

REPORT TO:	Cabinet 18 November 2019
SUBJECT:	Coulsdon College Temporary Modular Build Unit – Contract Variation
LEAD OFFICER:	Shifa Mustafa, Executive Director Place Stephen Tate, Director of Council Homes, Districts and Regeneration
CABINET MEMBER:	Councillor Alisa Flemming Cabinet Member for Children, Young People and Learning Councillor Simon Hall Cabinet Member for Finance & Resources
WARDS:	Old Coulsdon
CORPORATE PRIORITY/POLICY CONTEXT:	
<p>This project supports delivery of the following key themes of the Corporate Plan 2018-22:</p> <ul style="list-style-type: none"> • Education and Learning: We want to work towards a borough that can provide every young person the best possible start and recognizes the different needs and challenges that they all face. • A fairer Croydon: The Opportunity and Fairness Commission provides much that we must still pursue including a commitment to equality of access to education and jobs. <p>This project supports delivery of the following key themes of Croydon’s Community Strategy priorities and outcomes:</p> <ul style="list-style-type: none"> • Outcome 1: A great place to learn, work and live. Outcome 2: A place of opportunity for everyone – in particular: Priority Two; Support individuals and families with complex needs and; Priority Four: Deliver better education and the opportunity for everyone to reach their full potential. 	
AMBITIOUS FOR CROYDON & WHY WE ARE DOING THIS:	
<p>The delivery of this project is critical in ensuring the Council is able to meet its statutory requirement to provide pupil places to meet increasing demand and will support the Council in meeting the Policy Objectives of:</p> <ul style="list-style-type: none"> • Achieving better outcomes for children and young people • Promoting economic growth and prosperity 	
FINANCIAL IMPACT SUMMARY:	
<p>£0.500m was originally allocated within the Council’s Capital Programme Budget in accordance with the Education Estates Strategy (January 2019). The Education</p>	

Estates Strategy and Capital Programme submitted to Cabinet during September 2019, reflects a budgetary uplift in capital investment to £0.800m, for the hire of the modular build unit over the proposed period 2019/20-2020/21.

The original contract for the design and build of the modular building at Coulsdon College was awarded to Elliott Group Holdings up to the value of £495,522.

This report recommends the award of variation for the existing provision of the modular build contract, for an increase maximum contract value of £191,661.70, which will bring the total contract value to £687,183.70.

KEY DECISION REFERENCE NO.: This is not a key decision.

The Leader of the Council has delegated to the Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Finance & Resources the power to make the decisions set out in the recommendations below.

1. RECOMMENDATIONS

- 1.1 The Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Finance and Resources is recommended to approve the contract variation in accordance with Regulation 30 of the Council's Tenders and Contracts Regulations for Design and Build of a Temporary Modular Building at Coulsdon College to Elliott Group Holdings up to a new maximum contract value of £687,184 for a proposed contract period of 24 months (104 weeks).

2. EXECUTIVE SUMMARY

- 2.1 The temporary modular facility constructed at Coulsdon College has been installed to meet the immediate demand within the borough for the provision of SEND places for pupils aged 19-25.
- 2.2 The long term proposals for the 16-25 SEND Centre for Excellence in the Borough of Croydon, which will incorporate this temporary facility is currently going through due diligence and it has been agreed by the Director of Education and Youth Engagement to provide the current temporary provision for a further year at Coulsdon College (up until summer 2021). This is to ensure that enough time is allowed for all works to be carried out to determine the agreed provision for a permanent facility to be provided in Croydon.
- 2.3 The purpose of this report is to approve the recommendation to award the variation in accordance with regulation 30, of the existing modular build contract with Elliott Group Holdings (CCB Ref:1475/18-19) , for an increase maximum value of £191,661.70, which will bring the total contract value to £687,184. This variation will cover subsequent additional costs deriving from the works that were required during construction to ensure the facility is fit for purpose, the increase in the duration of hire period and the removal costs.

- 2.4 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB ref. number	CCB Approval Date
CCB1523/19-20	24/10/2019

3. DETAIL

- 3.1 The original contract award to Elliott Group Holdings (CCB Ref: 1475/18-19) was for the design and build of the modular at Coulsdon College to enable young people (19-25) with special education needs to be educated in the borough. This was procured via the Council's existing Modular Unit Framework agreement with Elliot Group Holdings.
- 3.2 Based on the requirements set out in the original project brief and pricing set out in schedule 3 of the Modular Unit Framework, Lot 2, the appointed supplier submitted their pricing proposal to deliver the design and modular build at Coulsdon College for a maximum contract value of £495,522.
- 3.3 At the time of the original award of contract, the anticipated length of hire period for the modular build was 12 months. However, the Director of Education and Youth Engagement, confirmed that this now needs to be extended for a further twelve months, bringing the total to a maximum hire period of twenty four months. This will enable the Council to determine its permanent solution with regards to SEND provision for young people in further education within the borough. The removal costs was included in the tender return however not incorporated within the original award report because there was no firm decision with regards to the duration of the modular unit. Therefore the proposed variation of contract includes the removal cost of the modular, and the subsequent additional hire period, along with unforeseen works that occurred during the construction.
- 3.4 The weekly hire costs submitted in the original tender submission was £1,123.13 per week. Elliott Group have offered a discounted rate of £1,072.50 per week for the additional 52 weeks as part of this proposed contract variation.
- 3.5 The proposed variation to the original contract award is based on the following costs:
- Additional 52 week hire period at £1,072.50 per week = £55,770
 - Removal cost of modular unit at the end of the hire period = £79,892.40
 - Subsequent costs that occurred during construction e.g. Electrical Intake Works = £31,000
 - 15% contingency = £24,999.30

Total Contract Variation Value: £191,661.70

Total Contract Award Value to Elliot Group Holdings: **£687,183.70**

All variations to the original contract award have been reviewed to ensure that the contractor is offering best value for money.

- 3.6 Due to the unforeseen circumstances during construction there was a requirement to undertake major works to the electrical intake to ensure the delivery of the project was completed by September 2019. Approval was sought during August 2019 from the Director of Commissioning and Procurement of the additional cost of £31,000 under the emergency procedure Regulation 19.3 of the Councils Tenders and Contracts Regulations. It was agreed for the Council to continue with Elliott Group Holdings to undertake the works. The design and build of the modular unit at Coulsdon College was completed in September 2019.

3.7 **Contract Management**

The delivery of the contract will be managed by the Capital Delivery for Homes and Schools Team in accordance with the Council's contract management framework.

The progress of delivering this contract will be reported on a monthly basis to Education Estates Delivery Board.

4. **CONSULTATION**

- 4.1 The original Project brief was developed in consultation with the Council's Children, Families Department, and Special Education Needs Service. The variation to the brief and subsequent contract award has come about by a request by the Special Education Needs Service.
- 4.2 Internal and external engagement and consultation have been undertaken with relevant stakeholders throughout the project, including Coulsdon College and Croydon College.

5. **FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

A budget increase of £800,000 has been allocated to the hire of a modular build unit at Coulsdon College and is included in the September 2019 Education Estates Strategy Cabinet Paper.

5.1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2019/20	2020/21	2021/22	2022/23
	£'000	£'000	£'000	£'000
Capital Budget available	800	273	217	99
Expenditure	527	56	104	
Effect of decision from report				
Expenditure				
Remaining budget	273	217	99	99

5.2 The effect of the decision

This decision will commit the Council to an additional sum of £191,661.70 to give a total sum of £687,183.70 which can be met from the capital budget. Any remaining budget at the end of each financial year will be carried forward into the following financial year.

5.3 Risks

The following risks have been identified and are being actively managed:

Risk	Likelihood	Impact	Mitigations
Procurement Challenge due to the proposed variation	L	M	The risk is considered to be low because the existing contract terms and conditions allows for variation/additional instructions to be applied. The increase in scope which are not deemed to be material change, relates to additional works which have become necessary under an existing contract award. The value of the additional works is below 50% of the original contract value.
Construction delays	L	M	Effective contract management will ensure works are delivered within the agreed timeframe. Liquidated Damages for late completion are to be agreed between the Council and Supplier. A retention clause is applicable under the framework at 3%.

Delays to Croydon College construction works	M	M	Deploy a contract and hire period extension with the supplier to ensure provision of accommodation is available for young people.
Performance issues	M	M	Implement Key Performance Indicators as set out in Schedule 8 of the Framework 'Key Performance Indicators'. As confirmed by the Education Programme Manager, he will closely monitor the performance of this contract.

5.4 **Options**

The Council has considered a number of options, including the option of not proceeding with this, however, this would have significant impact on delivering the temporary provision for young people with special educational needs whilst the Council determines the proposed permanent solution. It is therefore recommended to proceed with the award of variation via the existing contract with Elliott Group Holdings for an increased maximum contract value of £687,183.70.

5.5 **Future savings/efficiencies**

The weekly hire costs submitted in the original tender submission was £1,123.13 per week. Elliot's have submitted a discounted rate of £1,072.50 per week for the additional 52 weeks as part of this contract variation.

Approved by: Felicia Wright, Head of Finance, Place

6. **LEGAL CONSIDERATIONS**

6.1 The Solicitor to the Council comments that there are no additional legal issues arising directly from the report.

Approved by Sonia Likhari on behalf of the Director of Law and Governance

7. **HUMAN RESOURCES IMPACT**

7.1 There are no specific HR issues arising from the contents of this report, if any arise these will be managed under the Council's policies and procedures.

Approved by: Jennifer Sankar, Head of HR Place & GSE for and on behalf of Sue Moorman, the Director of Human Resources.

8. EQUALITIES IMPACT

- 8.1 The project will deliver a SEND facility for young adults aged 19-25 to allow them to continue their educational requirements within the borough. The facility will provide life skills training and specialist education.
- 8.2 The Equality Policy 2016-20 sets out the Council's commitment to equality and its ambition to create a stronger, fairer borough where no community is held back. The policy reflects the council's statutory duties under the Equality Act 2010 and is supported by the equality objectives set out in the Opportunity and Fairness Plan 2016-2020.
- 8.3 The equality objectives for 2018-22 are aligned to and will support the delivery of the Council's business outcomes set out in its Corporate Plan particularly in relation to:
- **People live long, healthy, happy and independent lives:** the delivery of this project is an investment in the voluntary and community sector, delivering a high quality purpose built space for the community, voluntary and the Council to work together to reduce inequality and increase the resilience of communities and individuals.
 - **Everyone feels safer in their street, neighbourhood and home:** Creating a welcoming, inclusive and pleasant place in which local people want to live and work and feel safe. The Community Centre will help in bringing people together through a diverse range of activities, increasing the resilience of the local community which in turn will help reduce crimes and anti-social behaviour.
- 8.4 The Elliott Group Ltd will be required to comply with the CDM Regulations 2015 which includes the obligation to meet the provisions set out in the Equality Act 2010.

Approved by: Yvonne Okiyo, Equalities Manager

9. ENVIRONMENTAL IMPACT

- 9.1 In accordance with the existing terms and conditions of contract, the delivery of the design and build of the modular complies with the required legislation including WEEE regs. The new modular building achieves the highest standards possible within the various site constraints and will be designed in consideration of the local surroundings. Additionally, the intention is to reduce energy use and associated carbon emissions by introducing low-impact building materials.
- 9.2 The Council will work with the college to monitor the post occupancy energy performance of the new buildings. This is to ensure that the low energy designs perform as expected and to capture any lessons learned for future projects.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no immediate Crime and Disorder consequences of this proposal.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 To proceed with the award of variation relating to the Council's existing contract with Elliot Group Holdings, to enable young people with special educational needs to be educated within the borough at Coulsdon College until summer 2021.

12. OPTIONS CONSIDERED AND REJECTED

12.1 The Council has considered a number of options, including the option of not proceeding with this, however, this would have significant impact on delivering the temporary provision for young people with special educational needs whilst the Council determines the proposed permanent solution. It is therefore recommended to proceed with the award of variation via the existing contract with Elliott Group Holdings for an increased maximum contract value of £687,183.70.

13. DATA PROTECTION IMPLICATIONS

13.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

13.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

This report does not involve the processing of 'PERSONAL DATA'.

The Director of Council Homes, Districts and Regeneration comments that there are no additional data protection implications arising directly from the report.

Approved by: Stephen Tate, Director of Council Homes, Districts and Regeneration

CONTACT OFFICER:

Name:	Clive Kershaw
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Post title:	Education Programme Manager
Telephone number:	Ext. 47127