

EAST RENFREWSHIRE COUNCILCABINET15 August 2024Report by Director of EnvironmentNEILSTON LEARNING CAMPUS – VARIATION TO CONTRACT**PURPOSE OF REPORT**

1. The purpose of this report is to summarise action taken, following Cabinet Member approval for variations to contracts in relation to the Neilston Learning Campus project.

**RECOMMENDATIONS**

2. The Cabinet is asked to:
- a) Note the variations to contract approved in July 2024 by the Cabinet Chair and Vice Chair;
  - b) Note the updates following these approvals; and
  - c) Note compliance with the Council's Contract Standing Orders Section 21.5.4.

**BACKGROUND**

3. Approval for two variations to the value of the contract for the Neilston Learning Campus project were sought from Cabinet members on 12 July 2024. As this was during the recess period; under Section 21.5.4 of the Council's Contract Standing Orders; approval was sought directly from two Cabinet Members.

4. Appendices A and B outline the reports provided to Cabinet members in seeking the approval for contract variations. In summary, the variations sought were as following:

- A combined variation value of £347,977 to the works contract with Heron Bros, to include for the demolition of St Thomas' Primary School.
- A variation to the contract value of £134,117 in light of additional surveys, investigations and fees under the services contract with Currie and Brown.

5. Both variations are intended to be met from the overall project budget of £30.9m, utilising the element of the budget to deal with variations. Approval was sought for the variations in line with the Council's contract standing orders.

6. Approval was provided for the above variations by the Cabinet's Chair and Vice Chair. This paper is the first opportunity to report to Cabinet following the summer recess, in line with 21.5.4 of the Council's Contract Standing Orders.

**ACTIONS UNDERTAKEN IN THE PERIOD SINCE APPROVAL**

7. In the period following the approval of the contract variations; demolition for St Thomas' Primary School has been arranged. Site works commenced during week commencing 22 July for this demolition.

### **FINANCE AND EFFICIENCY**

8. Funding for the costs identified as part of the contract variations will be allocated from the variation budget contained within the overall project budget.

### **CONSULTATION AND PARTNERSHIP WORKING**

9. Consultation has taken place with officers within Corporate Procurement and Legal Services to inform the preparation of the contract variation requests.

### **IMPLICATIONS OF THE PROPOSALS**

10. There are no staffing, IT, equality or sustainability implications directly associated with this report. The financial implications have been outlined; and will be met within the existing overall project budget.

### **CONCLUSIONS**

11. During the summer recess, approval was sought and provided by two Cabinet members for contract variations as part of the Neilston Learning Campus works. Variations were for the inclusion of demolition works at St Thomas' Primary School and for additional surveys, investigations & fees.

12. Approval was given by the Cabinet Chair and Vice-Chair in July 2024. In the period following approval, site works have commenced (during week commencing 22 July) for the demolition of the former St Thomas' Primary School.

### **RECOMMENDATIONS**

13. The Cabinet is asked to:

- a) Note the variations to contract approved in July 2024 by the Cabinet Chair and Vice Chair;
- b) Note the updates following these approvals; and
- c) Note compliance with the Council's Contract Standing Orders Section 21.5.4.

Director of Environment

Further information can be obtained from Mark Rodgers, Head of Housing & Property  
[Mark.Rodgers@eastrenfrewshire.gov.uk](mailto:Mark.Rodgers@eastrenfrewshire.gov.uk)  
August 2024

### **ADDITIONAL READING**

Appendix A – Contract Variation request for St Thomas' Primary School demolition  
Appendix B – Contract Variation request for Currie & Brown works

**APPENDIX A – CONTRACT VARIATION REQUEST FOR THE FORMER ST THOMAS’ PRIMARY SCHOOL DEMOLITION**

EAST RENFREWSHIRE COUNCIL

12 JULY 2024

Report by Director of Environment

NEILSTON LEARNING CAMPUS – VARIATION TO CONTRACT No. 1

**PURPOSE OF REPORT**

1. To update the Cabinet on the progress with the Neilston Learning Campus Project and of a request to instruct a contract variation in accordance with Council Standing Orders as noted below.

**RECOMMENDATIONS**

2. It is recommended that the Cabinet:
- (a) Notes the current progress with a Works contract associated with the Neilston Learning Campus project, and:
  - (b) Approves a Variation to the Contract Value of £347,977.

**BACKGROUND AND REPORT**

3. The Council has been developing the new Neilston Learning Campus for several years in which St Thomas’ Primary School, Neilston Primary School and Madras Nursery would be incorporated within a single new build school campus to be delivered and completed by November 2024.

4. On 16 May 2022, the Council awarded a Works contract to Heron Bros Ltd with a Contract Value of £23,239,774. The project started on site on 24 June 2022. Progress was made during 2023 and the new school opened to pupils in March 2024. Following the opening of the new school, the existing Neilston Primary School and Madras Nursery will be demolished and the project finished off. This demolition is currently complete and the external works now in progress and the overall project is programmed to complete by November 2024.

5. At the time of the opening of the new school in March 2024, St Thomas’ Primary School was vacated and the building closed down. It was intended that this building and the site that it sits on would be linked to the Neilston Leisure Centre project. This project is identified within the Council Capital Plan but not due to commence development works until 2025/26.

6. However, soon after the building was vacated malicious damage has been taking place and this has resulted in Council Officers taking additional security measures to mitigate further risk of damage. Given the delay in commencing with the Neilston Leisure Centre project there would be a revenue cost saving to the Council to demolish St Thomas’ Primary School now so as to remove the need for ongoing security measures, address health and safety concerns and protect the Council from possible reputational damage.

7. The original contract with Heron Bros Ltd did not include for this demolition of St Thomas Primary School. A Variation to this contract is possible under the agreed terms and

a cost estimate has been obtained. This is estimated at £198,658 based on commencing in summer 2024. It is proposed that the Variation does not change the scope of the original contract.

8. It is also noted within this report that other variations have been made to the contract with Heron Bros. These variations have been for the provision of additional furniture to the Multi-Sensory Room, a construction video recording system used during the construction and the provision of audio visual equipment within the new build. The total of these other variations amount to £149,319. While the value of these other previously approved variations remains below the Council Standing Orders, the further variation to include the demolition of St Thomas' Primary School takes the combined level of variation above the Standing Orders limit of £200,000. This report therefore seeks approval of Cabinet to allow for the demolition of St Thomas' Primary School.

## FINANCIAL REGULATIONS

9. Financial Regulation items 18.3, 20.1, 21.1, 21.5.3, 21.5.4, 23.1.i apply

18.3 The value of any purchase order should reflect the value of the corresponding contract but may be increased during the life of a contract by a figure no more than 10% of the contract value in the case of goods and services contracts to allow for contingencies which arise. Clause 21, Contract Value Variations, is to be read in conjunction with this Clause.

20.1 Throughout the life of a contract it should be managed by the Contract Manager in respect of

- (1) following the corporate Standard Operating Procedure;
- (2) performance;
- (3) compliance with the specification and other terms of the contract;
- (4) cost and benefits;
- (5) best value requirements
- (6) delivery and risk management;

21.1 All Contract Variations must be carried out within the scope of the original contract and must not materially affect or change the Contract.

21.5 Such variations must be approved by:

21.5.3 The Chief Officer – Legal and Procurement if the value of the variation is in excess 15% of the works or the revised total contract value is more than £200k for consideration of its legal implications. If sanctioned by the Chief Officer Legal and Procurement the proposed variation must be reported to Cabinet for approval prior to the variation being instructed.

21.5.4 If the variation is urgently required or required during recess, approval may be given by two members of Cabinet. In that case, the variation should be reported to full Cabinet as soon as practicable after such approval.

23.1 Prior to the award of a contract, and provided best value is obtained, exemption from competition may be sought:-

- i. Where the Director of the procuring department considers that the contract is urgently required to minimise risk of personal injury or damage to property. If the exemption is granted, a report will be submitted by the Director to the next meeting of the Cabinet or

appropriate Committee detailing the risks identified and the action taken.

## **FUNDING**

10. While the contract award to Heron Bros was at a value of £23,239,774, the overall project budget of £30.9M was approved by Council in 2021 and contains a budget to deal with variations. This budget remains and it is intended that the cost of the previous and proposed variations are funded from this overall budget. At the time of writing this report a sum of £300k contract contingency and £1.438M risk contingency remains within the overall budget. Following approval of this report the variation fund will reduce to remain at £1.39M. In this way there is no additional budget required as a result of this report to cover the cost of the variations.

## **FINANCE AND EFFICIENCY**

11. Funding for the costs identified within this report will be allocated from the variation budget contained within the overall project budget.

## **CONSULTATION**

12. Consultation with Officers within the Corporate Procurement team has been undertaken in the preparation of this report.

## **PARTNERSHIP WORKING**

13. There are no Partnership Working implications directly associated with this report.

## **IMPLICATIONS OF THE PROPOSAL**

14. There are no staffing, IT, equality or sustainability implications directly associated with this report. Financial implications are addressed within the report.

## **CONCLUSIONS**

15. The value of the Neilston Learning Campus contract with Heron Brothers Ltd is intended to be varied to cover changes made during the construction of Neilston Learning Campus and also the proposed demolition of St Thomas' Primary School.

## **RECOMMENDATIONS**

16. It is recommended that the Cabinet:
- (a) Approves the combined variation value of £347,977 to the Works contract with Heron Bros so as to include for the demolition of St Thomas' Primary School.

Director of Environment

Further information can be obtained from Mark Rodgers, Head of Housing and Property (Strategic Services) 0141 577 3186 or [mark.rodgers@eastrenfrewshire.gov.uk](mailto:mark.rodgers@eastrenfrewshire.gov.uk)

**July 2024**

**APPENDIX B – CONTRACT VARIATION REQUEST FOR CURRIE AND BROWN WORKS**

EAST RENFREWSHIRE COUNCIL

12JULY 2024

Report by Director of Environment

NEILSTON LEARNING CAMPUS – VARIATION TO CONTRACT No.2

**PURPOSE OF REPORT**

1. To update the Cabinet regarding the Neilston Learning Campus Project and of a request to approve the instruction of a contract variation in accordance with Council Standing Orders

**RECOMMENDATIONS**

2. It is recommended that the Cabinet:
- (a) Notes the current progress with a Services contract associated with the Neilston Learning Campus project, and:
  - (b) Approves a Variation to the Contract Value of £134,117.

**BACKGROUND AND REPORT**

3. The development of the new Neilston Learning Campus has been in progress over recent years. The school opened on 19 March 2024 and the overall project, including the demolition of the existing buildings will be delivered by November 2024.

4. To assist the Council in design and procurement of the construction of the project a project manager with multi-disciplinary design team were sought by means of a two stage tendering process in which Currie and Brown were the successful candidate at a cost of £2,069,206 in June of 2020. This procurement was undertaken using Public Contracts Scotland. The award was made in June 2020 and the Council reported this contract award in accordance with standard practice. A Purchase Order was set up in the Council's financial system at a value of £2,069,206.

5. At the time of awarding the Contract with Currie and Brown, elements of the scope of service could not be reasonably estimated including site surveys and investigations. These surveys and investigations are only able to be established after the commencement of the design process. As such, costs for the site surveys and investigations were obtained by Currie and Brown and these totalled a value of £27,685 and were expended over the period September 2020 to November 2021. Payment for these surveys has been made to Currie and Brown.

6. Progress with the design stage of the project took longer than forecast at the time of tender for the Services contract with Currie & Brown. This prolongation was as a result of having to undertake an element of re-design to ensure that the cost of the project was able to be contained within the approved budget. The cost of this re-design work is £25,000. Payment of this prolongation cost has been made to Currie and Brown.

7. In preparation for the operation of the new building at the end of the construction stage, a further fee was identified to cover the cost of bringing in a Commissioning Engineer to check all of the building systems prior to being brought in to use. The cost of this service was identified at £19,911. Payment for this additional fee has been made to Currie and Brown.

8. Progress with Works contract for the construction stage of the project has also taken longer than anticipated. This has resulted in additional cost being incurred by the Services contract. Currie and Brown have intimated that the additional time that will be taken to complete the project by November 2024 could be in the order of £52,850. It is noted within this report that the main works contractor (Heron Bros) have been late in the completion of the first stage of the project. Heron Bros were meant to have completed the construction of the new school by November 2023. This was delayed and the new school did not open to pupils until 19 March 2024. There has been a prolongation of time by Currie and Brown to administer the contractor's delay. This cost may be in the order of £52,850. Currie and Brown have not at this stage formally submitted a request for this additional cost. It is noted that the Council is entitled to withhold a payment to the main contractor for the damages caused by the time delay from November 2023 to March 2024 subject to this being assessed in accordance with the contract. Should Currie and Brown make a formal request for additional fees, the Council would be able to make the £52,850 payment from the Contractor's damages payment. This will reduce the Council's costs to Currie and Brown. Payment of this fee to Currie and Brown has not yet been made.

9. Council Officers are also intending to procure a Works contract to demolish St Thomas' Primary School following the closure of this building in March 2024. This is the subject of a related but separate report to Cabinet. Council Officers have asked Currie and Brown to assist with this procurement and there will be a fee of £8,761. Payment of this fee to Currie and Brown has been made in part.

10. While the value of the payments already made to Currie and Brown remains below the Council's Standing Orders, the further payment of all outstanding fees takes the combined level of variation over the Standing Orders limit of £100,000 for Services Contracts. The estimated cost of all of these payments is forecast at £134,117. This report therefore seeks approval of Cabinet.

## **FINANCIAL REGULATIONS**

11. Financial Regulation items 18.3, 20.1, 21.1, 21.5.2 apply

18.3 The value of any purchase order should reflect the value of the corresponding contract but may be increased during the life of a contract by a figure no more than 10% of the contract value in the case of goods and services contracts to allow for contingencies which arise. Clause 21, Contract Value Variations, is to be read in conjunction with this Clause.

20.1 Throughout the life of a contract it should be managed by the Contract Manager in respect of

- (7) following the corporate Standard Operating Procedure;
- (8) performance;
- (9) compliance with the specification and other terms of the contract;
- (10) cost and benefits;
- (11) best value requirements
- (12) delivery and risk management;

21.1 All Contract Variations must be carried out within the scope of the original contract and must not materially affect or change the Contract.

21.5 Such variations must be approved by:

21.5.2 The Chief Officer – Legal and Procurement if the value of the variation is in excess of the 10% goods and services or the revised total contract value is greater than £100k for consideration of its legal implications. If sanctioned by the Chief Officer Legal and Procurement the proposed variation must be reported to Cabinet for approval prior to the variation being instructed

## **FUNDING**

12. The overall project budget of £30.9M as approved by Council in 2021 contains a budget to deal with variations. This budget remains and it is intended that the cost identified within this report are funded from this budget. In this way there is no further budget required as a result of this report to cover the cost of the variations.

## **FINANCE AND EFFICIENCY**

13. Funding for the costs identified within this report will be allocated from the variation budget contained within the overall project budget.

## **CONSULTATION**

14. Consultation with Officers within the Corporate Procurement team has been undertaken in the preparation of this report.

## **PARTNERSHIP WORKING**

15. There are no Partnership Working implications directly associated with this report

## **IMPLICATIONS OF THE PROPOSAL**

16. There is no staffing, IT, equality or sustainability implications directly associated with this report. Financial implications are addressed within the report.

## **CONCLUSIONS**

17. The value of the Services Contract with Currie and Brown associated with the design, procurement and construction of Neilston Learning Campus is intended to be varied as a result of additional surveys, investigations and fees made and liable to be made.

## **RECOMMENDATIONS**

18. It is recommended that the Cabinet:
- (a) Notes the current progress with a Services contract associated with the Neilston Learning Campus project, and:
  - (b) Approves a Variation to the Contract Value of £134,117.

Director of Environment

Further information can be obtained from Mark Rodgers, Head of Housing and Property (Strategic Services) 0141 577 3186 or [mark.rodgers@eastrenfrewshire.gov.uk](mailto:mark.rodgers@eastrenfrewshire.gov.uk)

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