

**OVER-CLADDING OF NELSON HOUSE AND LOUDOUN HOUSE
HIGH RISE FLATS**

HOUSING AND COMMUNITIES (COUNCILLOR LYNDA THORNE)

AGENDA ITEM: 8

Appendix 3 and 4 to this report are exempt from publication as it contains information pursuant to paragraph 16 of the Local Government Act 1972.

Reason for this Report

1. To update Cabinet on the progress in replacing the cladding for the Council's high-rise blocks.
2. To request approval for the proposed procurement arrangements to deliver re-cladding works to 2 blocks of high-rise flats (Nelson House and Loudoun House).

Background

3. Following the Grenfell Tower tragedy, checks were carried out on the cladding of the council high-rise flats in Cardiff. 6 blocks had been retro-fitted with external cladding during the 1990's. These blocks were Lydstep Flats in Llandaff North, Nelson House & Loudoun House in Butetown and Channel View in Grangetown.
4. Testing showed that while the cladding on these blocks was not of the highly flammable ACM type that was used in Grenfell Tower, it did not meet current fire safety standards and therefore could pose additional risk during a fire. Following discussion with the Fire Service the external cladding was removed from 5 of the blocks. The cladding has remained in place in Loudoun House. This block has 2 stairwells and is considered a lower risk than the other high-rise buildings, however a 24-hour fire watch has remained in place to ensure the safety of the residents.
5. The Council engaged a firm of building investigation consultants (the British Research Establishment) to undertake a number of surveys to each block to ascertain the best way forward for the buildings. The report

concluded that it was necessary to re-clad the blocks if appropriate thermal efficiency was to be achieved.

6. It was therefore proposed that the cladding was replaced on 5 high rise blocks. Channel View high-rise block is due to be demolished as part of the regeneration of the area, it has therefore been excluded from the recladding programme.
7. Approval was given by Cabinet on 2nd April 2020 to carry out the re-cladding works of the remaining blocks in phases.

Phase 1 - Lydstep Flats (3 Blocks)

8. Cabinet gave approval for the approach to recladding these blocks in 23rd September 2021. This work is now nearing completion, with an expected finish on site in April 2024. While the project took longer to complete than anticipated, it is clear that the project will meet its objectives. Alongside the new cladding system, windows and balconies have been upgraded. The scheme will both maximise the energy efficiency for residents and improve the visual appearance of the blocks, enhancing the whole neighbourhood.

Phase 2 – Nelson House and Loudoun House

9. The purpose of this report is to commence phase 2 by setting out proposals for the recladding and improvement works at Nelson and Loudoun House.

Issues

New Building Safety Act & Regulations

10. In the wake of the Grenfell Tower fire, building safety legislation has been under review. The Building Safety Act 2022 came into force in April 2023, however not all of the Act applies in Wales. The new building safety regime for Wales is not yet fully in place, and significant concerns about this delay have been raised by Audit Wales.
11. New regulations will be implemented in Wales from 1st April 2024 including changes to Building Control / Planning arrangements. From this date, 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. Cross-boundary collaboration is being arranged to address this. In addition, Building Control Surveyors will be required to become Registered Building Inspectors. There is currently a lack of registered officers in Wales, which poses concerns regarding the timeframes for building control approvals throughout the design and construction of the works.

12. The Welsh Government has also announced that from 6th April 2024, 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. The projects at Nelson and Loudoun House will fall within this definition and will need to go comply with the new building control regime. The details of this new regime are not yet clear.
13. The uncertainty of the building safety legislation in Wales and the shortage of Registered Building Inspectors could impact on this project. It is therefore necessary to include flexibility within the timeline and within the scheme requirements to allow for any changes in legislation that take place over the course of the project.

Engagement of Specialist Project Support

14. Given the importance of achieving the highest level of fire safety and the challenge of the changing regulatory framework, it is essential that the project is managed effectively and with appropriate expert advice. An employer's agent has been commissioned, Mott MacDonald Limited, to support the project from pre-tender through to completion of the construction phase. This will give continuity throughout the project. External legal representatives with experience in this area have also been commissioned to advise on the scheme.
15. Technical Advisors are to be commissioned to ensure that the best possible advice is available on the specification for the cladding system to be used and to ensure that all legislation and safety standards are fully complied with.
16. The Council's own project team includes senior managers and technical officers from Housing & Communities with support from officers from Projects, Design and Development. A Board will be established to take this complex work forward and clear roles and responsibilities will be set out, to ensure proper oversight of the project.
17. As part of the preparation for the project, a "Lessons Learnt" exercise was undertaken relating to the re-cladding of Lydstep Flats and the issues identified from this exercise will inform the Nelson House / Loudoun House project.

The Cladding System

18. The lessons learned review of the Lydstep project has resulted in a change to the proposed approach to selecting the cladding system for Nelson / Loudoun House. The cladding chosen for Lydstep flats was a ceramic brick slip-based cladding. While brick-based cladding is not the least expensive option, it does require less maintenance than render

which discolours early in its lifespan. This was also the safest option available on the market at the time being non-combustible. Unfortunately, the installation of this cladding system caused the appointed contractor considerable issues due to lack of available labour with experience of installing this particular type of cladding system and the amount of work involved resulted in the programme of works overrunning significantly.

19. There are now other cladding systems on the market which are pre-fabricated or of a panel design which will be quicker to install and which can meet all legislative requirements, achieve the highest standard of fire safety and which are equally visually attractive. It is therefore proposed that for Nelson / Loudoun the exact cladding product will not be specified. Instead, a robust set of performance specifications will be developed with the assistance of specialist Technical Advisors. The Contractor will be required to comply with these performance specifications to ensure that the cladding system meets all legislative and fire safety requirements and is visually pleasing.
20. It is expected that this greater flexibility over the exact cladding system used will help to prevent the delay experienced with installation of the cladding system at Lydstep.
21. During the design development, the Contractor and the Council's Technical Advisor will review the designs available and conduct an options appraisal exercise aligned to the performance specifications. This will include options for preferred finish (e.g. brick, panels etc.). Consultation with residents will also take place before confirming the preferred design.
22. As part of the construction works the cladding system will be fire tested to give assurance that the intended products and systems are safe for use. By subjecting the cladding systems to controlled fire scenarios, assurance can be given that the external walls will not allow the spread of fire and any potential risks and vulnerabilities can be identified and addressed. This will ensure that the buildings meet all the necessary fire safety standards.

The Scope of the Work

23. It is anticipated that the main works included in the project will be as follows:
 - Removal of cladding from Loudoun House (cladding has already been removed from Nelson House)
 - Installation of new cladding system to both Nelson House and Loudoun House
 - New external windows and curtain walling
 - Replacement roof covering of the concierge block
 - Some boiler replacements and gas works will be necessary as part of the works

- Other fire safety works as identified in the Fire Risk Assessment.

Procurement

24. To take forward the works it is proposed to procure a contractor to a 2-stage Design & Build Contract. The 1st stage is a “services” contract for the design and the 2nd stage is a works contract for the construction, after the design has been completed and priced.
25. It is proposed to procure the contract through Lot 10 of the South-East & Mid Wales Collaborative Construction Framework (SEWSCAP3).
26. This procurement route is recommended following an options appraisal undertaken by Mott MacDonald. This considered both Traditional and Design & Build approaches. The result of this appraisal confirmed that a Design & Build approach would be most appropriate for this project. A copy of the Procurement Option Report can be found at Appendix 1.
27. Due to the complexity of the project, there were concerns that there would be a lack of interest from contractors. Therefore, early contractor engagement has been undertaken to communicate the project objectives to potential bidders. Indications are that at least two contractors are interested in bidding for the works. It should be noted that during the market engagement it was clear that a 2-stage Design & Build approach was the preferred option and it is possible that a more traditional approach would not secure the desired tenders.

Evaluation Criteria

28. It is proposed that the most economically advantageous bidder will be appointed based on criteria reflecting both quality (70%) and price (30%).
29. Listed below are the criteria that will be considered as part of the 70% quality evaluation.

Criteria	Weighting
Social Value (Bidders to submit a community benefits action plan and evidence their approach and capability to deliver)	10%
Programme, sequencing and phasing (to meet key dates)	20%
Work methodology and risk mitigation (security, safety and ability to work within a live environment)	20%
Knowledge and experience of	20%

proposed team (to achieve success with this project)	
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The Contract

- 30. Following an options appraisal, it is proposed to use the NEC4 suite of contracts, as this best suits the complexity of this project, details of the options appraisal are included at Appendix 1.
- 31. It is proposed that the contract will be issued with the Invitation to Tender (ITT) and will clearly address issues around liability, risk and insurance levels. These are issues that caused delay during the Lydstep Flats project. The ITT will make it clear to bidders that any clarification requests regarding the contract must be dealt with during the tender period and post-tender amendments to the contract terms will not be accepted. Such amendments are known to cause delay and present an unacceptable procurement risk to the Council.

Timescales

- 32. The following estimated timescales are based on the proposed procurement route detailed in paragraph 13 of this report. It should be noted that these timescales are currently estimates and are subject to change when proposed programmes are received as part of the tender submissions.

<u>Procurement</u>		
Appoint contractor for stage 1	-	March to July 2024
Appoint contractor for stage 2	-	December 2025
<u>Construction</u>		
Start on site	-	January 2026
Complete on site	-	September 2027

Budget

- 33. The estimated cost plan for the works is circa £25m (plus VAT). This estimate has been produced by Mott MacDonald and includes contractor costs, project fees, a 10% uplift for associated “risk allowance” and an amount for inflation during the project. It should be noted that this cost plan may be subject to change as further detail becomes available. Welsh Government grant funding has been agreed in principle to the sum of £25m. A high level breakdown of the cost estimate can be found at Appendix 2.
- 34. The two blocks include 181 flats in total made up as follows:

Loudoun House – 120 flats in total (including 2 leaseholders / 118 council contract holders)

Nelson House – 61 flats (0 leaseholders / 61 council contract holders)

35. Due to the expected grant from the Welsh Government, it is not anticipated that any charge will be made to leaseholders for these works.
36. Given the cost of this project an options appraisal was carried out to consider whether recladding was appropriate or whether demolition and rebuild would provide a more cost-effective solution. The options appraisal showed that recladding and refurbishment was clearly the most cost-effective solution. There would also be no requirement to relocate the 181 households, allowing them to continue to live in their community and avoiding any additional rehousing requirements at a time of extreme housing pressure.

Emerging Issue – Beech House

37. The Council has two high rise blocks on the Hollybush Estate in Whitchurch, Beech House and Sycamore House. These blocks do not have external cladding and therefore were not included in the work carried out after the Grenfell tragedy. A recent review however resulted in concerns about the insulation behind the render on Beech House. A specialist fire risk assessment has indicated that this render does not meet current safety standards. An action plan has therefore been developed to address this, including a 24/7 fire watch until the render can be removed. Proposals for the replacement of this insulation are still under development and it is anticipated that this will be the subject of a further cabinet report.

Local Member Consultation

38. Communication with residents of Loudoun House and Nelson House and local Members has been initiated via email / letter. As the scheme develops, they will be involved at all stages, including in the final choice of cladding design.
39. Initial communication has been initiated with the residents of Beech House and local Members and an information session on site has been arranged. Both residents and Members will be kept informed about the immediate works and any proposals for the future.

Reason for Recommendations:

40. To agree the way forward for the recladding of Nelson House and Loudoun House, including the proposed procurement arrangements.

41. To ensure the thermal efficiency of the blocks while maintaining the highest level of fire safety.

Financial Implications

42. Allowance has been made in the Council's Housing Revenue Account Capital Programme, for the cost estimate identified in Appendix 2. It is assumed that this will be met in full by Welsh Government Grant. The project should progress at a pace to ensure no risk of loss of potential grant funding. Any revenue budget implications arising following completion of the works, in terms of fire safety mitigations, will need to be considered in updating the medium-term financial plan for future years.
43. The report recommends delegation of the decision to accept any contract award. Where the value of the total cost is greater than 10% of the estimate set out in this report; if grant funding to the level expected is not forthcoming or the total cost cannot be managed within the HRA budget framework, then a further Cabinet report should be considered.

Legal Implications

44. The report recommends approval to commence a procurement off the Sewscap framework.
45. Legal Services has not reviewed the specific framework agreement but any procurement via a framework must be carried out in accordance with the process set out in the framework. It should be noted that the call off terms and conditions will be those as set down by the framework and the client department should satisfy themselves as to whether they are suitable for their requirements. Legal services have not had sight of the call off terms and conditions to be used. It is recommended, in particular but not limited to, the call off terms should be in final form and include all required information and removal of square brackets prior to commencing procurement and included in the tender documents.
46. The report recommends approval of the evaluation criteria and weightings. The evaluation is of high importance, as it will determine who will be appointed. Therefore, the decision maker needs to be satisfied as to the same and the weightings proposed.
47. It is noted these are to include 10 % social value. Of relevance is WPPN01/20, which provides, 'Wherever possible social value requirements proportionate to the value and related to the subject matter of the contract should be considered for inclusion in public sector tenders. In all cases where a contracting authority determines that social value requirements are to be included: Links between social value requirements

and Wellbeing of Future Generations (Wales) Act 2015 (“WBFG”) Goals should be identified (where the contracting authority is subject to the WBFG), and A minimum weighting of 10% (Procurement Policy Note 06/20 – taking account of social value in the award of central government contracts) of the total award criteria should be applied to social value in the tender to ensure that it carries a heavy enough score to be a differentiating factor in bid evaluation.’ It is important to:-

- ensure that any social value clauses/community benefits included are linked to the subject matter of the contract and indicated in the contract documents. Regard should also be had to how the successful contractor will be required to flow these down through the supply chain and how these will be monitored and outcomes reported and
- ensure that the contract notice refers to the social value to be delivered.

Equality Duty.

48. In considering this matter, the Council must have regard to its public sector equality duties under the Equality Act 2010 (including specific Welsh public sector duties). This means the Council must give due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The protected characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of religion or belief.

Well Being of Future Generations (Wales) Act 2015

49. The Well-Being of Future Generations (Wales) Act 2015 (‘the Act’) places a ‘well-being duty’ on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible. In discharging its duties under the Act, the Council has set and published wellbeing objectives designed to maximise its contribution to achieving the national wellbeing goals. The wellbeing objectives are set out in Cardiff’s Corporate Plan 2023-26. When exercising its functions, the Council is required to take all reasonable steps to meet its wellbeing objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the wellbeing objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.

50. The wellbeing duty also requires the Council to act in accordance with a ‘sustainable development principle’. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met

without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

51. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

General

52. The decision maker should be satisfied that the decision is in accordance within the financial and budgetary policy and represents value for money for the council.
53. The decision maker should also have regard to, when making its decision, to the Council's wider obligations under the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.
54. The report also seeks to delegate further decision to the Director. Any further legal implications will be set out in any delegated decision report.
55. Please also see exempt Appendix 3.

Legal Advice – Blake Morgan

56. In addition to the below, please see Confidential Appendix 4
57. Blake Morgan LLP has been instructed as the Council's legal advisors in relation to the proposed construction contracts. Blake Morgan LLP advised in relation to the tender of the SEWSCAP3 framework agreement itself and other call-offs under SEWSCAP3, so are well versed in the requirements of SEWSCAP3). This advice will cover review of the procurement documents and all key decisions and stages in the procurement where required.

HR Implications

58. There are no HR implications for this report.

Property Implications

59. There are no further specific property implications in respect of the update report on the Over-Cladding of Nelson House and Loudoun House High Rise Flats. The requirement around the need for this work, its cost and timescales are noted.

60. Where there are any relevant further property management matters, transactions or valuations being undertaken by the Council to deliver any the works or other relevant proposals, they should be done so in accordance with the Council's Asset Management process and in consultation with Strategic Estates and relevant service areas.

RECOMMENDATIONS

Cabinet is recommended to;

1. Approve the proposed procurement route for the over cladding of Nelson House and Loudoun House; approve the evaluation criteria set out in the report and agree the commencement of the procurement process.
2. Delegate all aspects of the procurement process for the over cladding works to Nelson Houses and Loudoun House (up to and including award of contract/s and any ancillary matters) to the Director of Adults Housing and Communities in consultation with the Cabinet Member Housing and Communities, Corporate Director Resources and Director of Governance and Legal Services, subject to approval of appropriate grant funding being secured from Welsh Government.

SENIOR RESPONSIBLE OFFICER	Jane Thomas, Director Adults Housing and Communities
	15 March 2024

The following appendices are attached to this report

Appendix 1 - Procurement Option Report

Appendix 2 - Cost Estimate

Confidential Appendix 3 - Legal Services Advice

Confidential Appendix 4 - Blake Morgan LLP – Legal Advice