

Procurement of Works at Royal Crescent, Ramsgate

Cabinet	29 April 2021
Report Author	Sally O'Sullivan, Tenant and Leaseholder Services Manager
Portfolio Holder	Cllr Helen Whitehead, Deputy Leader and Cabinet Member for Housing & Community Services
Status	For Decision and or For Recommendation
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	An Executive Decision that involves incurring expenditure anticipated to be £250,000 or above.
Ward:	Central Harbour

Executive Summary:

This report seeks authority for the council to enter into a new contract for works to its housing stock, subject to the approval of the required budget by full council.

The proposed works are a 3 phase programme of structural works and passive fire works at 4-15 and 19-23 Royal Crescent, Ramsgate,

The value of the estimated value of the contract is detailed in the report and exceeds £250,000.

Recommendation(s):

Cabinet is asked to agree to:

1. The letting of the contract for the structural works and passive fire safety works at Royal Crescent, Ramsgate, as detailed in this report, subject to the approval of the required budget by full council.
2. The slippage of £800k from the current 2020/21 HRA capital programme against expenditure on this project during the financial year 2021/22.
3. Recommend to full council that the additional budget requirement of £1.978m be allocated to the HRA capital programme, from the HRA Major Repairs Reserve for the financial years 2022/23 and 2023/24.
4. The proposed options for the recharging of apportioned costs to leaseholders, as set out in section 6 of this report.

Corporate Implications

Financial and Value for Money

Housing Revenue Account revenue and capital budgets are reviewed annually and include provision for structural works that are a matter of health and safety, structural works that will ensure a property is water tight and passive fire safety works.

There is sufficient funding within HRA balances and the HRA Major Repairs Reserve to fund the capital costs set out in this report, assuming a phased approach over the financial years 2021/22, 2022/23 and 2023/24 is adopted.

Detailed budgets will be reviewed and amended in line with the actual tendered costs of these works at the earliest opportunity.

Legal

The council, as a landlord of residential buildings, has a statutory responsibility to ensure that they are properly maintained.

The legal issues in relation to the charging of apportioned costs to leaseholders are set out within the body of this report.

Corporate

The council's Corporate Statement sets out its commitment to, 'Improve standards and safety in homes across all tenures.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty:

- *To advance equality of opportunity between people who share a protected characteristic and people who do not share it*

The council's tenants and leaseholders include residents that have protected characteristics as set out in the Public Sector Equality Duty.

The completion of the works set out in this report will benefit all tenants and leaseholders, including those with protected characteristics.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- *Communities*

1.0 Introduction and Background

- 1.1 The council owns approximately 3,400 tenanted and leasehold homes. All costs, investment and income for these homes is managed with the council's Housing Revenue Account, and budgets for revenue and capital works are reviewed annually.
- 1.2 In addition to the annual review of revenue and capital budgets, key decisions are also required for any expenditure that:
 - is for works or services that exceed £250,000, or
 - is for a contract over a number of years with an expected value in excess of £750,000.
- 1.3 The letting of the contract detailed in this report is therefore considered to be a key decision.

2.0 Royal Crescent

- 2.1 The council owns two buildings within the historic Royal Crescent, situated in St Augustine's Road, Ramsgate, the block overlooks the sea and the Westcliff Promenade. These regency buildings are considered to be of significant heritage value and are grade II listed. The two buildings owned by the council are 4-15 and 19-23 Royal Crescent. The buildings are divided into 16 and 6 flats respectively, of which 12 are tenanted and 10 sold as leasehold, under the right-to-buy legislation.
- 2.2 This is a programme of works to cover the council's landlord obligations to maintain properties by carrying out essential structural works and passive fire works to both buildings. The buildings are listed and protected by Heritage, which adds complications to any works we want to undertake.
- 2.3 Due to the age, heritage value, risk and complexity of the property, the delivery of the programme will span over three/four years. This will allow for better control of expenditure and reassessment of any new information about the building that emerges during the progress of works. Further information about the proposed scope of works and phasing is attached at annex 1.
- 2.4 The council has appointed specialist consultants to advise about the heritage aspects of the project and the scope of works, prepare tender documentation and support the procurement of a suitable contractor.

3.0 Scope of works

- 3.1 It is proposed that the council procure a contractor to undertake a 3 to 4 year phased programme of works. A single procurement will present benefits in terms of financial and time efficiencies, in comparison to the separate procurement of each phase.

- 3.2 The current pre-tender cost projection for the whole project is £2.778m. This cost breaks down, across the three proposed phases of work are set out below:
- Phase 1 (2021-22 and 2022-23): £2.023m
 - Phase 2 (2023/24): £235k
 - Phase 3 (2023/24): £520k
- 3.3 Phase 1 includes all scaffold dependent works. This will include structural repairs, water tightness and passive fire measures to the main structures, refurbishment as necessary of the roofs and downpipes, the repairs/refurbishment of the doors and windows, balconies and external decorations.
- 3.4 These works are considered to be essential, these will address current health and safety risks posed to the residents as the balconies are currently unstable and are supported by scaffolding. The passive fire safety works will increase safety in the case of a fire by improving compartmentation between individual properties and the communal areas.
- 3.5 Phase 2 works are also considered to be essential, although less urgent and not scaffold dependent. They will include the extensive repairs and modifications have been noted to boundary walls, structural elements of the basements and courtyard areas.
- 3.6 Proposed phase 3 works are considered to be optional. Once the structural works have been completed, including making the basement areas watertight, they will need time to completely dry out. This will allow time to review the future uses of the basement areas, particularly in block 4-15 Royal Crescent which is in a much poorer condition than basement areas in 19-23 Royal Crescent. The options might include repairs and improvements to the shared areas of the basement, reconfiguration of storage area and decorations. Alternatively the basement areas could be closed off, with only essential repairs completed, which would reduce the currently estimated £520k cost. It is proposed to consult with tenants and leaseholders about the possible range of options and costs for the basement areas, including a consultation with leaseholders about the levels of any recharges for these works.

4.0 Budget Implications:

- 4.1 The current 2020/21 HRA capital programme includes £700k that is approved for structural repair works at Royal Crescent. In addition a further £100k can be reallocated to this project from underspends elsewhere in the programme. It is proposed to carry this £800k forward into 2021/22 to cover the first tranche of costs from phase 1.
- 4.2 Additional amounts, totalling £1.978m will be required to complete the programme of works as follows:
- £1.223m for the completion of phase 1 works during 2022/23,
 - £235k for phase 2 in 2023/24, and
 - a provisional £520k for phase 3 also in 2023/24, depending on the scope of works agreed with tenants and leaseholders.

It is important to note that these are pre-tender estimates and may change once contract sums are known, and following consultation about phase 3 with tenants and leaseholders.

- 4.3 This report therefore proposes that Cabinet agrees to allocate £800k of the current HRA capital programme to phase 1 works to be completed during 2021/22, and that Cabinet recommends to full council that the additional amounts required to complete the programme of works be allocated to the 2022/23 and 2023/24 HRA capital programmes from the HRA Major Repairs Reserve. The HRA Major Repairs Reserve is topped up annually with contributions from the HRA and the earliest that these funds could be made available within the reserve is 2022/23.

5.0 Procurement

- 5.1 The procurement is proposed to be via open tender and will be evaluated upon the most economically advantageous tender (MEAT). The terms of the contract will be under the JCT Minor Works contract 2016.
- 5.2 The council has appointed specialist consultants to support the work of obtaining any necessary consents, in particular listed building consent, preparing specifications of work and tender documentation and of evaluating tenders submitted and selecting a suitable contractor.
- 2.7 As both buildings include a number of leasehold flats, the procurement will be subject to a statutory section 20 consultation. This consultation provides leaseholders with the opportunity to comment on the proposed works and method of procurement, and provides for the council to recharge legitimate costs to leaseholders, where these are due under the terms of lease agreements.

6.0 Leasehold charges

- 6.1 Based on the estimated costs set out in this report, leaseholders will become liable for substantial contributions to the costs, once work to apportion costs in accordance with the terms of lease agreements is completed.
- 6.2 These costs could be as high as £177k to £217k for the block at 19-23 Royal Crescent and £94k to £164k for the block at 4-15 Royal Crescent. Although the total costs at 4-15 Royal Crescent will exceed those at 19-23 Royal Crescent, there are fewer flats in the smaller building to apportion costs across. These costs would reduce if a reduced scope of works for phase 3 is agreed with tenants and leaseholders.
- 6.3 In normal circumstances these costs would be invoiced to leaseholders during the financial year following the completion of the works. However the large amounts involved mean that this is not a normal circumstance and lump sum payment is not realistic. It is therefore proposed to offer leaseholders the following additional options for payment:
- Payment by installments, over an agreed number of years, supported by a voluntary legal charge registered against the property asset.
 - A legal charge registered against the property, requiring repayment in the event of the property ownership changing. Meaning the full value of the charge would be recoverable on sale of the property.

- 6.4 Some leaseholders have already paid amounts into a reserve account for future repair costs, and these amounts can be used to help reduce future invoice costs.
- 6.5 The option to not charge leaseholders for the appropriate proportion of the costs has been considered and is not recommended. This is because the costs would effectively fall to the council's wider tenant body, through their rent charges, if leaseholders were not charged. Officers have considered appropriate legal advice before concluding that not charging leaseholders for the appropriate proportion of the costs is not recommended. This legal opinion advised that:
- Although it would be legal and within the Council's discretion to not recover the full apportioned costs from leaseholders, any decision to reduce costs, would have to be taken in the full understanding of the implications for the council's wider tenant body, including the potential need to delay other programmes of work elsewhere.
 - It would not be legal to decide to not recover any costs from leaseholders and that the council is under a duty to ensure that the needs of tenants and leaseholders are balanced.
 - Any arbitrary cap on the costs for leaseholders is likely to be unlawful, unless it is supported by a clear rationale.
- 6.6 The legal advice received proposes an alternative approach to avoid these charges causing financial hardship or bankruptcy to any individual leaseholder. It proposes that:
- Appropriately apportioned charges should be applied to leaseholders in the usual way, except that leaseholders will be offered the opportunity to secure the debt as a charge against their property with the opportunity to pay by installments or lump sum on sale of the property, and
 - That if the full amount could not be repaid from the proceeds of sale (provided it were not sold at an undervalue) and the lessee had no other income or assets that would enable them to pay the charge without causing financial hardship or bankruptcy, then the council consider, on a case by case basis, writing off any unpaid balance.

This approach to the recovery of leaseholder charges is therefore proposed.

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Reporting to: Bob Porter, Director of Housing and Planning

Annex List

Annex 1: Summary of works required at Royal Crescent, Ramsgate and their estimated costs.

Background Papers

None

Corporate Consultation

Finance: Chris Blundell (Director of Finance)

Legal: Estelle Culligan, Director of Law and Democracy