

Item No.	Classification: Open	Date: 22 February 2021	Meeting Name: Strategic Director of Housing and Modernisation
Report title:		Gateway 3 - Variation decision - Contract Award Construction of new build units at Ivy Church Lane	
Ward(s) or groups affected:		East Walworth Road	
From:		Director of New Homes	

Not for publication by virtue of category 3 of paragraph 10.4 of the Access to Information Procedure Rules of the Southwark Constitution

RECOMMENDATION(S)

1. That the Strategic Director of Housing and Modernisation approves the variation of the contract awarded for the construction of new build units to Aspen Build Limited.

BACKGROUND INFORMATION

2. This report seeks approval of a variation to Aspen Build's contract, awarded on 2 January 2020 for the construction of 21 new build units at Ivy Church Lane.
3. The new development at Ivy Church Lane will comprise of a mixed used development providing a commercial use, a Tenants Residents Association meeting room and 21 social rented units.
4. The approved budget for Aspen Build's work is £5,555,148 plus a 5% contingency fund of £277,757. The project's on costs is £837,845; therefore making the total scheme cost £6,670,750, for 82 weeks duration (as per attached GW2 report).
5. There is an increase in unforeseen work costs of £822,076. This report is seeking approval for additional funding for this increase and an additional contingency sum of £41,104 for any further variations to the contract.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

Reasons for Variations

6. The New Homes Development Team seek authorisation to a change in budget because of the additional variations undertaken during the detailed design and main works at Ivy Church Lane to ensure the scheme complies with statutory requirements and the terms and conditions of the JCT Design and Build contract. Robinson Low Francis is the managing agent and quantity surveyor acting on behalf of the council. They have assessed these instructions and confirmed they are valid instructions in order to deliver the scheme and comply with statutory requirements. A full breakdown of the instructions issued to date is listed in paragraph 11.
7. Most of the contingency was used at the start of the contract due to the council agreeing the contractor qualified for a BCIS inflationary uplift of the contract

sum because of the delays negotiating the terms and conditions of the contract. Aspen Build were awarded an inflationary uplift totalling £212,207.

8. The Old Kent Road is a red route and is managed by Transport for London. As the site falls with the Transport for London's jurisdiction the Temporary Traffic Regulation Order (TTRO) and Traffic Management plan had to be consulted and approved by TFL. TFL requested additional measures be in place which had not been taken into consideration by Robinson Low Francis or the New Homes Team.
9. The anticipated main works cost is currently expected to be £6,377,224, a variance of £822,076. When the contingency of £277,075 is included the variance is reduced to £544,319.
10. During the main works Aspen Build were instructed to carry out additional works which in summary were:

Category	Description of variation
Instructions	Site clean and disposal of rubbish
Instructions	Hoarding artwork by Westco Trading
Instructions	Archaeological WSI
Instructions	Environmental Monitoring for Section 61
Instructions	Temporary Traffic Regulation order
Instructions	Glazed brick change
Instructions	GLA signage
Instructions	UXO Testing
Instructions	Breaking out existing foundations to avoid clashing with new piling position and lift shaft
Instructions	Redesign of the piling and ground beams to flats and mews houses
Instructions	Removal of non-hazardous and hazardous material from site
Instructions	Contaminated soil testing and initial abortive costs
Instructions	S278 works cost
Instructions	Water mains summary
Instructions	Electricity main supply
Instructions	Gas main supply
Instructions	Telecoms and other communication systems connection
Instructions	Isolation, diversion, or lowering of existing services
Instructions	Builders work in connection with services
Instructions	Uplift to EA112 - UXO surveys due to scan probing required
Instructions	Additional costs to enlarge list
Instructions	Additional cost for NMA
Instructions	Additional costs to enlarge mews houses
Instructions	S278 costs
Anticipated variation	Underpinning

Future Proposals for this Service

11. The contingency allowed for on this scheme was not sufficient and a higher contingency fund should be considered for future projects to take into consideration the delays from awarding the contract to the contractor and them signing the contract.

Alternative Options Considered

12. There were no alternative options available for consideration.

Identified risks for the variation

13. The table below identifies the risk associated

RISK		RISK LEVEL	MITIGATION ACTION
1.	Contractor risk of insolvency	Low	The New Homes Team will carry out quarterly credit check to ensure the contractor financial accounts are healthy contractor.
2.	Project delivery delays (general)	Medium	Liquidated Ascertained Damages sums have been included as part of the contract and will be claimable should the project overrun without any justification. Any extension of times will be fully scrutinised, justified and costed by the Employers Agent prior to agreement. Project progress will be monitored and slow progress will be addressed in the monthly project meetings.
3.	Covid -19 Implications	Low	Sharpe Pritchard Solicitors for the new homes team have provided advice on wording regarding Covid19 clauses to be added to the contract and financial assistance we can offer to contractors
4.	Further Cost Implications	Medium	Robinson Low Francis are likely to advise the council is required to issue Aspen Build further instructions to ensure we are able to deliver this scheme. They will be required to assess and interrogate the instructions to ensure VFM.

Policy implications

14. This scheme is designed to deal with work to meet targets set in the council's New Homes Programme. In addition the contract helps deliver one of the council's key Fairer Future commitments to delivering good quality affordable homes.

Contract management and monitoring

15. The management and administration of Aspen Build's appointment and the completion of the project will continue to be run and be resourced through the new homes team.
16. The contractor's performance is monitored and managed by Robinson Low Francis for the duration of the project. A Clerk of Works inspects progress on site once a week and provides a written report on a weekly basis highlighting the quality of the contractors workmanship, flag any issues to do with H&S and will alert the council if they think progress on site is slow. The Project Manager for this scheme monitors Robinson Lows Francis's performance on a monthly basis using Key Performance Indicators which is also reviewed by the Development Manager. Any issue with consultants' the performance or contractor's performance will be raised by the Development Manager and Project Manager.

Community Impact Statement

17. This project falls within the East Walworth Road ward and Borough Bankside and Walworth community profile. The impact on local people will be the noise and disruption during the works, however the contractor is signed up to Considerate Contractors and will and try and minimise the disruption.
18. The redevelopment of this site will benefit residents on the Kinglake Estate because 50% of the new homes will be let via the local lettings policy and the remaining will be allocated via Choice Based lettings. This site will be providing a mixture of 1bed, 2 bed and 3 bed houses as well as two wheelchair accessible flats. The new homes will benefit single people, couples, people with mobility problems and families. This scheme is increasing the supply of affordable, good quality homes and will benefit Southwark's communities. In addition, Aspen Build are working in partnership with Construction Youth Trust and have identified an apprentice to do site management and surveying. Due to Covid restrictions the site management and surveying has been delayed, however, the apprentice has met with Construction Youth Trust via Zoom.

Social Value considerations

19. The Public Services (Social Value) Act 2012 requires that the council consider, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 2 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract. same

Economic considerations

20. The main works to Ivy Church Lane for which this variation is sought will be completed on 5th January 2022. Aspen Build Ltd did use some local companies in their sub-contracting and for purchasing, and has confirmed that it continues to meet the council's London Living Wage (LLW) requirements for payment of LLW to relevant staff and this is monitored as part of the framework review.

Social considerations

21. Aspen Build where possible will recruit an apprentice, through one of their sub-contractors. The Public Services (Social Value) Act 2012 requires that the council consider, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Financial Implications

22. The tables below summarises the total scheme cost breakdown and additional contingency.

Total Scheme Cost Breakdown	GW2	GW3	Variance
Works	£5,555,148	£6,377,224	£822,076
Other Costs	£837,845	£837,845	£0
Contingency (5%)	£277,757	£318,861	£41,104
Total	£6,670,750	£7,533,930	£863,180

Consultation

23. Consultation with residents or a tenant's panel for this variation is not required.
24. During the design development, residents on the Kinglake Estate were consulted about the scheme proposals in accordance to the Charter of Principles. Resident's did not express an appetite to participate in a Project Group. However, the Project Manager attended Kinglake Estate Tenants and Resident's Association Meetings to update on the scheme proposals. Residents' were in support of the scheme proposals and welcomed the Tenants and Residents Association Meeting room we will be providing.
25. Prior to the contractor taking possession of the site the project manager organised a "Meet the Contractor" (11th July 2019) so that residents had an opportunity to meet the contractor and ask any questions they may have had regarding the project construction. Four residents' attended the event and provided positive feedback.
26. The contractor currently keeps residents' updated on the project construction by hand delivering newsletters on a quarterly basis. Contact details of council officers and the contractor are included in the newsletter should residents which to discuss the scheme with key stakeholders.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M 20/131)

27. This reports seeks the approval of the Strategic Director of Housing and Modernisation to vary the contract awarded to Aspen Build Limited for the construction of new homes at Ivy Church Lane at an estimated additional cost

of £822,076. Approval is also sought for an additional contingency sum of £41,104 to meet any further unforeseen costs. Reasons for the variation are outlined in paragraphs 6 to 10 of this report. The additional costs of the scheme will be met from resources supported the Housing Investment Programme, which may include borrowing where appropriate.

28. Any other costs outside the scope of this report should be contained within the revenue budgets. There is an estimated resource shortfall for the Housing Investment Programme and there is also likely to be further demand on the capital programme. It is, therefore, important that the costs of these works are carefully monitored and that accurate forecasting is in place to enable efficient financing of capital expenditure over the life of the programme.

Director of Law and Democracy

29. This report seeks approval for a variation to allow a change in budget for the Ivy Church Lane contract caused by additional variations undertaken during the detailed design and main works to ensure the scheme complies with statutory requirements and the terms and conditions of the JCT Design and Build contract. At this value the variation to costs can be approved by the relevant chief officer, or under their delegated authority in line with the department's scheme of management
30. The contract with Aspen was subject to and awarded in accordance with the Public Contract Regulations 2015 (PCR15), and it is therefore necessary to ensure that any variation to be made under the contract is permitted within those procurement regulations. Regulation 72 permits modifications to be made to contracts during their term in certain circumstances, including where the modification has been provided for in the initial procurement documents. As noted in paragraph 7, these additional amounts are required for instructions issued under the contract for which the council is responsible.
31. Paragraph 22 of this report confirms the financial implications relating to the agreement of this variation, and notes the additional contingency to be held.

Head of Procurement

32. This report seeks the approval of the Strategic Director of Housing and Modernisation to vary of the contract awarded for the construction of new build units to Aspen Build Limited to estimated value of £822,076 in addition to a new contingency budget of £41,104.
33. The report sets out the key reasons for the variation in paragraphs 6-10.
34. The risks and on-going contract management arrangements are in paragraphs 13 and 15-16 respectively.

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.



4 March 2021

Signature

Date.....

Michael Scorer, Strategic Director of Housing and Modernisation

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

- 1) All key decisions taken by officers
- 2) Any non-key decisions, which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

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
n/a
4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION
None
5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST <i>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.</i>
n/a
6. DECLARATION ON CONFLICTS OF INTERESTS

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.

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)

BACKGROUND PAPERS

Background Papers	Held At	Contact
Ivy Church Lane – New Homes Development Team	New Homes Team / 160 Tooley Street, SE1 2QH	Thandi Gonzales Tel: 07572146965

APPENDICES

No	Title
n/a	

AUDIT TRAIL

Lead Officer	Stuart Davis, Director of New Homes	
Report Author	Thandi Gonzales, Project Manager	
Version	Final	
Dated	22 February 2021	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Cabinet Member	n/a	n/a
Date final report sent to Constitutional Team		4 March 2021