

Contracts & Commissioning Board (CCB)

Contract Award Report

Date of meeting	21 st January 2021
By	Jacie-Louise Riley, (Project Manager, Capital Delivery for Homes and Schools)
Title	St Giles SEN School - Temporary Modular Classroom Installation
Project Sponsor	Shelley Davies (Director of Education)
Lead Member	Councillor Flemming (Cabinet Member for Children, Young People and Learning)
Key Decision	Yes (Ref: 6820CYPL) The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.

1. Recommendations

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

The Cabinet Member for Children, Young People and Learning, in consultation with the Cabinet Member for Resources and Financial Governance, is recommended to:

1. Approve the direct award of contract to Elliott Group Ltd for the delivery of a 2 classroom modular building in accordance with NHS framework agreement for a maximum contract value of £669,807.49 (inclusive of a 4.7% contingency), which will be on a leased basis for a maximum period of 3 years (36 months) after which the Council have elected for the option to purchase.

2. Background & strategic context

On 19th May 2020, the Contracts and Commissioning Board (CCB) endorsed the recommended delivery of a 2 classroom support building modular in accordance with the approved procurement summary report (Ref: CCB1578/20-21), to Elliott Group Ltd. It was agreed to commission the modular building via the NHS Modular Framework Agreement for the maximum amount of £670,000.

Initially the project strategy was to hire the modular building from Elliott Group Ltd for a term of 60 months (5 years), which falls in line with the councils 5 year SEN scheme which would review each SEN school asset to determine whether it viable for a permanent expansion and/or redevelopment prospects. After 5 years it was proposed that the modular classroom building would be removed from site.

However, during formal dialogue with Elliott Group Ltd, it was identified that after the recommended hire period of 5 years for the St Giles classroom modular had expired, it would be removed from site and demolished as Elliott will be changing their modular design for leased buildings going forward. Therefore as part of a robust benchmarking exercise (as outlined within the context of this report) negotiations were held between LBC and Elliott Group Ltd to use this opportunity to find potential savings.

A deviation from the initial proposal outlined in the RP2 strategy report was made to lease the modular building for a period of 36 months (3 years) and then elect to purchase it outright, rather than lease it for 5 year period and then remove it from site. Not only did the strategy variation offer a considerable saving and ensured the contract value remained within the allocated budget, it also meant that LBC would be able to future-proof this retained asset for extended or alternative use.

The London Borough of Croydon have a statutory obligation to ensure that all school buildings and grounds are fit for purpose, maintained to safe standard and are suitable for education purposes. Therefore, in accordance with the Education Estate Expansion Strategy and Capital Programme 2020 that was approved at Cabinet on the 20th January 2020 (Ref: 0120CAB).

The provision of a 2 classroom modular building to be installed at St Giles SEN School, in readiness to accommodate the borough's need to include a nursery provision at the school to provide a coherent pathway for children with PMLD and physical, sensory medical needs. This proposal will provide class placements for 10 reception aged pupils from Spring 2021.

St Giles SEN School forms part of a wider 5 year strategy which is being undertaken across the borough that is reviewing each SEN school asset, to determine whether it is viable for expansion and/or redevelopment opportunities. The undertaking of various ground surveys at St Giles' school, as well as an options appraisal has identified the appropriate location for the temporary modular building installation.

To accommodate the pupil increase at St Giles School, the Council are seeking to appoint Elliott Group Ltd for the design, build and install a temporary modular unit. This temporary single storey modular building will be in place on a leased basis for a maximum period of 3 years (36 months) after which LBC will purchase it. This initial hiring and then purchasing proposal was selected to provide overall cost savings. Buying after 3 years rather than hiring and then dismantling / removing the modular after 5 years, reduced the weekly rental costs by £28,611.96. Full planning approval was granted in October 2020- ref 20/03525.

There was never a consideration to purchase a modular building from the outset because of the wider strategy regarding the redevelopment of all SEN provisions in 5 years. The decision to buy only came about during negotiations in mid-October 2020, when trying to establish ways to reduce costs.

Elliott Group Ltd would not permit the Council to purchase the leased modular building upfront, and it wasn't in the Councils best interest to buy a permanent modular building.

However Elliott Group Ltd did agree for LBC to purchase the leased building after 3 years, because the modular was due to be dismantled and destroyed after the 5 year lease expired. Elliott confirmed they were changing the module design for their rental fleet within the next few years.

LBC never requested from the contractor to provide costs to purchase a permanent modular building, as that wasn't the project strategy. The project design brief and internal layout had been developed based upon use of a leased modular unit, that following negotiations LBC were then able to purchase (after 3 years) to save costs.

Contract terms and conditions:

The NHS Framework Lot 8 NHS Modular Buildings Shared Business Services call off agreement terms and condition will be applied (Service Level Agreement) Ref: SBS/16/JS/PZS/9049 was established on 18th January 2017 and will end on 17th July 2021. Owing to the urgency to deliver the project brief, a decision was taken to directly appoint Elliott Group Ltd by utilising this framework procurement method as outlined in the RP2 Strategy Report.

Principal contractor Elliott Group Ltd will be commissioned via the NHS framework, the contract terms and conditions of which have been agreed and accepted. LBC and Elliott Group Ltd will work in partnership to ensure that the contract is reviewed and monitored throughout the entire duration of the hire period.

LBC Capital Delivery have commissioned a CDM / PD (Construction Design Management / Principal Designer - regulations 2015) consultant to ensure that the design and delivery of this project complies with both health and safety and building control regulations.

Due to unforeseen delays as a result of the Covid-19 pandemic, the original timeline for the modular installation has been significantly extended, subsequently impacting on existing service operations. Therefore to avoid further cost implications, it is desired for the project to commence in late January 2021 with the aim to complete by the end of April 2021.

The modular is proposed to be in-situ for 36 months under a hire agreement with a right to buy at the end of this period.

Timeline for Delivery

Activity	Date
Undertake all site surveys	Late January 2021
Begin manufacture of modular units off site	February 2021
Commence groundworks on site	March 2021
Complete installation of modular unit and handover	April 2021
End of Hire Period	February 2024

Essential Spend Criteria:

Following the Council's issuing Local Government Act Section 114, the required design, build and installation of the modular unit at St Giles falls under the following essential spend criteria:

The expenditure for this project has been funded predominantly fby the Department for Education (DfE) though a ring-fenced grant.

The initial deadline to utilise this grant was October 2020, however it was approved for funds to be 'rolled over'. There is however, a risk that the DfE will retract the funding should the Council fail to use it. Currently only minimal spend has been used to undertake required project surveys and plans.

The Authority will cover the costs of hiring the modular units through CIL.

In accordance with the S114 grounds for 'new' expenditure, this project falls under the following criteria: **'Preventing the situation from getting worse' This is because:**

The Council has a statutory duty as educational provider to provide suitable school places for pupils in the borough.

Furthermore, this will be 'funded predominantly though ring-fenced grants', with the funding already having been received and allocated funding via the Special Provision Capital Funding stream. As such, failure to use the funding appropriately may result in that funding being withdrawn, meaning the provision may need to be met in other ways via Council resources.

Procurement process:

The Modular Buildings Shared Business Services NHS Framework (Service Level Agreement) Ref: SBS/16/JS/PZS/9049 was a direct award to appoint Elliott Group Ltd, to design and build a 2 classroom modular classroom facility due to the urgency required at St. Giles School.

The associated tender pack was issued to Elliott Group Ltd via the Council's E-Tender portal on 5th November 2020, and the tenderer submitted their completed tender response by the required deadline of 9th November

2020. As the tender was solely based on price (which the delivery team had previously benchmarked against), no clarifications were required therefore the submission was verified without delay.

In 2019 the tenderer delivered two varied sized temporary modular builds on behalf of LBC, one at Red Gates SEN primary school and the other at Coulson College. Although the size of the St Giles' modular differed from both of the previous Elliott's units, a benchmarking exercise was carried out to establish whether value for money had been attained by comparing product / activity rates from previous similar projects.

In order for the construction contract to fall within the allocated budget, a thorough value engineering review of construction costs was undertaken, consisting of a continued negotiation to adjust design, activity rates and the need for non-critical requirements. The contractor worked in partnership with LBC to find potential cost savings to reduce their 'bottom line'. This exercise continued until the LBC Delivery Team were content to approve Elliott's client proposal construction costs as outlined below:

Benchmarking Table

Date of Client Proposal / cost submission	Elliott cost proposal
22 nd September 2020 (v1)	£773,475.42
02 nd October 2020 (v2)	£701,603.64
13 th October 2020 (v3)	£675,237.15
15 th October 2020 (v4)	£639,739.72

From the initial cost submission to the final proposal agreed, this has delivered cashable saving of £133,735.70

3. Financial implications

In accordance with the agreed 20/21 Education Capital Programme a total allocation budget of £854,000 has been approved to deliver the St Giles 2 classroom modular building project. The overall project budget is broken down as follows:

Overall Project Budget Allocation

Project Requirements	Cost
Modular Construction and site works*	£501,000
Modular Hire for 3 years*	£79,000
Modular Purchase Price after 3 years*	£60,000
Relocation of Existing Equipment	£70,000
ICT Allowance based on 10 pupils	£16,000
FFE Allowance based on 10 pupils	£16,000
School Supply Chain Works	£15,000
Malling Close renovation works (existing nursery on alternative site site)	£20,000
3% Internal Staff Costs	£23,000
7% Contingency	£54,000
Total Funding Allocation	£854,000

*Awarded through this Contract

Tender Submission Breakdown

The table below is a clear breakdown of the costs as outlined in Elliott's tender submission:

Product / Activity outlined in SLA	Product / Activity Cost
Monthly Hire Payment	£78,809.64 (Total 3 years lease)
Upfront Payment	£294,493.47
Site Works	£137,040.42
Delivery & installation -	£69,351.30
Purchase of building after 3 years	£60,044.89
Total	£639,739.72

A Contingency has been allowed for within this award to cover any unforeseen costs that may arise during the project. This contingency will only be spent if the contractor can fully justify that this expenditure is outside of the original scope and unknown at the time of award.

Elliot Group Ltd Tender Price	£639,739.72
4.7% contingency	£30,067.77
Overall Contract Award Total	£669,807.49

Having conducted a rigorous benchmarking exercise, the Elliott Group Ltd tender submission on behalf of this project is deemed to offer both value for money and social value. This project has a maximum contract value of £669,807.49 (inclusive of 4.7% contingency of £30,067.77).

The following funding streams will be used to cover the costs of this award and associated value:

- Special Provision Capital funding - £590,997.85
- CIL - £78,809.64*

*CIL will be utilised to cover the costs of the hire period of the modular units.

The St Giles SEN School classroom modular installation project is a statutory provision which is being funded by the DfE and CIL.

Although the majority of this funding is ring-fenced for this specific project, it can be revoked if the Council fail to utilise the expenditure promptly, as such the Council may be responsible for funding the entirety of this project should this contract not be awarded.

1. Supporting information

Procurement process:

In line with the original CCB approved strategy report ref (CCB1578/20-21), it was agreed to apply a direct award approach Elliott Group Ltd via the NHS SBS Framework. This framework has demonstrated value for money and offers the ability for the Council to apply the direct award and/or mini-competition approach. This direct award option has been selected in order to minimize further delay and impact from the current COVID19 pandemic particularly with regards to ensuring the Council's delivery timescale is met, making sure the facility is ready for the potential pupils to use in September 2020.

The overall framework call-off agreement and other associated documents to award this contract, has been utilised previously by LBC, and as such is deemed suitable to commission this contract.

The Council submitted an invitation to tender to Elliott Group Ltd via the Council's E-Tender portal, based on the NHS (SBS) Modular Building Framework Agreement. The evaluation criteria was based on 100% price, Elliott Group were given access to visit the site to quantify and price their tender response.

The quality assessment for this procurement was carried out by reviewing the intended specification of works and associated rates. Also, by comparing similar delivered projects delivered by the same contractor, as well as analysing intended construction techniques and methods provided in the client proposal, therefore meeting agreed objectives as outlined in the RP2 strategy report. See attached benchmarking and quality costs provided to support this RP3 contract award.

Options Analysis

As outlined in the RP2 Strategic Report approved in May 2020, the procurement option was the direct appointment of Elliott Group Ltd for the following reasons:

This contractor was part of an existing LBC pre-approved modular framework, the option was taken to commission the contract via this procurement route in order to expedite the construction process. The Council had a statutory obligation to urgently provide additional classroom spaces, using grant funding from the DfE with a time-frame in which to spend. Elliott Group Ltd expressed they could meet Council requirements as set out in the associated RP2.

Elliott Group Ltd had delivered 2 prior temporary modular classroom builds during the previous year. Therefore LBC were not only familiar with their product quality, but also predicted programming and construction associated rates/costs, which were estimated to fall within the allocated project budget.

By commissioning Elliott via the framework, LBC would be able to successfully conduct a comparative benchmarking analyses, based on similar modular outputs already delivered by the Council.

It is for the reasons outlined above, why no other commissioning options were identified or considered for this project.

Equalities Impact Assessment:

An Equality Analysis has been undertaken for the project dated on 14/11/2020 and the findings highlighted that the contract would have no impact. Elliott Group Ltd will be required to deliver its obligations in accordance with the Equality Act 2010, which is included within the proposed terms and conditions. See attached EIA included to support this RP3 contract award.

Elliott Group Ltd has included their social value commitments as part of their offer, please see further details below:

Social Value Commitments:

- Offer two weeks work experience to a student from Croydon;
- Compliant with London Living Wage;
- Have a Social Value Bank to enable them to fulfil their corporate social responsibility; Offer two days to support a local charity on a voluntary basis;
- For example, they provided contract administration services free of charge for an extension project to Demelza charity;
- Advertise all their employment opportunities via Croydon Works (until such time this may be decommissioned);
- Seek to internally utilise their employees who live and around Croydon. Ensures efficient working, less travel and local knowledge of the area is often invaluable.

Elliott Group Ltd have expressed that they are committed to supporting LBC's social value policy and confirm that they are compliant with endorsing London's Living Wage to all their employees.

Contract Management:

In accordance with the Council's contract management framework, an initial contract implementation meeting will take place to establish the agreed KPIs which will include delivery of their social value commitments to benefit the residents within the borough. The proposed contract will be managed by Capital Delivery for homes and schools team.

Environmental Impact

The delivery of this project will include an appropriate waste management plan to ensure that all materials and debris are disposed of correctly to encourage recycling, and reducing the need for excessive landfill. Several of St Giles' pupils have respiratory conditions that can be worsened by dust and air pollution.

In terms of transport, operating from a single site will also support the efficient transportation of children and young people to St Giles, supporting the reduction of carbon emissions. Discussions have been held with the school faculty who will work with LBC to accommodate the programming / phasing of works for this project. The environmental impacts of this project have been considered.

Risk Management

The recent announcement of the Section 114 notice, has caused significant delay undertaking necessary enabling works linked to this project, which must be carried out prior to the Elliott modular programme beginning. It should therefore be noted that the project scheduling may adjust, to accommodate required project phasing to be executed (some of which will be carried out by other contractors).

External stakeholders (the end user) are being kept up to date with developments regarding our financial position and its subsequent effect on this project.

Inclusive of the above, existing project constraints relating to time, cost, scope and quality could all potentially be impacted due to unforeseen events. In an attempt to mitigate issues should they arise, the project has a budget contingency, and wherever possible the construction programme will be shortened. The uncertainty due to Covid-19 and the recent section 114 notice has prompted further discussion with the school faculty in order to manage their expectations and desired outcomes. The LBC Delivery Team have been working in collaboration with the school keeping them abreast of the latest developments, so they are able to adjust their operational outputs accordingly.

Information Management

No data processing or GDPR considerations need to be applied to this contract.

Having utilised the Modular Buildings Shared Business Services NHS Framework (Service Level Agreement) Ref: SBS/16/JS/PZS/9049 in the past, LBC were able to successfully benchmark against existing modular builds delivered by Elliott Group Ltd.

The requirement to promptly provide additional classrooms to accommodate a new nursery provision at St Giles SEN school, was the incentive to undertake the procurement method of directly appointing Elliott Group Ltd, therefore enabling the Council to expedite the construction process.

2. Conclusion and reasons for recommendations

Having conducted a comprehensive commissioning review, the Elliott Group tender submission has demonstrated the ability to fulfil the Council's requirements and is deemed to offer good value for money with cashable savings

