
**HARROWGATE HILL PRIMARY CAPITAL PROGRAMME PROJECT –
VARIATION TO ORIGINAL PFI PROJECT AGREEMENT CONTRACT**

Responsible Council Member – Councillor Hughes, Children & Young People Portfolio

Responsible Director – Murray Rose, Director of Children’s Services

REPORT SUMMARY

Purpose of the Report

1. To seek approval for the council to enter into a Deed of Variation to alter the terms of the original Public Finance Initiative (PFI) Project Agreement for Harrowgate Hill Primary School.

Summary

2. In 2004, Darlington Borough Council entered into a PFI agreement with Kajima Darlington Schools Limited for the provision of new school facilities at the Education Village and Harrowgate Hill Primary school. The contractual arrangements were specified under a national framework called a ‘Project Agreement’ which governs how the PFI contract operates on a day-to-day basis.
3. The expansion of Harrowgate Hill Primary School as part of the Primary Capital Programme (approved by Cabinet in July 2008) falls outside of the usual contractual variations that can be managed within the terms of the ‘Project Agreement’ and as such approval must be sought from Council to agree the necessary changes.
4. The physical expansion will also necessitate a procurement of further management services to the value of £80,000 and such procurement would require a tendering exercise to be in accordance with the Contract Procedure Rules.
5. It is considered that a competitive procurement exercise for these additional services would not be possible because it would be impracticable to have an alternative supplier interfacing with the existing supplier and Competitive tendering is therefore not appropriate for this procurement.
6. This paper sets out the required changes to the Project Agreement and any resulting implications.

Recommendation

7. It is recommended that Council give approval for the Authority to enter into the Deed of Variation for the expansion of Harrogate Hill Primary school.

8. It is recommended that Council agree to waive the Contract Procedure Rules under Rule 18 to allow the procurement from Kajima Darlington Schools Limited to proceed without a formal tendering exercise.

Reasons

9. The recommendations are supported by the following reasons :-
 - (a) An expansion of the primary school is required to ensure sufficient places are available for new pupils entering the school in September 2011.
 - (b) The Deed of Variation must be agreed prior to construction work being able to commence on site.

**Murray Rose,
Director of Children's Services**

Background Papers

No Background papers were used in the preparation of this report.

Rachel Jones : Extension 2992

S17 Crime and Disorder	There are no issues arising from this report.
Health and Well Being	Capital investment will provide sufficient classroom and circulation space for the additional children, therefore complying with health and safety requirements.
Carbon Impact	The new classrooms will be built to the highest specification and will embed best practice in sustainability and energy efficiency. The new building will use low-carbon using features and the classrooms will be linked to a bespoke Building Management System
Diversity	The expansion of the school will allow children and families a greater choice in primary school places in this area of the Borough.
Wards Affected	The North Road and Harrowgate Hill ward will be most affected as this is where the school is located. However, children attend the school from a number of different areas across the town.
Groups Affected	Primary pupils, their families and the School staff
Budget and Policy Framework	This decision does not require a change to the budget or policy framework
Key Decision	This is a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	The report is consistent with the Aspiring Darlington theme: Addressing the gaps in educational provision and raising the performance of schools across the Borough to match the best.
Efficiency	The new accommodation will be built in line with the existing systems and facilities that already are on the site, therefore they should benefit from efficient maintenance and management under the PFI contract.

MAIN REPORT

Information and Analysis

10. Harrowgate Hill Primary School is a PFI-built and maintained school. This means that the building is supplied and looked after by, principally, Kajima Darlington Schools Ltd (KDSL).
11. As part of the Primary Capital Programme, Harrowgate Hill Primary School was allocated £900,000 capital funding to allow it to expand by half a form of entry (105 pupils). This expansion is required to meet an increased demographic demand in this part of the Borough.
12. The construction work consists of the new build of three additional classrooms which will be seamlessly linked to the existing school. The construction works are being undertaken by the Building Services Department within Community Services.
13. To enable these capital works to take place, the Authority must now vary the original PFI agreement to encompass the three additional classrooms and provide for their on-going maintenance and facilities management as part of the PFI contract.
14. The Deed of Variation deals with changes to the original PFI contract. Changes are needed because the scope of the services needs to be varied to include the extensions. There also needs to be an agreement on latent defects, construction and design risks, and various access arrangements for contractors before, during and after construction. The Deed also contains various technical schedules such as the payment mechanisms, so that the overall financial model can be updated for the overall scheme. Its various appendices detail designs, room data sheets and service specifications expected by all parties.
15. The Deed of Variation will cost the Authority £46,206 per year (subject to indexation), which will be met directly from the Schools' Grant. This represents the amount Kajima need to provide facilities management for the extensions to the school. The facilities management services covers caretaking, grounds maintenance, catering, cleaning, security and operation of the building to the same specification as the original project agreement. Members of the Schools' Forum, have already agreed to this funding stream being top sliced from the Dedicated Schools Grant.
16. The legal process for these amendments is documented in a Deed of Variation (Appendix 1). The Variation has been developed with advice from the Council's Legal Department who confirm it does not expose the Authority to any risk outside the original Project Agreement or scope of the new agreement. It will, however, mean the Council must make good any latent defects found in the building that are of a design or construction nature (see appendix 2 for further obligations).
17. **Appendix 1** is the main document of the Deed of Variation which has been negotiated to agreement between the Authority and Kajima and now awaits confirmation from Council.
18. **Appendix 2** shows the key obligations the Deed of Variation will place on the Authority once signed.