extension of time will be fully scrutinised, justified and costed by the Employers Agent (EA) prior to agreement. Project progress will be monitored and slow progress will be addressed in the monthly project meetings.</p>
3.	Further Cost Implications to Southwark	Medium	<p>As the project is still mid contract the contract has a contingency which is still required for any unforeseen items. There are still some anticipated variations to close out. If required to use contingency, items will be scrutinised, negotiated, managed and dealt with as per the usual conditions of the contract. Should any variations exceed the contingency an additional gateway report would seek approval.</p>
4.	Ukraine/Russia Conflict	Low	<p>Should the conflict between Ukraine and Russia continue for a prolonged period we are at risk of supply chain delay. To mitigate this the Employers Agent will liaise with the contractor on ways to reduce reliance on specification items that would be impacted and implement an early warning system to allow time for alternative procurement.</p>

Policy framework implications

14. The development of these 23 new homes aligns with the council's principles and visions for a new housing strategy which is aimed at increasing the availability, affordability and quality of homes in the borough. The new homes will play a key role in assisting the council to achieve its target of building 11,000 new homes by 2043.

Contract management and monitoring

15. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.
16. The management and administration of the build contract and the completion of the project will continue to be project managed through the Southwark Construction team.
17. The contractor's performance is monitored and managed by the employer's agent, Calfordseaden for the duration of the project. A Clerk of Works from Calfordseaden has been inspecting the progress on site once a week and providing a written report on a weekly basis highlighting the quality of the contractors workmanship, flag any health and safety issues and will monitor progress against programme.
18. The Project Manager for this scheme will continue to monitor performance on a monthly basis using Key Performance Indicators which is also reviewed by the Senior Project Manager. Performance reviews are on an ongoing basis as part of contract management.
19. There will be close monitoring and scrutiny of the Rye Hill scheme to ensure there are no further delays and additional avoidable costs.

Community, equalities (including socio-economic) and health impacts

20. The provision of 23 new quality homes provides a positive impact on health inequalities, as the scheme is designed to current quality and space standards that will contribute towards addressing health inequalities. 50% to 100% of the new homes will be allocated to existing residents/those in housing need in the borough, residents who are living in overcrowded conditions, or unsuitable housing will benefit. In addition to this, rent levels are set at council rent, that are lower than London Affordable rent levels and market rent levels making them genuinely affordable. Health and wellbeing are further addressed by providing residents with individual balconies for outdoor space, along with communal landscaping.
21. The proposals to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities.

Community impact statement

22. The 2020 Route to 11,000 Housing Strategy for Southwark, highlights an acute shortage of council housing and a continuing need for affordable housing. 20,000 residents are currently on the council's waiting list; and there are 52,597 homes in management. The borough is experiencing very high house prices that are outside the reach of many of its residents. It has the highest house prices in the housing sub-region. The average property price in the borough is £657,772 which is an increase of 0.5% in the last year. This compares with the average London property price of £ £688,526 which is a change of -0.6% in the last year. This information sourced from the Housing Market Trends Bulletin Southwark No.71 (SELHP No.35)1st quarter 2023/24 (Apr – Jun). The rental market in the borough is also experiencing high rent levels with average lower quartile rent for a two bed in excess of £ £2,600 per month. With an average social rent for a 2 bed new build property at £152.92 per week.
23. At the time of the 2011 census there were 18,547 overcrowded households in Southwark, a higher number, and a higher percentage (15.3%), than any of the other four boroughs in the sub-region. Over the period 1981-2012 the population of Southwark increased by 34%, the fastest growth in the sub-region by some margin. This helps to demonstrate a continuing need for more homes and particularly for affordable homes in the borough.
24. Cabinet agreed a new vision for Southwark through its 2013 to 2043 housing strategy which included a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
25. The proposals to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities and will increase the housing options available for older people and people with disabilities.
26. Those households in the vicinity of the new developments may experience inconvenience and disruption in the short term, whilst works are taking place but such communities will benefit in the longer term from the provision of new homes. Particularly as 50%-100% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.
27. Local residents will continue to be consulted at each stage of the development proposals as outlined in the charter of principles agreed by cabinet in November 2014. The council will ensure that any residents affected by works will be notified prior to works commencing.

Climate change implications

28. The targets to be met by this development are:

- 35% reduction in Carbon Emissions below the Part L1A 2013 Building Regulations (in line with Greater London Authority (GLA) energy policy) – The current design Standard Assessment Procedure (SAPs) show 36% Carbon Reduction via the use of Photovoltaic Panels on the roof.
- Achieve CO2 reduction by following the London Plan energy hierarchy (in line with GLA energy policy and Southwark Core Strategy 13) - be lean, be clean, be green – This has been achieved by ensuring the design and construction compiles with the Approved Document Part L by introduction MVHR units, reducing CO2 emissions, Fabric efficiency in the form of low U-values reducing heat loss and transfer; The use of gas-fired combi boilers with radiator outlets and a minimum efficiency of 89.1%.
- Offset remaining CO2 to 100% via the 'carbon offset fund' - enforced via S106 – Offset of energy showing payment to Southwark offset fund £34,234.44 to achieve 100%.

Social value considerations

29. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well-being of the local area can be secured. The social value considerations included in the tender (as outlined in the GW2 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.
30. The council's approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of each tendered project.
31. A low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum will be an essential component of the project brief. Key considerations will include:
 - Consideration of whole life-cycle costs.
 - Sustainable sourcing.
 - Incorporation of environmentally benign heating and lighting provision.
 - Provision of facilities and equipment to encourage the re-use and recycling of materials including, where practical, water recycling.
 - Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.
32. Equans Ltd are participating in a local employment and training initiative in line with the Southwark Economic Wellbeing Strategy 2012-20. Equans Ltd pledged to employ local subcontractors where possible. There are currently two apprentices working on site and a number of locally employed operatives.

Economic considerations

33. The design brief for the new homes will be developed in consultation with the 'user client' officers and make it clear that the council is seeking developments that are not only attractive and functional in their design but also durable and easy to maintain with low running costs.
34. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The 11,000 new homes programme is a strategically important undertaking for the council and its benefits are expected to be realised in a number of ways, including the recruitment of qualified staff, retention of staff and an improved service delivery to the council. Equans pay their directly employed staff and subcontractors the LLW.

Social considerations

35. The new housing will provide high quality affordable housing for local people in need of accommodation. 50% of these homes will be made available to existing tenants in the local area based on an agreed local lettings policy. The remainder will be made available to other households in need of accommodation from the council's housing register. However, the council is consulting with residents about a new local lettings policy, which could mean that up to 100% of new council homes are let to local residents.
36. The new rented homes will be let at council rent levels.
37. The contractor is obliged to work with council approved local employment and skills agencies to recruit borough residents into construction industry apprenticeships. The requirement outlined in the contract documents was to provide one apprenticeship on this scheme. Equans Ltd have confirmed they have provided
 - 1 x apprentice electrician
 - 2 x apprentice plumbers on the project.
 - 2 x Locally employed operatives
38. Equans Ltd have been engaged with the local community garden project, "Rye Hill Growers" providing equipment and labour to support the project,

Environmental/Sustainability considerations

39. By investing in high quality, well designed buildings and estates the council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.

40. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying what impact would be caused by any proposed development.

Financial implications

41. The total value of the contract, including the instructed and anticipated variations is £10,001,486.17. With the associated increase of the on costs and contingency this results in a revised total scheme cost of £11,900,111.44.
42. The variation of £3,961,805.45 and the associated increase of on cost, will be resourced from the resources identified for the new build programme which includes borrowing. Closed report.

Investment Implications (Housing Contracts only)

43. Not applicable.

Legal implications

44. Please see concurrent from Assistant Chief Executive – Governance and Assurance.

Consultation

45. Consultation with residents or a tenant's panel for this variation is not required.
46. Consultation is ongoing with residents as required by Equans Resident Liaison Officer including the issuing of monthly newsletters to the local residents keeping them informed on site progress and social value items.

Other implications or issues

47. No other implications or issues.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance (H&M/23/045)

48. This report seeks the approval of the Strategic Director of Finance to the variation of the Rye Hill new build contract with Equans for the sum of £3,961,805 of which £661,790 is retrospective approval.
49. The report further seeks approval for additional fees of £779,211 and contingency of £198,090 making a total scheme cost of £11,900,111. The full financial implications are contained within the closed report. The increase in costs may result in a change in the planned sources of funding with the aim to reduce borrowing and also impact on the delivery of other

schemes within the New Homes programme, both of which will be subject to further review and evaluation.

50. Any further variations or extensions of the works order beyond the scope of this report will require further approval in line with the council's procurement protocols.

Head of Procurement

51. This report seeks approval from the Strategic Director of Finance to vary the Rye Hill new build contract with Equans Ltd totalling £3,961,805.34.
52. The Strategic Director of Finance notes the reasons for the variation is detailed in paragraphs 9, the risks are detailed in paragraph 12, monitoring and management of the contract are detailed in paragraphs 15 to 19, the impact on equalities, health and climate change are detailed in paragraphs 20 to 28, confirmation of the payment of LLW is detailed in paragraph 34 and social value commitments are detailed in paragraphs 37 to 38.

Assistant Chief Executive – Governance and Assurance

53. This report seeks the approval of the Strategic Director of Finance to the variation of the Rye Hill new build contract with Equans as further detailed in paragraph 1.
54. The contract with Equans was subject to and awarded in accordance with the Public Contract Regulations 2015 (PCR15), and it is therefore necessary to ensure that any additional sums to be made under the contract are permitted within those procurement regulations. Regulation 72 of the PCR15 permits modifications to be made to contracts in certain circumstances, including where the modification has been provided for in the initial procurement documents or where the modification is not substantial. Paragraphs 9 and 10 note the reasons for these instructions/changes, which include variations to the scope of works and claims for delays. As noted, some of these variations relate to changes in building regulations and fire safety guidance which have resulted in amendments to the specification to meet these enhanced requirements. They are therefore amounts that can be made under the terms of the contract.
55. As noted in paragraph 1, part of the approval decision is retrospective, and this will therefore need to be reported to CCRB and the Audit and Governance Committee in accordance with CSO 6.7.
56. CSO 2.3 requires that no steps are taken to implement a variation unless the expenditure has been approved. Paragraphs 41-43 confirm the financial implications relating to these decisions and note the need for a variation to the capital programme.

Director of Exchequer (for housing contracts only)


57. Not applicable.

Director of Education (for schools contracts only)

58. Not applicable.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council’s Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature ... 

Date ...22 January 2024.....

DesignationStrategic Director of Finance

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see ‘FOR DELEGATED DECISIONS’ section of the guidance).

1. DECISION(S)
As set out in the recommendations of the report.

2. REASONS FOR DECISION
As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION
Not Applicable

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION *
Not Applicable

* Contract standing order 6.6.1 states that for contract Variations with an Estimated Contract Value of £100,000 or more, the lead contract officer (LCO) must consult with the relevant cabinet member before the decision is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

None

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

~~**I declare that I was informed of the conflicts of interests set out in Part B4.***~~

(* - Please delete as appropriate)

7. CONSIDERATION GIVEN TO WHETHER, AS A NON-KEY DECISION, THIS SHOULD BE FORWARDED TO THE CONSTITUTIONAL TEAM FOR PUBLICATION IN ACCORDANCE WITH REGULATION 13(4)*

The decision taker should consider whether although a non-key decision, the decision is sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available. Where there is any doubt, having considered the importance and/or sensitivity of a decision, it should be deemed that Regulation 13(4) would apply.

I consider that the decision be made available for publication under Regulation 13(4).*

or

~~**I do not consider that the decision be made available for publication under Regulation 13(4).***~~

(* - Please delete as appropriate)

* Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the council is required to put in place a scheme for recording and publishing some officer executive decisions. This process is sometimes referred to as "Regulation 13(4)".

BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 1 – Procurement	160 Tooley Street SE1 2QH	Stuart Davis, Managing Director, Southwark Construction Tel: 020 7525 7201
Gateway 2 – Contract Award Approval		

APPENDICES

No	Title
None	

AUDIT TRAIL

Lead Officer	Stuart Davis, Managing Director, Southwark Construction	
Report Author	Nannette Sakyi, Strategic Lead	
Version	Final	
Dated	14 December 2023	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance	Yes	Yes
Head of Procurement	Yes	Yes
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Director of Exchequer (for housing contracts only)	No	No
Cabinet Member	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	No	No
Cabinet Member	Yes	No
Date final report sent to Constitutional Team		23 January 2024