


<b>Individual Mayoral Decision</b>  12 <sup>th</sup> June 2024	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Paul Patterson – Interim Corporate Director Housing & Regeneration  Steve Reddy – Corporate Director Children’s Services	<b>Classification:</b> [Part-Exempt]
<b>Wood Wharf Primary School</b>	

<b>Lead Member</b>	<b>Councillor Maium Talukdar for (Deputy Mayor and Cabinet Member for Education, Youth and Lifelong Learning (Statutory Deputy Mayor))</b>
<b>Originating Officer(s)</b>	Yasmin Ali – Head of Capital Delivery
<b>Wards affected</b>	Canary Wharf
<b>Key Decision?</b>	No
<b>Reason for Key Decision</b>	This report has been reviewed as not meeting the Key Decision criteria.
<b>Forward Plan Notice Published</b>	15/05/2024
<b>Exempt information</b>	Appendix 1 is exempt. Rest of report is open.
<b>Strategic Plan Priority / Outcome</b>	<b>Strategic Priority 3 Accelerating education</b> Through a series of learning interventions and financial support, investing in youth services, and increasing opportunities for younger people to go into further education.

### Executive Summary

This report seeks Mayoral approval to increase the capital budget for Wood Wharf Primary School as outlined within the restricted appendix (Appendix A). The report outlines the requirement to appoint an alternative main contractor via a restricted competition, this is due to the existing main contractor being unable to complete the construction works due to their insolvency and progress on site has now come to a standstill.

It is critical to Mulberry Trust (school provider) that London Borough of Tower Hamlets (LBTH) enable them to provide a setting capable of accommodating 3-year groups of 2 forms (approximately 180 pupils) at Wood Wharf primary by September 2024. The

school currently has 120 pupils on roll, but from September 2024 it will be required to admit a further 60 reception children taking its number to 180. The families of these 60 children have already received an offer of a place at Wood Wharf for September, under the council's school admission arrangements, and are therefore expecting them to start school.

This report sets out reasons for increasing the project's funding, the current project position, and options available and explored to procure an alternative Main Contractor.

## **Recommendations:**

The Mayor is recommended to:

1. Authorise an increase to the budget for delivery of Wood Wharf Primary School as set out within the restricted appendix (Appendix A).

## **1 REASONS FOR THE DECISIONS**

### **1.1 Programme Pressure**

As outlined in section 3.4, The school currently has 120 pupils on roll, but from September 2024 it will be required to admit a further 60 reception children taking its number to 180. The families of these 60 children have already received an offer of a place at Wood Wharf for September, under the council's school admission arrangements, and are therefore expecting them to start school in September 2024.

### **1.2 Appropriate Contractor Procurement**

In line with the Procurement and Legal advice provided, LBTH Capital Team recommend that we appoint a main contractor via a restricted competition between the two suitable contractors who have expressed interest based on their visits to site.

As this project is necessitating that a contractor takes ownership of a previous contractor's work, the procurement approach needs to be suitable for this circumstance.

The procurement options can be found detailed in section 3.5.

## **2 ALTERNATIVE OPTIONS**

- 2.1 There is not an alternative option that would ensure the Council provide Mulberry Trust with the sufficient facilities required to meet their September 2024 pupil intake.

## **3 DETAILS OF THE REPORT**

### **3.1 Background**

Wood Wharf Primary School is a 2FE school which was programmed to be completed and operational by September 2022. The shell of the building was built by the developer, Canary Wharf Group and the building was handed over to LBTH in May 2021 for the fit out works.

Cabinet on 20th September 2020 approved a budget allocation of £4.8m for the fit-out works to the school building. In the intervening years the project has been subject to additional Cabinet approvals for uplifts to the budget. The current approved budget is £7.1m

At the end of February 2024, the existing contractor notified LBTH that unless the project is forward funded, they would not be able to complete the scheme due to their internal finances. LBTH subsequently had no choice but to take ownership of the site on Friday 23rd February and the contractual termination process commenced.

A replacement Main Contractor procurement process has taken place.

A request of an additional budget is required to complete the project.

### 3.2 Restricted Funding Approval for the Project

Please refer to restricted document: Appendix A

### 3.3 Programme Pressure

Wood Wharf Primary School, E14 was established by the Council in September 2022 under the 'free school presumption'. The Mulberry Academy Trust was appointed by central government (DfE) as the school provider. The new school opened with an intake of 60 reception pupils and will grow in size towards a capacity of 420 places by September 2028.

Due to delays with the delivery of its permanent building the school has been operating from its temporary accommodation at Jack Dash House, E14. It currently caters for up to 120 children. From September 2024 the School will be required to admit a further 60 children, taking its number to 180 in total. Jack Dash House does not have space for these additional 60 children. It is therefore imperative that the permanent building is completed by September 2024, so that these children are not left without a local school place. The consequences for the Council, in terms of loss of confidence from families, the wider community and the DfE, will be substantial if the new Wood Wharf School building is not ready in time.

Education has determined with Capital colleagues that there is no alternative to the Council taking immediate action to ensure that the new Wood Wharf Primary School building is ready to receive its new intake of children by September 2024.

### 3.4 Procurement Process

#### Restricted Competition

In this exceptional context, a traditional tender process would be counterproductive and it was agreed following Legal and Procurement advice that a restricted competition was best suited to ensure value for money is achieved.

### 3.5 Recommendation and Contract Award

LBTH Capital Team have engaged with several alternative main contractors to deliver this project, including contractors who form part of suitable frameworks.

In line with the Procurement and Legal advice provided, LBTH Capital Team recommend that we appoint a main contractor via a restricted mini competition between the two suitable contractors who have expressed interest based on their site visits. It is important that this contract should be awarded to a suitably sized contractor of which we have engaged to ensure we minimise inflated costs, benefit from an agile organisation and to engage a contractor with suitable experience.

On the conclusion of the successful procurement exercise, which led to an appointable contractor, post award pre contract changes were considered by LBTH and the successful bidder. This has led to a change to the contractual arrangement which now will be a fixed price contract based on LBTH's standard JCT Design and Build contract. This gives greater cost certainty to LBTH as the economic balance of the deal between LBTH and the bidder has moved in LBTH's favour ensuring best value.

The required uplift in project budget is outlined in the restricted appendix (Appendix A).

## 4 EQUALITIES IMPLICATIONS

4.1 The expansion project will also contribute to meeting statutory equalities requirements that include;

- The Children and Families Act - Part 3 (2014)
- The Equality Act (2010)

## 5 OTHER STATUTORY IMPLICATIONS

5.1 Additional Community Benefits will not be sought in this instance as the projected term of the contract of around 3 months is insufficient for meaningful benefits to be provided by any supplier. Also given the short term and urgent nature of this contract requesting additional benefits is unlikely to be an attractive proposition in the market.

5.2 This project has already commenced, and we are looking to appoint an alternative contractor. There are no further implications with regards to:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

## 6 COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This IMD seeks approval to increase the capital budget for Wood Wharf Primary School as outlined within the restricted appendix (Appendix A), to ensure that the project can procure a new contractor and be in a position where the site can accommodate 3-year groups of 2 forms (approximately 180 pupils) by 2nd September 2024. A breakdown of costs is included in the restricted appendix (Appendix A).
- 6.2 The additional funding will be financed through restricted capital S106 contributions and CIL funding.
- 6.3 To ensure that the site opens to pupils in September 2024, it is presumed that the full additional amount will be spent in 2024/25. With the short timescales in completing the project it is also assumed that any inflationary pressures have been factored into this additional request.
- 6.4 Any non-capital costs associated with this scheme will be funded from current available revenue budget.

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 The Council has the legal duty to ensure there are sufficient school places available within its boundary even though this school will be run by a separate provider and not maintain by the Council.
- 7.2 The Council has the legal power to enter into an agreement as detailed in this report
- 7.3 Regulation 32 of the Public Contracts Regulations 2015 allows the Council to select a contractor with whom to negotiate a contract as the circumstances require a level of urgency which means the timescales for a tender cannot be complied with and that the reason for the urgency is not due to the fault of the Council.
- 7.4 The Council has a legal duty to obtain Best Value in terms of economy efficiency and effectiveness when delivering its functions. Running a tender process assists the demonstration of compliance with this obligation as it shows the best available solution evaluated on a blend of quality and price. Therefore, a process which included a limited element of competition within it was determined to be the best option to comply with the Councils legal obligations bearing in mind the urgent need for the works to be completed in time for the new intake of pupils
- 7.5 The restricted appendix contains commercial information relating to the financial or business affairs of the Council. Such information is Exempt Information for the purposes of Schedule 12A of the Local Government Act 1972. The information if made public may prejudice the Council's commercial position in respect of the contractor and therefore the public interest in

knowing the information is outweighed by the public interest in maintaining the exemption.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- NONE

### **Appendices**

- Appendix A (Restricted Funding Approval)

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- NONE

### **Officer contact details for documents:**

N/A