



City of Westminster

Cabinet Member Report

Decision Makers:	Cabinet Member for Climate Action Regeneration and Renters Cabinet Member for Finance and Council Reform
Date:	25 August 2022
Classification:	Partially Exempt For General Release but that the Appendix 1, be declared as exempt from publication as (i) it contains information relating to the financial or business affairs of any particular person (including the authority).contains information relating to the financial or business affairs of a particular person (including the authority holding that information) under paragraph 3 of Schedule 12A of the Local Government Act 1972, and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
Title:	Ebury Bridge Demolition Contract Variation and Additional Spend
Wards Affected:	Knightsbridge & Belgravia
Key Decision:	This is a Key Decision due to the level of expenditure
Policy Context:	Enables the delivery of affordable housing to meet housing needs within the borough
Financial Summary:	A variation to the JF Hunt demolition contract is recommended together with an

approval to spend £961k on Phase 2 related demolition works.

Report of:

Debbie Jackson, Executive Director of Growth, Planning and Housing and Gerald Almeroth, Executive Director of Finance and Resources

1. Executive Summary

- 1.1. This report seeks approval to vary the Ebury Demolition Contract with JF Hunt to enable additional site enabling works to be undertaken under this contract on all phases of demolition on the Ebury Bridge Estate regeneration.
- 1.2. The details of the report and recommendations were presented and discussed at length with the previous Cabinet Member of Communities and Regeneration, the Cabinet Member for Finance and Smart City. The Cabinet Member Report was completed and circulated on 25 March 2022 but was not signed and completed due to the pre-election period. Due to these circumstances, the decision has now become a retrospective one, though this will now ensure that officers have the formal decisions in place to extend the contract scope and enable the additional spend under this contract to enable the future delivery and maintain momentum of delivery on future phases of the Ebury Bridge Estate regeneration scheme and deliver much needed affordable housing within the borough.
- 1.3. Delays to planning caused programme slippage on the project and delivery of phase 1. It delayed the negotiation and finalisation of the phase 1 main works contract with Bouygues UK (BYUK) and the ability for the team to clear all pre-commencement conditions and commencement of the main works.
- 1.4. JF Hunt were already under contract for the demolition works for Ebury and performing phase 1 demolition works well. The original contract envisaged demolition to ground floor slab only and covered all phases of demolition.
- 1.5. JF Hunt were well placed to undertake additional works packages such as pile probing, obstruction removal, utility diversions and pile mat installation that would have otherwise been undertaken through the main works contract and assisted in mitigating some of the programme delays and reducing the spend and contract term of the main works contract. JF Hunt were also able to undertake these works at a competitive and value for money price for the Council.
- 1.6. This report seeks the spend and contract variation approvals that enables this approach to be taken on all future phases of Ebury in the interests of both programme delivery and value for money.

2. Recommendations

2.1. This report seeks approval for:

- A contract variation that enables additional works packages to be delivered under the JF Hunt demolition contract. The details of which are set out in Exempt Appendix 1.;
- Additional demolition and works spend on Phase 1 totalling £1.652m and bringing total spend to £4.990m on Phase 1 and utilising £683k of project contingency; and

- Accelerated Phase 2 demolition spend of £961k.

3. Reasons for Decision

3.1. The approvals will enable the Council to have the ability for additional site enabling works packages to be commissioned through the demolition contract therefore providing greater flexibility and potential mitigations for any potential delays with the main works provision on future phases and also enabling packages to be priced and competed between JF Hunt and the main works contractor.

4. Background, including Policy Context

4.1. JF Hunt were competitively procured to deliver all phases of Ebury demolition on assumed phased programme and scope. Approval to award the contract for £7.8m (£3.3m on Phase 1 and £4.5m on Phase 2) was secured in September 2019.

4.2. The original contract scope assumed demolition to ground floor slab. Delays in planning and ongoing negotiations for main works contract with BYUK meant that JF Hunt finished phase 1 demolition work on site ahead of main works contract being in place. Additional enabling works packages were explored with JF Hunt to maintain momentum on site and avoid programme delays.

4.3. Four contract variations were instructed through delegated Head of Service approval to extend scope of works with JF Hunt to include site enabling works, retain momentum of delivery of site and to mitigate the programme delays being incurred. These contract variations removed packages of site enabling works that were included within the main works contract and are detailed in the table attached at Appendix 1 (exempt from publication due to commercial sensitivity).

4.4. Each instruction was interrogated by our cost consultants to ensure value for money. The variation instructions have secured continuity of works on site, and reduced risk in the main works contract with BYUK. A smooth and successful handover of the Phase 1 site has been secured as a result.

4.5. A 6-month delay to Phase 1 has been avoided through the additional works packages being delivered by JF Hunt. No 'dark ground risk' was transferred to the main contractor under this arrangement, de-risking additional cost and programme exposure to The Council and cost efficiencies of c.£1.5m have been achieved on preliminary costs alone due to the reduced percentage under the JF Hunt contract compared to the BYUK contract

- 4.6. The contract variations were endorsed by CGRB (Commercial Gate Review Board) in Sept 2021. Since the total contract variation is above £1.5m this is now being brought forward for Cabinet Member approval.
- 4.7. In addition, some elements of the Phase 2 demolition have been vacated earlier than expected through proactive engagement with Leaseholders and Tenants.
- 4.8. Total spend of £961k has been incurred against the Phase 2 demolition budget. This relates to the demolition of Mercer and Pimlico Blocks. Although an advanced budget approval for Phase 2 of £8.9m was approved and our expenditure on Phase 2 including these demolition works are well within that overall budget, it was felt necessary to seek a retrospective approval for this spend as the Advanced Budget Approval has referred to other phase 2 blocks.
- 4.9. Further approval to vary the contract to enable the same scope of services to be delivered by JF Hunt on the remaining elements of the Phase 2 demolition contract is also requested.
- 4.10. The value for money position on all variations and the total contract variation has been independently verified by our cost consultants, Gardiner & Theobald.
- 4.11. All variations to date have been instructed and progressed in accordance with the contract

5. Financial Implications

- 5.1. The original contract with JF Hunt for demolition works at Ebury and the associated spend of £7.8m was approved in September 2019. This report is now requesting approval to increase the total contract value to include enabling works across both phases. Further details are set out in Exempt Appendix 1.
- 5.2. The Full Business Case (FBC) for Phase 1 of the Ebury scheme was approved via CMR in August 2021. This included demolition spend of £4.3m. A drawdown of scheme contingency of £683k will be needed to fund the revised phase 1 expanded contract with JF Hunt as shown in Table 2 of Appendix 1.
- 5.3. Expenditure to date on Phase 2 demolition works totals £961k. This report requests retrospective approval for this sum. This relates to the demolition of Mercer and Pimlico Blocks. Although an advanced budget approval for Phase 2 of £8.9m was approved and our expenditure on Phase 2 including these demolition works are well within that overall budget, it was felt necessary to seek a retrospective approval for this spend as the Advanced Budget Approval referred to other phase 2 blocks. Approval for further phase 2 demolition and enabling works will come forward as part of the OBC refresh for Phase 2 in due course.

6. Legal Implications

- 6.1 The Council has a general power of competence under section 1 of the Localism Act 2011. This is the power to do anything an individual can do provided it is not prohibited by other legislation.
- 6.2 In accordance with the Council's Constitution, the relevant Cabinet Member may approve expenditure commitments over £1.5m on Capital Schemes and contract variations of contracts with a value of £1.5m or more.
- 6.3 The Council has instructed external legal advisers in relation to this contract, and they have provided legal implications with regards to a compliant contract variation in respect of Regulation 72 of the Public Contract Regulations 2015.
- 6.4 A building contract in the form of JCT Design and Build 2016 edition with bespoke amendments have already been entered into between the Council and John F Hunt on 9 July 2020.
- 6.5 The additional works are extension to the scope of the Works which are intended to be covered under the Contract by way of an instruction for a Change (as defined in the Contract). An instruction for a Change under the Contract will have time and costs implications which are dealt with under the terms and conditions of the Contract giving the Council certainty of the costs associated with the additional works and any extension of time to be granted to the contractor.
- 6.6 The proposed additional works can be instructed without contravening regulation 72 of the Public Contract Regulations 2015.

7. Carbon Impact

- 7.1 JF Hunt have achieved exceptional performance on the Phase 1 demolition in relation to carbon impact. 99% of demolition materials have been crushed and reused on the site, minimising the waste to landfill. All demolition material was stored and crushed on site, minimising the traffic to and from site and resulting carbon emissions. Similarly high levels of recycling will be sought on all future phases.
- 7.2 Ebury is a high performing sustainable development that utilises ground and air source heat pumps for the generation of all heating and cooling in the homes. In addition it provides infrastructure for electric car charging across all car parking provision, which meets the statutory requirement. Otherwise it is a low car development due to its proximity to public transport links and connectivity. Although the development pays a small carbon offset payment, the development is far more carbon efficient than the current estate and sees this benefit materialise in Year 12.

8. Equalities Impact

- 8.1 The Council commissioned an independent Equality Impact Assessment (EQIA) for the project at the outline business case stage, and updated this in advance of the conclusion of the full business case for Phase 1. The conclusions from this report are summarised in Appendix 1. The EQIA is reviewed and updated at key milestones along the programme. The variation to the JF Hunt contract and the contents of this report would not trigger the EQIA update milestone.
- 8.2 The project team requires all partners, professional advisers and contractors to meet the Council's equality duties and also the requirements stipulated in the Considerate Constructors scheme. The Considerate Constructors Scheme has made inclusivity a key objective and is actively requiring participants to recruit from under-represented groups.

9. Consultation

- 9.1 All necessary consultation in relation to the demolition and main works being undertaken on Ebury has been undertaken as necessary. Regular communications and updates are circulated to both Ward Councillors and local stakeholders and residents by the project team.
- 9.2 As this is a new CMR with the new Administration and ward boundaries have changed (previously Pimlico now K&B) we need to brief Ward Councillors again through written notice for a minimum of 7 days.

If you have any queries about this Report or wish to discuss further, please contact:

Vikki Everett, Head of Development at veverett@westminster.gov.uk
or 07971 017583; or

Lyndsey Gamble, Strategic Finance Manager at
lgamble@westminster.gov.uk or 07739 413577

APPENDICES

1. Appendix A - Summary of JF Hunt Contract Variations and Project Contingency Utilisation (exempt from publication)
2. Appendix B - Summary of Equalities Impact Assessment (not exempt from publication)

BACKGROUND PAPERS


None

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member** for Climate Action, Regeneration and Renters

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed:  Date: 30 August 2022

NAME: **Councillor Matt Noble**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Ebury Bridge Demolition Contract Variation and Additional Spend** and reject any alternative options which are referred to but not recommended.


Signed: _____

Cabinet Member for Climate Action, Regeneration and Renters

Date: 30 August 2022

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

For completion by the **Cabinet Member** for Finance and Council Reform

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: 

Date: 25 August 2022

NAME: **Councillor David Boothroyd**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Ebury Bridge Demolition Contract Variation and Additional Spend** and reject any alternative options which are referred to but not recommended.

Signed: 

Cabinet Member for Finance and Councillor Reform

Date: 25 August 2022

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

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