

## Executive Decision Report

<b>Decision maker and date of Leadership Team meeting or (in the case of individual Lead Member decisions) the earliest date the decision will be taken</b>	Leadership Team 23rd July 2019 Forward Plan reference: 05493/19/K/AB Portfolio: Cllr Kim Taylor-Smith, Deputy Leader, Grenfell, Housing and Property	
<b>Report title</b>	Lancaster West Refurbishment – Funding Update	
<b>Reporting officer</b>	Doug Goldring, Director of Housing Management	
<b>Key decision</b>	Yes	
<b>Access to information classification</b>	Public	

**1. EXECUTIVE SUMMARY**

- 1.1. Following the Grenfell tragedy, the Council publicly stated its commitment to refurbish the Lancaster West Estate sensitively and collaboratively so that it is a model 21<sup>st</sup> century social housing estate.
- 1.2. This report sets out the latest position on funding and procurement plans for the refurbishment programme, and asks the Leadership Team for the relevant approvals to proceed with the programme within the proposed timescales.

**2. RECOMMENDATIONS**

## 2.1 The Leadership Team is asked to:

- agree additional capital investment of £27.9m, of which £18m will be funded through uncommitted capital resources and £9.9m through a recent Government grant from the Ministry of Housing, Communities and Local Government (MGCLG), which has allowed the Council to release further capital funds for Lancaster West. This will bring the total budget for the refurbishment to £57.9m.
- note that the decision on the award of contracts for technical consultancy services required to deliver the programme will be taken by the Deputy Leader, Grenfell Housing and Property, or the relevant Executive Director in accordance with the Council's constitution.

- agree a revised approach to recharging non-resident leaseholders who own properties on the estate, allowing the Council to fully recharge the costs of the refurbishment to these leaseholders.

### **3. REASONS FOR DECISIONS**

- 3.1. The Leadership Team is asked to agree additional funding for the programme to enable the Council to deliver a high-quality refurbishment programme that meets the needs and aspirations of Lancaster West residents.
- 3.2. Specialist technical expertise is required to design, specify and support the contract administration of the refurbishment works. Decisions on contract award will be taken by the Deputy Leader, Grenfell Housing and Property, or the relevant Executive Director in accordance with the Council's constitution.
- 3.3. Now that the total available resources for the refurbishment are known, the Leadership Team is asked to agree to fully recharge non-residents leaseholders for the costs of refurbishment to their properties. This follows strong representations from residents on the estate at the Programme Board on 21 May 2019 and further legal advice. Income from such recharges is estimated to be in the region of £500k.

### **4. BACKGROUND**

- 4.1. Following the Grenfell Tower tragedy, the Council publicly stated its commitment to refurbish the Lancaster West Estate sensitively and collaboratively so that it is a model estate.
- 4.2. An original budget of £30m was agreed by the Leadership Team in July 2018 [KD05286/K/A]. However, the report acknowledged that it was likely that additional funding would be necessary to deliver an ambitious refurbishment programme that meets the aspirations of residents on the estate.
- 4.3. The works to Lancaster West Estate are planned under four discrete projects based on block archetype, nature of works and proximity. To date, works proposed have been based on information gained from residents through consultation and broad scoping of works and costs by a cost consultant.
- 4.4. Specialist technical expertise is now required to design, specify and support the contract administration of the works. Approval to tender for these services was obtained from the Leadership Team in March 2019 (KD05352/18/K/AB) and the approach agreed with residents of the Lancaster West Estate at a Procurement Workshop on 9<sup>th</sup> May 2019.
- 4.5. After approval was sought from the Leadership Team in March 2019, a long list of suitable suppliers was drawn from an EU compliant framework for shortlisting with residents. As set out in Appendix A1, procurement exercises are due to take place in the coming months. It is anticipated that at least some of these services will exceed the current EU regulations threshold of £181k.

- 4.6. At its meeting on 27 March 2019, the Leadership Team agreed an initial position on recharging leaseholders for the refurbishment. The agreed position was that costs would not be recharged where they had been met through Government grant, and that an additional 20% discount would be applied to the Council element of funding. This report sets out a revised approach to recharging non-resident leaseholders.

## **5. PROPOSAL AND ISSUES**

### *Additional funding*

- 5.1. The Council recognises that the Lancaster West Estate is in need of extensive refurbishment work. Following initial studies by cost consultants it is clear that the current budget of £30m is not sufficient to deliver the refurbishment works and provide the level of resources required to deliver the programme with good outcomes and high resident satisfaction.
- 5.2. The Leadership Team is therefore asked to commit an additional £27.9m worth of funds, bringing the total budget to £57.9m. Of this £27.9m, £18m will be funded through uncommitted capital resources and £9.9m through a recent Government grant to the Council, which has released further capital funds for Lancaster West. £9.9m of the additional funding is therefore considered Government grant for the purposes of leaseholder recharging.
- 5.3. The additional £27.9m will allow us to replace windows so that every home on Lancaster West benefits from double-glazing, modern heating, hot water and ventilation solutions, and new kitchens and bathrooms for the majority of tenants. We anticipate that around 10% of properties will have had a new kitchen and bathroom since the tragedy by the end of this calendar year, and a sizeable number will refuse the disruption of internal works or will have fitted their own kitchen.

### *Contract award for technical services*

- 5.4. Specialist technical expertise is now required to design, specify and plan the refurbishment works. We need to engage a number of technical specialists to carry out comprehensive surveys and scope the works for further consideration and consultation. These include two to four multi-disciplinary teams (across the four discrete projects), an M&E engineer, a Fire Risk Assessor and a Principal Designer. Thereafter these specialists will help prepare specifications and tender documentations the works on behalf of RBKC, reflecting the views of residents.
- 5.5. Following extensive work with residents (described at 4.4 and 4.5 above), a shortlist of potential suppliers is expected to be agreed by the end of July 2019, and the successful suppliers will be invited to tender in August 2019. Evaluation of tender returns will take place in early September, followed by interviews with and presentations by the suppliers to a panel of officers and residents. It is anticipated that contracts will need to be awarded in early October 2019, to allow the technical teams to commence surveys and detailed design. A refurbishment programme has

been prepared that sets out key milestone stages, estimated timelines and resident engagement. (Appendix A1).

- 5.6. The cumulative fees are estimated to be up to 12% (up to £7m) of the available budget. The decision on the award of contracts for technical design consultancy required to deliver the programme will be taken by the Deputy Leader, Grenfell Housing and Property, or the relevant Executive Director in accordance with the Council's constitution.
- 5.7. The Lancaster West Programme Board, chaired by the Deputy Leader, will maintain operational and financial oversight of the refurbishment programme.

#### *Recharging non-resident leaseholders*

- 5.8. In March, the Leadership Team agreed an initial position on leaseholder recharging. This was that leaseholders would not be recharged where costs had been met through Government grant, and that an additional 20% discount on the Council element of funding would be applied to leaseholder recharges. It has since been clarified that a cap of £15,000 over any five-year period would be applied in accordance with the Social Landlords Mandatory Reduction of Service Charges (England) Directions 2014.
- 5.9. Following strong representations from residents via the 21 May 2019 Lancaster West Refurbishment Programme Board (Appendix A3), the need to maximise sources of funding and further legal advice, the Leadership Team is being asked to reconsider the approach to non-resident leaseholders and to fully recharge such leaseholders for both Government grant and Council funding, without a cap. Income from such recharges is estimated to be in the region of £500k, which will make a substantial contribution to the refurbishment costs.
- 5.10. The Social Landlords Mandatory Reduction of Service Charges (England) Directions 2014 set out specific direction around the amount Social Landlords can charge for future maintenance, or improvement works, when they are wholly or partly funded by the government. They did so by applying a cap on costs incurred for works in any continuous period of 5 years. The cap applies to councils and private registered providers in England. The maximum level of levied in any 5-year period is £15,000. The Mandatory Direction is clear in that caps only apply to qualifying leaseholders i.e. individuals who live in their properties as their only or principal home and therefore excludes leases granted to companies and to individuals who sub-let their properties such as those used as a source of income.
- 5.11. The Leadership Team is therefore asked to withdraw the discretionary offer to non-resident leaseholders previously agreed under KD 05352/18/K/AB as the directions do not apply, all sources of funding need to be explored, and residents have made strong representations in favour of charging non-resident leaseholders.
- 5.12. For resident leaseholders, the position will remain the same: Government grant will not be recharged, Council funding will be recharged at 80% and a cap of £15,000 will be applied over any five-year period where Government grant at least

part-funds the works. As noted above, £9.9m of the additional funding is considered Government grant for the purposes of leaseholder recharging.

## **6. CONSULTATION AND COMMUNITY ENGAGEMENT**

- 6.1. The Lancaster West Neighbourhood Team continues to engage with its residents on any proposed works on the estate. This is particularly important where we are embarking on the major refurbishment programme of works.
- 6.2. As such extensive engagement has taken place since the tragedy, with hundreds of residents from the estate shaping plans on an ongoing basis. This includes via workshops, surveys, drop-ins and electronic consultation.
- 6.3. A procurement workshop was held in May 2019, where officers set out the specialist technical teams required to deliver the projects and presented the procurement options available for engaging them. There was representation from every block on the estate, and the steer from residents was clear on both the maximising choice and involvement (Appendix A2).
- 6.4. Residents were consulted on the suppliers list early in July 2019. We used several channels of engagement to promote involvement, including email, text, WhatsApp and post to every home. Opportunities to be involved in tendering in terms setting quality criteria, scoring and being on panels have also be advertised.
- 6.5. At the Programme Board of 21<sup>st</sup> May, resident representatives requested we explore the full recharge of non-resident leaseholders, which is therefore proposed in this report.

## **7. HUMAN RESOURCES AND EQUALITIES IMPLICATIONS**

- 7.1. Lancaster West is one of the most ethnically diverse estates in the country, with over 70% of residents from a BME background. Overall, the refurbishment will aims to provide a positive impact in improving the quality of housing for all community groups, including more accessible homes for those with disabilities.
- 7.2. Work is ongoing to improve the level of insight of residents, and ensure due regard is shown to all protected characteristics outlined by the Equality Act.
- 7.3. To ensure that the refurbishment process incorporates the diverse cultural and communication needs of the residents we serve, we have undertaken positive action initiatives to build a workforce that reflects the community. As a result, 72% of posts (18/25) are held by BME employees, and the team can engage with residents in 10 community languages as a result.
- 7.4. Aside from being able to provide real-time interpretation in accessing the full range of our services, we translate our neighbourhood newsletter into Arabic, Somali and Farsi, and also have started to produce Instagram videos in multiple community languages to outline proposals and encourage feedback.

- 7.5. The new homes specification has been developed with feedback from over 100 residents, and includes a range of culturally inclusive elements to ensure we are refurbishing homes that meet diverse needs.
- 7.6. We also recognise that the significant level of investment provides opportunities to “narrow the gap” in line with the Council Plan, through job opportunities and apprenticeships for the residents of North Kensington. A Community Development Dashboard provides oversight of progress in this area, with a £1m target for income-generating opportunities for Lancaster West and North Kensington in terms of securing jobs, training or community grants facilitated by the LWNT. So far this year, the team have generated over £300k in opportunities for residents of North Kensington.

## **8. LEGAL IMPLICATIONS**

- 9.1 The Council has the power to alter, enlarge, repair or improve its housing stock in accordance with Section 9 of the Housing Act 1985.
- 9.2 Under Section 20 of the Landlord and Tenant Act 1985, the Council as landlord has the ability to recharge leaseholders for major works via service charges, provided that there has been appropriate consultation pursuant to the Commonhold & Leasehold Reform Act 2002 and the Service Charges (Consultation Requirements) (England) Regulations 2003 (SI 2003/1987) The Council further has power under Section 111 of the Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- 9.3 Additionally, the Council is empowered to enter into contracts for the discharge of its legal powers (section 1 Local Government (Contracts) Act 1997). The Council moreover has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do, provided it is not prohibited by legislation and subject to Public Law principles.
- 9.4 A Leaseholder is obligated, under the Lease, to repay the landlord, the cost incurred by the Council in carrying out such repairs subject to the Council having complied with the statutory consultation process under Section 20 of the Landlord and Tenant Act 1985 (as amended) and its associated regulations. Where the Council receives written observations from leaseholders during the consultation process it has a duty to have regard to them.
- 9.5 The Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014 allow the Council as a social landlord to waive or reduce service charges by an amount the landlord considers to be reasonable. The offer to non-resident leaseholders has been re-considered and approval to the change is being sought in this report as a result.

- 9.6 However discretionary caps over a 5 year periods can be applied to resident leaseholders under the 'The Social Landlords Mandatory Reduction of Service Charges (England) Directions 2014'. No discounts are applicable to non-resident leaseholders. Refer to section 9.0 for more detail. The report seeks to agree the changes.
- 9.7 The procurement of any Services/ Construction Works will be procured in accordance with the Councils Constitution, in particular the Contract Procedure Rules to ensure best value under the Local Government Act 1999.
- 9.8 Where the estimated value of the Services/ Construction Works are above the Public Contracts Regulations 2015 financial thresholds the full EU procurement procedures will apply. This includes advertising by public notice in the Official Journal of the European Union (OJEC). As the works require public advertisement within the European Union leaseholders are not invited to nominate a contractor.
- 9.5 Where the estimated values of Services/ Construction Works is below the Public Contracts Regulations 2006 financial thresholds the full EU procurement do not apply. However, the Council does need to be mindful of the EU general principles with regards to equality, transparency, proportionality and non-discrimination.

## 10 FINANCIAL, PROPERTY AND ANY OTHER RESOURCES IMPLICATIONS

- 10.1 The Councils Capital Programme currently includes provision of £30m for the refurbishment of the Lancaster West Estate of which £15m is a contribution from the MHCLG.
- 10.2 This report proposes increasing the budget to £57.9m which can be funded through an increase of £9.9m in the funding being made available by MHCLG and uncommitted capital resources amounting to £18m.
- 10.3 All costs associated with this scheme will need to be met from this budget. This includes both the costs of engaging consultants and directly employing staff engaged in the project.
- 10.4 If agreed, the capital programme will be updated.

**Doug Goldring**  
Director of Housing Management

**Local Government Act 1972 (as amended) – Background papers used in the preparation of this report:** none

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