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| <b>Report To:</b>       | <b>Education and Communities Committee</b>                                                                                                                         | <b>Date:</b>       | <b>8 September 2015</b> |
| <b>Report By:</b>       | <b>Head of Education</b>                                                                                                                                           | <b>Report</b>      | <b>EDUCOM/67/15/EM</b>  |
| <b>Contact Officer:</b> | <b>Eddie Montgomery</b>                                                                                                                                            | <b>Contact No:</b> | <b>01475 712472</b>     |
| <b>Subject:</b>         | <b>Use of Powers Delegated to the Chief Executive to issue an instruction for the reinstatement / replacement of the retaining wall at Ardgowan Primary School</b> |                    |                         |

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## **1.0 PURPOSE**

- 1.1 The purpose of this report is to advise the Committee on the use of emergency powers to issue an instruction in respect of the reinstatement / replacement of the partially collapsed retaining wall at Ardgowan Primary School.

## **2.0 SUMMARY**

- 2.1 The Ardgowan Primary School refurbishment project commenced on site on 14<sup>th</sup> April 2014 to complete 13<sup>th</sup> April 2015. The project had experienced delay during the currency of the contract which had been reported to the Education & Communities Committee and all stakeholders with a revised date set for completion. During the final stages of the works there was a partial collapse of an existing retaining wall which impacted on the ability to complete the project for the revised date. Working in conjunction with the main Contractor a solution to the reinstatement / replacement of the wall was finalised and an estimate received for the necessary works in the amount of £250,000. The use of powers delegated to the Chief Executive was required as the approved total cost of the project would be exceeded and an instruction to proceed was required urgently to allow the works to be completed by the end of the summer holiday period and avoid any further delays on the main contract and the potential impact on other major capital projects.

## **3.0 USE OF EMERGENCY POWERS**

- 3.1 The use of emergency powers to issue an instruction to the main Contractor (Central Building Contractors Ltd.) in the estimated amount of £250,000 for the reinstatement / replacement of the retaining wall at Ardgowan Primary School was authorised by Councillors Loughran, Brennan, Brooks and the Chief Executive.

## **4.0 RECOMMENDATION**

- 4.1 It is recommended that the use of emergency powers is noted.

Ruth Binks  
Head of Education

## 5.0 BACKGROUND

- 5.1 The Ardgowan Primary School refurbishment project commenced on site on 14<sup>th</sup> April 2014 to complete 13<sup>th</sup> April 2015. The Education & Communities Committee have been provided with regular progress updates as part of the Education Capital Programme progress reports and had been advised that the Contractor was working to a revised programme that projected completion 3 weeks behind the original, with a handover anticipated on 4<sup>th</sup> May 2015. The Committee had further been advised that, following a review of progress and critical items undertaken during the week commencing 6<sup>th</sup> April, there remained a risk of not achieving the handover date, due in part to complications with the final utility connections which impacted the final commissioning and handover phase. A revised handover date of Sunday 17<sup>th</sup> May was set and the exceptional closure dates for the school were revised in agreement with the Scottish Government to Monday 18<sup>th</sup>, Tuesday 19<sup>th</sup> and Wednesday 20<sup>th</sup> May with first day of full operational scheduled for Thursday 21<sup>st</sup> May 2015.
- 5.2 On Sunday 3<sup>rd</sup> May 2015, whilst working on the final drainage connections for the school, in close proximity to an existing retaining wall, there was a partial collapse of the existing retaining wall structure (see Appendix 1). Officers attended site on Monday 4<sup>th</sup> May and it was quickly established that the event would impact on the proposed handover date noted in 5.1 above.
- 5.3 Officers continued to work in conjunction with the main Contractor to find a solution to the reinstatement / replacement of the wall that would allow the works to be completed over the remaining weeks prior to, and over, the school summer holiday period to allow occupation in August. The following critical factors should be noted:
- Ardgowan Primary School were in decant accommodation within the former Sacred Heart Primary School and revenue costs would continue to be incurred in connection with transport and other related costs for the extended period they would be in occupation. There would also be reputational damage for the Council associated with any further delay on the project.
  - The progression of the £7M St Patrick's Primary School New Build project was dependent on the ability to decant the existing school into the former Sacred Heart Primary School accommodation in use by Ardgowan. The delay to date has currently involved a re-working of the St Patrick's programme which originally included early possession of the existing building to take forward enabling works (demolition and formation of construction access etc.). At the time of seeking emergency authority the main Contractor for the St Patrick's project had indicated that the October 2016 completion date would still be achievable as long as the existing school closed at the end of June i.e. Ardgowan PS must transfer back to their refurbished building in August 2015 following the summer holiday period and St Patrick's must commence the new school year in Sacred Heart. The St Patrick's PS project critical path included achieving financial close in July and any further delay would impact on the affordability of the project in terms of construction inflation and potentially would mean the projected October 2016 date would not be achieved.
  - The location of an existing rail tunnel under Newton Street impacted on the possible design solutions for the reinstatement / replacement of the wall with potentially lengthy consultation / approvals required in connection with any works in the zone of influence of the tunnel that are deemed to be invasive by Network Rail (this effectively ruled out sheet pile solutions). The proposed solution involved forming a temporary benched slope from inside the footway in order to make a safe working area. As a result the works would be inside the Network rail zone of influence however will have no detrimental impact on the rail tunnel which lies below the Newton Street carriageway at considerable depth which would not be affected by the construction operations. The operation did however involve substantial earthworks, backfill and reinstatement of the public footway upon completion. It was also necessary to replace the wall along the full length of the frontage, not just the collapsed sections, as the integrity of the remaining

sections of walling could not be guaranteed.

- 5.4 All stakeholders and parents for both the Ardgowan PS and the St Patrick's PS projects were advised of the delays on both projects and were also advised that the anticipated transfer would take place following the school summer holiday period. This was communicated on Friday 15<sup>th</sup> May 2015 following discussions with the Ardgowan PS project main Contractor and timescales provided by their specialist sub-contractor for completion of the reinstatement works.
- 5.5 The main Contractor (Central Building Contractors) engaged existing sub-contractors and a specialist timber crib retaining wall sub-contractor, and established an estimated cost for the proposed works. This was received on Tuesday 26<sup>th</sup> May 2015. Where applicable the rates are comparable to those for similar works in the existing contract. The Contractor also committed to working on an open book basis in respect of the actual cost to ensure that value for money is demonstrated and the best possible price obtained for the works.
- 5.6 Both the Contractor and the Council notified their respective Insurers and Loss Adjustors for both parties were engaged. The Contractor also employed a consultant Engineer who has carried out an assessment of the incident. The final insurance position has yet to be established with discussions on-going.

## **6.0 PROPOSALS**

- 6.1 It was proposed to instruct the main Contractor (Central Building Contractors Ltd.) to proceed with the reinstatement / replacement of the existing retaining wall, in the estimated amount of £250,000 including direct costs and fees. It was noted that the liability for and final cost to the Council will be subject to the final outcome of any negotiations with the Contractor and the respective Insurance Loss Adjustors as outlined in 5.6 above. The cost of the works were proposed to be contained within the current Education Capital programme SEMP budget pending the final outcome of the Insurance negotiations.

The use of emergency powers was requested in order that an instruction to proceed could be issued to allow the works to proceed without delay addressing the issues below:

- extent of the necessary works and the limited time available for the required specialist sub-contractor input into the design with lead-in time for materials ordering.
- minimise the impact on revenue costs in connection with a further delay / use of the decant accommodation by Ardgowan PS.
- minimise the impact on the proposed St Patrick's PS project to allow it to proceed to financial close and achieve the original proposed completion date.

## **7.0 FINANCIAL IMPLICATIONS**

- 7.1 The total budget allocation for the Ardgowan Primary School project was £5.926M. There was no scope for part funding this work from that budget as the project contingencies have been fully expended and the final account has yet to be agreed.
- 7.2 The proposals to address the cost of the reinstatement / replacement of the existing retaining wall are outlined in the table below. As outlined in 5.6 above this is subject to the conclusions and recommendations of any reports by the main Contractor and Council Loss Adjusters.

### 7.3 Finance

| <b>Cost Centre</b> | <b>Budget Heading</b> | <b>Budget Year</b> | <b>Proposed Spend this Report</b> | <b>Virement From</b> | <b>Other Comments</b>                                |
|--------------------|-----------------------|--------------------|-----------------------------------|----------------------|------------------------------------------------------|
| Capital            | Education Capital     | 2015/16            | £185,000                          | n/a                  | Part utilisation of 2015/16 SEMP Lifecycle Fund      |
| Capital            | Education Capital     | 2015/16            | £65,000                           | n/a                  | Utilisation of 2015/16 capital programme contingency |
|                    |                       |                    | <hr/> £250,000                    |                      |                                                      |

The expenditure will therefore be contained within the current Education Capital programme allowances.

### 8.0 CONSULTATION

- 8.1 The Chief Financial Officer was consulted on this matter and has agreed with the proposals / action taken.
- 8.2 There are no direct staffing implications in respect of the report and as such the Head of Organisational Development, HR and Communications was not consulted.

### 9.0 LIST OF BACKGROUND PAPERS

- 9.1 Central Building Contractors cost estimate dated 26<sup>th</sup> May 2015.



