

# Birmingham City Council

## Report to Cabinet Member for Children, Young People and Families

17 June 2024



**Subject:** North Birmingham Academy Expansion Revised Full Business Case

**Report of:** Sue Harrison, Director of Children and Families

**Relevant Cabinet Member:** Cllr Mick Brown- Children, Young People and Families

**Relevant O &S Chair(s):** Cllr Kerry Jenkins – Education, Children and Young People

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Perry Barr		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

### 1 Executive Summary

- 1.1 To seek approval for the capital costs and the modification of the contract for the scheme at North Birmingham Academy as described in **Appendix 1**. The capital costs of the scheme will not exceed £493,000.

- 1.2 A separate commitment of £11,663,163 and the award of contract was approved by Cabinet in February 2023 for the main extension construction project at North Birmingham Academy. Further details can be found under section 7.

## **2 Recommendations**

That the Cabinet Member for Children, Young People and Families:

- 2.1 Approves the capital costs for additional urgent & compliance related work required for the capital scheme at North Birmingham Academy, at a total cost of up to £493,000. (See 4.2 below for detail of works).
- 2.2 Approves the revised Full Business Case appended to this report.
- 2.3 Approves the modification of the contract for the scheme at North Birmingham Academy by increasing the financial value of the contract by £464,000 for the additional works, (plus a contingency of £29,000 for, planning completion assessment, BREEAM final close out, and potential changes and unforeseen work) with Morgan Sindall Construction and Infrastructure Ltd.
- 2.4 Authorises the Interim City Solicitor and Monitoring Officer to execute and complete all necessary documents to give effect to the above recommendations.

## **3 Background**

- 3.1 The Local Authority has a statutory duty to ensure there are sufficient pupil places, secure diversity in the provision of schools and increase opportunities for parental choice through planning and securing additional provision (Section 14, Education Act 1996).
- 3.2 Cabinet has already approved the costs of the extension building works to North Birmingham Academy in February 2023 to meet our statutory duty to ensure sufficient school places. Following the growth of numbers in our primary schools, additional secondary places were required to meet incoming demand. North Birmingham Academy was in the right location to support the Local Authority in meeting some of the required need for additional places and the Council therefore agreed to fund the building works to expand the physical premises.
- 3.3 North Birmingham Academy has already completed the statutory process to enable it to expand the total number of places and has increased its Published Admission Number, with the first increased intake of pupils starting in September 2023.
- 3.4 The main works already have already started on site; this new FBC request is for related works that were only discovered after breaking through the old part of the school – (see details below). The Local Authority is required to pay for these works since it is linked to the extension required as explained above.

- 3.5 The contractor, Morgan Sindall Construction and Infrastructure Ltd, discovered after breaking through the old part of the school that urgent and compliant extra encasement is required to provide fire protection and to bring this building area to latest compliance and regulation standards. The work required to ensure building compliance includes:
- 3.5.1 additional protection for fire safety via cladding, as requested by Building Control. This was discovered following breaking into and exposing the old part of the school;
  - 3.5.2 generator hire, due to the delay in installing a new electric meter by the school's external supplier. (The new meter was required because of extra load due to the required extension);
  - 3.5.3 existing school partitions needing extra fire protection;
  - 3.5.4 water pressure booster pump required due to the state of existing school supply.
- 3.6 The original contingency has already been used as part of the main works done to date. The extra money is needed for additional works now required after breaking through the old part of the school, as explained above, which could not have been anticipated before the main work began. Quotations supported by invoices have been provided by the Contractor for each of the variations which have been reviewed by Acivico's Quantity Surveyor to ensure value for money and that the correct CWM overhead/profit percentages applied.
- 3.7 The main works commenced April 2023 with a proposed completion date of 5 July 2024. The additional works should not delay the original completion date.
- 3.8 Since the award of the contract, Morgan Sindall Construction and Infrastructure Ltd has provided a satisfactory service in accordance with contractual requirements.

#### **4 Options Considered and Recommended Proposal**

- 4.1 The option of doing nothing would mean work will be delayed and the Local Authority fails to meet its statutory obligation to ensure that there are sufficient pupil places, promote diversity and increase parental choice through planning and securing additional provision. It would also leave the current extension part completed and it is likely that the Council would have an obligation to complete the work.
- 4.2 The recommended option is to approve capital costs and modification of the contract for further required works.

#### **5 Consultation**

- 5.1 The Governing Body at North Birmingham Academy supports the proposed improvements to the school.

## **6 Risk Management**

- 6.1 Risks have been considered as part of the remainder works. A contingency sum of £29,000 has been allocated. This contingency sum has been included in the overall project costs stated above.
- 6.2 Regular 2 – 4 weekly project meetings will be held to ensure that all parties are informed of progress and that any issues and concerns are picked up at the earliest opportunity and resolution is sought to ensure the project meets the required timescales. Regular meetings between Education Infrastructure and Acivico Ltd will also be held to closely monitor financial budgets to ensure that costs do not exceed the approved budget.
- 6.3 Working in a live school building and ensuring Health & Safety is maintained, Acivico Ltd has many years of experience delivering expansion projects of this nature and will manage and co-ordinate the works with the principal contractor, overseen by the Local Authority.

## **7 Compliance Issues:**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

- 7.1.1 These works are to ensure that all pupils at North Birmingham Academy are provided with a safe and secure learning environment. The spending priorities proposed are in accordance with the Schools' Basic Need Programme 2024-25 approved by Cabinet on 19 March 2024.
- 7.1.2 Birmingham Business Charter for Social Responsibility (BBCSR)  
Morgan Sindall Construction Limited is a certified signatory to the BBC4SR, and will be required to produce additional commitments proportionate to the additional value of this contract to be added to their action plan for this project. These actions will be monitored and managed during the contract period.

### **7.2 Legal Implications**

- 7.2.1 The recommendations in this report facilitate the discharge of functions contained within section 14 of the Education Act 1996 whereby the local authority has a duty to ensure that there are sufficient school places to provide all pupils the opportunity of appropriate education.
- 7.2.2 The arrangements set out in this report comply with the powers of general competence as set out in Section 1 of the Localism Act 2011.

### **7.3 Financial Implications**

- 7.3.1 The additional cost totalling up to £493,000 will be funded from the School's Basic Need Grant. This is inclusive of £29,000 of contingency.

(No fees apply as they have already been accounted for as part of the main cabinet report approved in February 2023).

7.3.2 This report proposes the use of ringfenced DfE grant (Basic Need) and does not seek approval for the use of any corporate capital resources.

7.3.3 Consequential revenue costs arising, including the need for additional staffing and any on-going day-to-day repair and maintenance of the asset, will be the responsibility of North Birmingham Academy and funded from the school's delegated budget.

7.3.4 The cost of this project has received S151 approval on 14 May 2024.

## 7.4 Procurement Implications

7.4.1 This contract modification is in accordance with the Council's Procurement and Contract Governance Rules item 4.36(ii).

7.4.2 Regulation 72(1)(c), Modification of Contracts During their Term, of the Public Procurement Regulations (PCR) 2015, allows provision for contracts to be modified without the need for a new procurement procedure where all of the following conditions are fulfilled:

- i. the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
- ii. the modification does not alter the overall nature of the contract;
- iii. any increase in price does not exceed 50% of the value of the original contract.

7.4.3 The contract modification is compliant with PCR 2015, Regulation 72(1)(c) on the basis that the modification was unforeseen as described in paragraph 3.4 above, does not alter the overall nature of the contract and the increase in price does not exceed 50% of the value of the original contract.

## 7.5 Public Sector Equality Duty

7.5.1 A Full Equality Analysis (EQA650) was reviewed and updated in November 2023. Having considered the Public Sector Equality Duty in light of the recommendations in the Schools Capital Programme Report 2024/25 (approved 19 March 2024), it has been decided that another Full Equality Analysis is not required, and it thought that that the decisions taken in this report will support the Council's performance of the duty.

## 8 Appendices

8.1 Appendix 1 - NBA - Full Business Case

**9 Background Documents**

Full Business Case and Recommended Contract Award for North Birmingham Academy – Expansion of Existing Academy with a New Three Storey Teaching Block – 14 February 2023