

Part I

Main author: Tina Warren

Executive Member: Cllr Nick Pace

Hatfield Central Ward

WELWYN HATFIELD BOROUGH COUNCIL  
CABINET – 8<sup>TH</sup> SEPTEMBER 2020  
REPORT OF THE CORPORATE DIRECTOR (HOUSING AND COMMUNITIES)

**QUEENSWAY HOUSE CLADDING removal – PHASE 2**

**1 Executive Summary**

1.1 This report details further cladding removal works at Queensway House, needed to comply with the recommendations made in the External Wall Fire Review (EWS1) report and the requirements of Hertfordshire Fire and Rescue Service.

**2 Recommendation(s)**

2.1 That pursuant to Contract Procedure Rule 14 (k) (Alternative Procedures in Prescribed Circumstances) Cabinet agrees to waive the requirement for a competition to be carried out and for five (5) tenders to be obtained, on the basis that it is to the advantage of the Council that this rule should be waived”;

2.2 That Cabinet approves the direct award of a contract to Borrás Construction Limited for Phase 2 Cladding Removal at Queensway House.

2.3 Further information relating to this contract is contained within the associated Part II report, this being exempt from this Part I on the basis that it contains financial information relating to the contract, as such exempt from publication.

**3 Explanation**

3.1 In January 2020, the Ministry of Housing, Communities & Local Government published the document ‘Building Safety Advice for Building Owners, Including Fire Doors’, which advised building owners of their responsibility for ensuring the safety of their buildings.

3.2 The report states that existing residential buildings which have external walls that contain combustible materials may not meet an appropriate standard of safety and could pose a significant risk to the health and safety of residents, other building users, people in the proximity of the building or firefighters.

- 3.3 An External Wall Fire Safety Review (EWS1) of Queensway revealed that the coloured render board with phenolic foam insulation (yellow cladding) and Kingspan Ecosafe PIR (metal corner cladding) utilise materials that are not considered to be of limited combustibility. Furthermore, there is no evidence that cavity barriers were incorporated into the design of the cladding system, which was installed in 2012. This is on the basis that we have no evidence that the contractor who fitted the cladding received formal approval from Building Control.
- 3.4 The EWS1 report therefore recommends that the yellow cladding and metal corner cladding is removed from Queensway House. The EWS1 report does not state timescales for when this work must be done, however Hertfordshire Fire and Rescue Service measure the urgency by the effect an external routed fire could have on both types of cladding, and the potential to contribute to its spread.
- 3.5 The Fire Service advised that the yellow cladding above the front entrance door presented a higher risk to fire fighters and residents evacuating the building. Acting on this advice, the council has removed both types of cladding, up to the third-floor level (Phase 1). This reduced the risk of fire spread from the Citizens Advice office and the ground floor shops to both the phenolic insulate cladding and the PIR.
- 3.6 Borrás Construction were immediately appointed as the contractor for the Phase 1 cladding removal at Queensway House, with the prior approval of the Council's Risk and Resilience Manager, under the special dispensation that Phase 1 was an emergency Health and Safety requirement.
- 3.7 At the time the Phase 1 cladding removal took place, plans to remove the cladding on the remaining floors (Phase 2) were discussed. Should the communal landings be affected by fire and smoke, the cladding contributes to a heightened risk that residents may not be able to evacuate. It is important to note that measures agreed by the Fire Service are in place to manage this risk, including the 24/7 waking watch service, which ensures residents can be evacuated swiftly in the event of a fire – and the removal of cladding up to the third floor.
- 3.8 The need was also negated by special technical advice, which recommended that a fire suppression system be installed within the flats.
- 3.9 The fire suppression system is no longer a cost-effective option now that Queensway House is earmarked for demolition and residents are being decanted. However, whilst negotiations with residents are complicated and ongoing, timescales for decommissioning the building cannot be confirmed.
- 3.10 Therefore, in lieu of a fire suppression system, and whilst residents are in-situ, the fire service have requested that the council remove the yellow render and metal corner cladding from the remaining storeys.

- 3.11 The cost to undertake the Phase 2 cladding removal is set out in the Part II report, under agenda item 12b. For a contract with a value of £100,000 and over Contract Procedure Rules, require: (i) a competition to be carried out; (ii) a minimum of five (5) tenders to be obtained; (iii) for tenders received to be evaluated on a mixture of price and quality, and (iv) for the process to be overseen by the Procurement Board. However, Contract Procedure Rule 14 makes provision for departure from the requirements of the Rules in certain, specified, circumstances. One such circumstance is 'where the Cabinet agrees a report from a Corporate Director detailing a case where it is to the advantage of the Council that these rules should be waived'.
- 3.12 Considering the fact that, typically, procurement of contracts of this value can take a considerable amount of time, it will be to the advantage of the Council to use the Phase 1 Contractor to undertake the Phase 2 cladding removal, due to their experience of this work.
- 3.13 Other small works contractors within the Council's framework will not have the resource to undertake this sort of task and respond quickly. This includes Mears who are our incumbent repairs and maintenance contractor.
- 3.14 Cabinet should note that initial conversations with Local Authority Building Control (LABC) suggest the cladding must be replaced with a non-combustible cladding to comply with Part L Building Regulations guidance. Officers will, however, be asking LABC to take into consideration the future of the building and request that senior members of LABC should make a special dispensation in this instance.
- 3.15 Cabinet should also note that initial discussions with Planning confirm that the Phase 2 Cladding removal does not require planning consent when taking the building back to its original structure. However, if replacement for the existing cladding is required, a full planning application and planning approval obtained.

## **Implications**

### **4. Legal Implications**

- 4.1 The removal of the cladding is a 'works' contract for the purposes of The Public Contracts Regulations 2015. The contract value is below the threshold for works contracts and, therefore, the contract will not trigger the application of the Regulations.
- 4.2 With respect to the Council's own Contract Procedure Rules, Cabinet has authority to waive the application of the competition requirements in certain, specified circumstances, subject to compliance with European procurement rules. One such circumstance is set out in paragraph 3.11 (above) of this report.

### **5. Financial Implication(s)**

- 5.1 In the first instance, the Council will apply to the government's Building Safety Fund, introduced in 2020, for the remediation of unsafe non-ACM cladding systems.

- 5.2 In the event that the Council's application is declined, the works will still be carried out but accommodated in existing capital budgets in the HRA. A total of £1.713m has been rolled forward from previous years, of which £0.900m is earmarked for works at Queensway and Inspira House.

## **6. Risk Management Implications**

### **Enforcement, Improvement and similar Notices**

- 6.1 Hertfordshire Fire and Rescue Service have provided advice and assistance to the Council in planning and prioritising remedial fire safety work at Queensway House, including the removal of the 'Phase 2' cladding, of which the urgency is stated within this report.
- 6.2 Failure to prioritise remedial fire safety work in line with the advice given by the fire service may result in Hertfordshire Fire and Rescue Service issuing a Regulatory Notice calling for corrective action.
- 6.3 Additionally, if remedial fire safety work is not remedied within a set period of time, the fire service have powers under Article 31 of the Regulatory Reform (Fire Safety) Order 2005 and Sections 21 and 22 of the Health and Safety at Work etc. Act 1974, to prohibit the use of the whole or part of premises or to restrict the use of premises, particularly where conditions are found that constitute a serious risk to life or injury to persons in the event of fire.
- 6.4 The Council continue to work closely with Hertfordshire Fire and Rescue Service regarding the progress of remedial work required at Queensway House and patrols are in place to provide urgent assistance when necessary.

### **Communication**

- 6.5 In January 2020, Queensway House residents were notified in writing, that whilst we progress moving everyone from Queensway House, we are continuing to work closely with the fire service to put all possible safety measures in place throughout the building.
- 6.6 This letter outlined what fire remedial work the Council plans to undertake over the coming months and this included removing sections of the external cladding.
- 6.7 Residents will be written to and provided with information as to why the cladding is being removed and given an opportunity to meet with a council surveyor to put forward any questions that they may have about this work. It will also detail what residents can expect in terms of communication and who they should contact to raise any future concerns.

**7. Security & Terrorism Implication(s)**

7.1 There are no security or terrorism implications with the recommendations in this report.

**8. Procurement Implication(s)**

8.1 The recommendation is in accordance with the Public Contracts Regulations 2015.

**9 Climate Change Implication(s)**

9.1 The proposals in this report will not impact on greenhouse gas emissions.

**10. Human Resources Implication(s)**

10.1 There are none.

**11. Health and Wellbeing Implication(s)**

11.1 There are none.

**12. Communication and Engagement Implication(s)**

12.1 None directly from this report

**13. Link to Corporate Priorities**

13.1 The subject of this report is linked to the following Council's Corporate Priorities 'Our Housing' specifically to be a Quality Landlord'

**14. Equalities and Diversity**

14.1 An EqIA was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies

**Name of author:** Tina Warren  
**Title:** Compliance Manager  
**Date:** July 2020