
RECLADDING OF NELSON & LOUDOUN

Appendices 3 & 4 to this report are exempt from publication on the basis that it contains information of the description set out in paragraph 16 of the Local Government Act 1972.

Purpose of the Cover Report

1. To provide background information to enable Members to carry out pre-decision scrutiny of the report to Cabinet titled, 'Recladding of Nelson / Loudoun' prior to its consideration by the Cabinet on the 21st March 2024.
2. Members should note that two Appendices of the Cabinet Report are exempt from publication (**Appendix 3 & Appendix 4**). Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct. Should Members hold any questions that pertain to the detail of the Appendices, the meeting will enter a closed session where webcasting will be paused, and members of the public excluded.
3. A copy of the draft Cabinet Report is attached at **Appendix A**, which in turn contains, the following Appendices:

Appendix 1; Procurement Options Report

Appendix 2; Cost Estimates

Appendix 3; Legal Services Advice - **confidential**

Appendix 4; Blake Morgan Legal Advice - **confidential**

Scope of Scrutiny

4. Within their considerations of the Cabinet Report and its subsequent Appendices, Committee Members should consider:
 - The costings of the project and any relevant movement.
 - The timetable for delivery and any relevant movement.
 - Impact on residents.
 - Deliverability.
 - Achievability.
 - Any identified risks and proposed mitigations.

Background

5. During the 1990's, 6 Council owned blocks were retrofitted with external cladding. These flats were;
 - Lydstep Flats in Llandaff North (3 blocks)
 - Nelson House in Butetown (1 block)
 - Loudoun House in Butetown (1 block) and;
 - Channel View in Grangetown (1block)
6. In the wake of the Grenfell Tower tragedy, Cardiff Council undertook testing on the cladding of all of the above listed blocks. **Point 4 of Appendix A** details that although the cladding used on these blocks was not the highly flammable, ACM cladding used on Grenfell Tower, the testing confirmed they did not meet current fire safety standards. As a result, the cladding was removed from the properties, excluding Loudoun House due to Loudoun House having two stairwells and being deemed a lower risk.
7. Since the removal of the cladding, a number of tenants experienced issues such as condensation and mould. The Council procured a building investigation consultation to help determine the best way forward for the 5 blocks. The report produced by the consultants, confirmed that it was necessary to re-clad the blocks if appropriate thermal efficiency was to be achieved, and a report to progress the recladding of the blocks was considered and agreed by Cabinet in [March 2020](#). *Committee Members are reminded the Channel View high-rise*

block is due to be demolished as part of the regeneration of the area, and so is excluded from the re-cladding programme.

8. Committee Members are advised in September 2021, Cabinet agreed to the recladding of Lydstep Flats with estimated costs of circa £15,100,000. However, the [September 2021 Cabinet Report advised](#) that in relation to Nelson & Loudon House, work relating to these properties have not yet progressed through the procurement process; and their proposals will be subject to a further report which will address affordability and funding (*of which, the Cabinet Report attached to this Cover report is*).

Costings

9. As detailed in **Appendix A**, the route proposed to appoint a contractor to deliver the works at Nelson & Loudoun House is to use Lot 10 of the South East & Mid Wales Collaborative Construction Framework (SEWSCAP3). The draft Cabinet Report proposes that the procurement process will be a two stage, 'Design & Build approach' in order to secure wider tenders. The stages of the procurement process is proposed in the Cabinet Report as follows:

- Stage 1 – a 'services contract' to outline scope/design
- Stage 2 – a 'works contract' for the construction works

*Committee Members will note a Procurement Options Report is at **Appendix 1.***

10. The indicative value of the recladding works presented to Cabinet in March 2020 prior to Stage 1 (scope / design) of the procurement process for any of the buildings were as follows;

- Lydstep flats - £8.9m,
- Loudoun House - £5.7m,
- Nelson House is £2.4m.

These costs also included a 25% uplift for associated "risk allowance".

11. However, as detailed in the September 2021 Cabinet Report, following stage 1 of the Lydstep Flat procurement process (scoping & design), the updated cost plan for Lydstep Flats was estimated at £15,109,023. Which equated to a cost movement increase of £7,700,764 or 103% since the initial plans proposed in 2020. Reasoning for the increase in cost was attributed to:

- Inflationary pressures post 2020.
- Increased cost in materials
- Increased cost in labour.

13. Regarding the costings for Loudoun & Nelson House. **Point 33 of Appendix A** details the estimated costings as of March 2024 as:

- £25m (plus VAT).

14. Member's attention is further drawn to **points 33 of Appendix A and Appendix 2** which provides more detail, and a breakdown of the £25m plus VAT cost estimate.

15. Due to the nature and scale of the project, the March 2020 and September 2021 Cabinet Reports sought to reduce the project's financial impact on leaseholders and it was agreed no contribution from leaseholders/homeowners toward the cost of the cladding for Lydstep flats would be expected. However, leaseholders would be expected to pay for windows to their flats, balcony upgrades and a proportion of the costs of any windows in communal areas.

16. As detailed in the March 2020 Cabinet Report, Lydstep Flats has 11 leaseholders and 115 Council tenants, equating to 126 flats in total.

17. With regard to Nelson & Loudoun House, Loudoun House has 120 flats in total, 2 flats are leaseholders, and 118 flats are Council contract holders. With regard to Nelson House, this has 61 flats and all 61 are Council contract holders.

18. Further, **point 35 of Appendix A** advises, due to the 'expected grant' from the Welsh Government, it is not anticipated that any charge will be made to leaseholders for these works.

Schedule of Works

19. The March 2020 Cabinet Report proposed that the work to reclad the blocks be carried out in two phases under the following indicative timeline:

Phase 1 – Lydstep Flats

Procurement / appoint contractor: May to September 2020

Start on site: September / October 2020

Complete all 3 blocks: September 2021

Phase 2 – Nelson and Loudoun House

Procurement / appoint contractor: July to December 2020

Start on site: January 2021

Complete on site: December 2021

20. In recognition of the delays to delivery, the 2021 Cabinet Report details the factors which impacted the delivery of Lydstep flats were due to the requirement for additional fire testing on the proposed new cladding, and the earliest testing slot was 13th August 2021; significantly delaying the project, with completion of Lydstep Flats anticipated to be early 2023.

Committee Members are to note, this anticipated completion date of 2023, was provided in the 2021 Cabinet Report.

21. As detailed in **Appendix A**, there have been further delays to Lydstep flats owing to the 'ceramic brick slip-based cladding' used. With **Appendix A** detailing the installation of this cladding system caused the contractor considerable issues due to lack of available labour with experience of installing this type of cladding; resulting in the programme of works overrunning significantly.

As a result, **Appendix A** anticipates completion of Lydstep flats as April 2024.

22. With regard to schedule of works for Nelson & Loudoun House, **point 23** of **Appendix A** provides a summary of the main works required, with **point 32** advising the following timescale:

Procurement

Appoint contractor for stage 1: March to July 2024

Appoint contractor for stage 2: December 2025

Construction

Start on site: January 2026

Complete on site: September 2027

Lydstep Flats – Lessons Learnt

23. **Appendix A** details as part of the preparation for the Nelson & Loudoun House project, a “Lessons Learnt” exercise was undertaken relating to the re-cladding of Lydstep Flats. With the issues identified from this exercise being used to inform the Nelson House / Loudoun House project. **Points 18 to 22 of Appendix A** provides insight into the lessons learnt from Lydstep, which in summary, relates to the selection of cladding.

Background – Building Control & Safety in Wales

24. Building Regulations, are a set of legal requirements for the design and construction of new buildings, extensions, and material alterations to existing buildings to ensure buildings are safe, accessible and energy efficient.

25. In Wales, Building Regulations are defined by the Welsh Government and cover specific topics such as, structural integrity, fire protection, accessibility and energy performance.

26. Following the Grenfell Tower fire, a UK Government review into Building Regulations & Fire Safety saw the passing of the Building Safety Act 2022, which has been described as, *‘the biggest shake-up of building safety regulation since 1984 in England and Wales’*¹.

¹ [‘Cracks in the Foundations’ – Building Safety in Wales \(audit.wales\)](#) page 4. Accessed 7th March 2024.

27. The Building Safety Act 2022 came into force in April 2023, all aspects of the Act apply to England, but only Part 3 (*and some of Part 4*) applies to Wales. Subsidiary legislation and guidance on Part 3 are being introduced by the Welsh Government, with full implementation and compliance set for April 2025².

28. Key changes brought forward as a result of the Building Safety Act 2022 are:

- Building Control teams will no longer be permitted to be responsible for development projects proposed by their own Local Authority, as this is considered a conflict of professional interest. As a result, the Cabinet Report (**Appendix A**) details that ‘Cross-boundary collaboration is being arranged to address this’.
- Building Control Surveyors will be required to become Registered Building Inspectors.
- A new building control regime will apply to High-Risk Buildings. These are defined as those buildings that are over 18 metres in height or have at least seven storeys and contain at least one residential unit, or are a care home, children’s home or hospital. As stated in the Cabinet Report, the detail of this new regime is not yet clear.
 - The introduction of an ‘Accountable Person’ for all ‘higher risk’ buildings who will be responsible for ensuring that the fire and structural safety is effectively managed for the whole building³.
 - The ‘Accountable Person’ must record their fire risk assessment and their fire safety arrangements in their entirety.
 - Audit Wales Report advises, owing to the changes brought forward by the Act, there is a significant need for clarity on the identity of individuals or organisations involved in the fire risk assessment process.

Members are to note, the above list is not intended to be exhaustive.

29. In August 2023, Audit Wales published a report summarising its assessment of how the Welsh Government, local authorities and key partners are implementing the requirements of the Building Safety Act 2022.

² ‘Cracks in the Foundations’ – Building Safety in Wales (audit.wales) page 18. Accessed 11th March 2024.

³ ‘Cracks in the Foundations’ – Building Safety in Wales (audit.wales) page 50 Accessed: 8th March, 2024.

30. This Audit Wales report, 'Cracks in the Foundations – Building Safety in Wales' advises, the Welsh Government is also developing legislation that will deal with the areas covered in Part 4 of the Building Safety Act 2022. This includes introducing a new Regulator for Wales and equivalent duty holder roles such as the Accountable Person⁴.

31. Findings from the Audit Wales report, detail there is 'overwhelming concern' from local authorities and fire and rescue services around the late development and notification of policy decisions and guidance for implementation.

32. With Audit Wales assessment being:

- ❖ Some doubt remains on how the Act will be implemented in Wales, mainly because decisions in key areas are yet to be decided and agreed. This is creating uncertainty, with most local authorities who are responsible for delivering these changes and, by extension in terms of joint working, fire and rescue services, who are yet to develop comprehensive plans that set out how they intend to deliver their new and revised responsibilities. As a result, Audit Wales recommended the Welsh Government provide local authorities with greater clarity on the implementation and expectation of the Act, to allow local authorities to effectively discharge their duties and responsibilities.
- ❖ Local authorities should develop local action plans that articulate a clear vision for building control to be able to plan effectively to implement the requirements of the Act.
- ❖ Local authorities should urgently review their financial management of building control and ensure they are fully complying with Regulations.
- ❖ Local authorities should work with partners to make better use of limited resources by exploring the potential for collaboration and regionalisation to strengthen resilience through a cost benefit analysis of partnering with neighbouring authorities.
- ❖ Local authorities should review their risk management processes.

Committee Members are to note, these summaries of findings provided by Audit Wales have not been disaggregated to Cardiff Council.

⁴ ['Cracks in the Foundations' – Building Safety in Wales \(audit.wales\)](#) page 18. Accessed 8th March 2024

33. As detail in **point 13 of Appendix A**, due to the current uncertainty surrounding the new building legislation and its requirements on local authorities, it is anticipated this may impact the Nelson and Loudoun house project.

Previous Scrutiny

34. When considering the September 2021 Cabinet Report (*which sought Cabinets agreement to progress with the recladding of Lydstep Flats*) Committee

Members raised the following points⁵:

- a. Significant concerns regarding the substantial increase in cost and delays in delivery.
- b. If the costing, 'estimated' in the 2021 Cabinet Report (£15,109,023) could increase further, with concern raised by many Members around the trajectory of the cost increase and the need to ensure it does not further escalate.
- c. If removing the site and replacing it with a different scheme, such as that of a low-rise calibre, had been considered and, if there was a possibility of undertaking further assessment to determine if it would be a viable, more cost-effective option.
- d. When exploring cost to the leaseholders, Members were informed that due to the revised costings, further work on the costing / contributions for leaseholders would be required.

Legal Implications

The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement

⁵ [\(Public Pack\)Correspondence Following Committee Meeting Agenda Supplement for Community & Adult Services Scrutiny Committee, 15/09/2021 16:30 \(moderngov.co.uk\)](#) Accessed 7th March, 2024

imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

It is recommended that the Committee:

- i. Consider the draft report and its subsequent appendices and decide whether it wishes to relay any comments or observations to the Cabinet at its meeting on the 21 March 2024; and
- ii. Decide the way forward regarding any further scrutiny of this issue.

Leanne Weston

Interim Deputy Monitoring Officer

12 March 2024