


<p>Individual Mayoral Decision</p> <p>December 2021</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Ann Sutcliffe, Corporate Director Place</p>	<p>Classification: Unrestricted</p>
<p>Direct award of contract to BB7 and WC Evans</p>	

Lead Member	Councillor Danny Hassell
Originating Officer(s)	Karen Swift: Divisional Director, Housing and Regeneration
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Wards affected	All
Key Decision?	Yes
Reason for Key Decision	Significant impact on wards
Forward Plan Notice Published	22 November 2021
Strategic Plan Priority / Outcome	All

Executive Summary

A great deal of focus on external wall cladding systems has ensued since the Grenfell Tower fire incident particularly, pertaining to high rise buildings. Subsequently, the MHCLG issued a range of guidelines on cladding and external wall systems for landlords to implement to ensure that buildings are compliant for the safety of residents.

The purpose of the report is to seek approval for the decision to make a direct award to BB7 for an initial pilot of 20 External Wall Surveys (EWS), and to WC Evans for the provision of access and opening up/making good to external fabric, so that urgent safety works can be delivered to the Council's qualifying residential buildings.

Recommendations:

The Mayor is recommended to:

1. Award the contract to BB7 and WC Evans to conduct the external wall surveys to up- to 20 of the council's highest risk residential buildings.
2. Exempt the contract(s) of both BB7 and WC Evans from going through competition.

3. Note that the capital expenditure totalling £323,271 for conducting the external wall surveys (EWS) on up-to 20 of the Council's highest risk buildings will be funded from existing budgets ref: para 8.6 of the report.

1 REASONS FOR THE DECISIONS

- 1.1 This report seeks approval to procure competent resources for conducting EWS surveys to the council's qualifying residential buildings which will inform future mandatory compliance works.
- 1.2 The proposals in this report will:
 - Allow progress to be made on the programme of EWS surveys
 - Provide relief for some leaseholders who are waiting for an EWS1 form to be able to sell their homes
 - Ensure that high quality surveys are completed that identify genuine safety concerns but without making recommendations for work that is unnecessary
 - Provide a good starting point and learning opportunity to commission future surveys for the remainder of the residential buildings
 - Strategically allow to build a relationship with one of the leading fire engineering consultancies in the UK
 - Provides value for money

2 ALTERNATIVE OPTIONS

- 2.1 The current main repairs contractor would ordinarily provide access services (works being proposed for WC Evans) but the present transitional arrangements demand alternative specialist contractor/s.
- 2.2 In addition, there are no arrangements with alternative contractors to complete EWS surveys. The specialist nature of the work requires a fire engineering consultancy.

3 REGULATIONS

- 3.1 Since the Grenfell Tower fire incident, a great deal of focus on external wall cladding systems has ensued particularly, pertaining to high rise buildings. Consequently, the MHCLG issued a range of guidelines on cladding and external wall systems. These were usefully consolidated into one document in January 2020, followed by a one-page update for additional clarity in November 2020.
- 3.2 The guidance states that:
 - ACM (or HPL/other variants) cladding must be removed regardless of the building height

- any cladding/external wall surface materials in building of 18m and over should be of limited combustibility
- the guidance does not apply where the building met the requirements of the buildings regs at the time that work was commissioned to the external walls/balconies etc
- The external walls of a building shall adequately resist the spread of fire over walls and from one building to another, having regard to the height, use and position of the building' - this is consistent with regulation B4 of schedule 1 of the building regulations.

3.3 Therefore, in summary, risk of external fire spread must be considered for building:

- 18m or over
- that is care home, hospital or similar i.e., accommodating vulnerable residents with significant difficulties who are challenging to evacuate.
- Does not have - or has no provision for - adequate risk mitigation certified by a suitably competent person. The certification should confirm that the building presents high risk to the life safety of residents, people in the proximity of the building, and firefighters, irrespective of the height of the building. The competent person being a fire risk assessor.

3.4 Furthermore, the Building Safety Bill will require the council to prove to the regulator all buildings over 6 storeys are safe. This extends the number of buildings from the definition above i.e., 18m plus any additional properties that risk assessors may identify.

4 CURRENT MARKET

4.1 Since the publication of the MHCLG guidance an increasing number of landlords have been carrying out EWS surveys and it has been widely reported that there are considerable shortages in the availability of competent fire engineers to sign off the necessary form (EWS1).

4.2 In addition, from THH's research, it has been established that there are fundamentally widespread insurance issues especially indemnity which have led to several consultancies declining to offer EWS. These include contractors who very much understand the current state of the Council's residential stock having conducted the stock condition surveys for THH.

4.3 The link below leads to an article which highlight insurance potential risk affecting contractors: [PI Insurance for IFSM Members - IFSM](#). Earlier this year THH set out to carry out a procurement exercise to appoint a suitable consultant but it became apparent from discussions with other Landlords that there would be process would encounter significant challenges. Furthermore, recent THH liaison with an RP confirmed that they had to abort a procurement exercise for competent specialist engineers attributable to low interest.

- 4.4 Similarly, another RP, had difficulties and suggested reducing lot sizes to attract suppliers. However, there is a consensus in the industry of the need to ensure EWS surveys are conducted by competent fire engineering consultancies. This will deliver high quality surveys that identify genuine safety concerns but without making recommendations for work that is unnecessary. Thus, avoiding duplication and ensuring VFM.

5. **ISSUES AROUND QUALITY**

- 4.5 In addition to scarcity of consultants able to carry out surveys, there has been a growing concern about the quality of some surveys and recommendations for works. Therefore, there are several companies who will complete a survey and then offer remedial works quotation. Some with very aggressive sales tactics. A recent article in the Guardian citing Dame Judith Hackett made mention of this very issue:

[Post-Grenfell fire safety: leaseholders risk being fleeced, warns top adviser | Grenfell Tower fire | The Guardian](#)

- 4.6 A further article in Inside Housing on 24.8.21 also raised concerns around the competence of those completing these surveys.

<https://www.insidehousing.co.uk/news/news/national-fraud-bureau-receives-15-reports-linked-to-ews1-forms-72241>

- 4.7 A blog post from a fire engineering consultancy in 2020 also sets out some of the issues with competence in the sector:

[Assessing External Wall Construction - EWS Forms - Lawrence Webster Forrest : Lawrence Webster Forrest \(lwf.co.uk\)](#)

6. **BB7 & WC EVANS**

- 6.1 BB7 are one of the leading fire engineering consultancies in the UK and have an international presence. Their client list and portfolio of projects are 'blue chip'.

- 6.2 [Home - BB7 \(bbseven.com\)](#): They have a large cohort of fire engineers and a tangible commitment to quality. It is this focus on quality and development of their engineers that will bring a real benefit to us. They have a robust internal star chamber process so that all EWS surveys are peer reviewed by a panel of fellow engineers and recommendations must be fully explained. BB7's company profile is [appendix 1](#) of this report

- 6.3 BB7 recently completed a very similar project for another landlord completing 16 EWS surveys and WC Evans provided access

[Building cladding inspection – update July 2021 | Croydon Council](#)

- 6.4 WC Evans are a London based contractor. They have worked with BB7 on several different projects and provided a reliable and competent service to facilitate these surveys. The height of many buildings requires specialist access equipment and fully trained operatives. The hire cost of 'cherry

pickers' can be extremely prohibitive and delays or issues with access potentially means additional costs including abortive access fees etc.

7. THE PROPOSAL

- 7.1 In view of the issues around the current market and the danger of an aborted procurement exercise plus concerns around quality, THH approached BB7 directly several months ago. THH asked BB7 to review the Delta return submitted to the MHCLG early last year which details all the THH's managed blocks over 6 storeys. BB7 used the Delta information together with a desktop review to identify the buildings they deemed, in their experience, are likely to be of highest risk in the Council's residential stock. BB7's proposal is [appendix 2](#) of this report.
- 7.2 THH also approached WC Evans to provide a cost for the opening, remediation works, and access. THH did this because of concerns about using THH's term contractor, and their ability to provide the necessary specialist service in a transition period to new contracts. THH also wanted to ensure residents anxiety is minimised i.e., any inspection and associated works are completed discreetly and professionally.

8. FINANCIAL ANALYSIS

- 8.1 Cost analysis: The cost of each survey is £10,695 (BB7). The cost of access is £4000 (WC Evans). From our experience these figures are reasonable. THH confirm that other landlords have paid £14,000 per survey, and that some commercial estate portfolios are offering much higher sums (over 20k).
- 8.2 A recent article in a building magazine states that a current tender by Gentoo is estimated to be £10,000 per building.
[Housing association starts search for firm to carry out EWS1 checks | News | Building](#)
- 8.3 THH have completed a very small number of surveys (mostly where a leaseholder had a terminal/significant illness) which cost between £6-8000 plus access although these were typically lower risk buildings and did not include access costs.
- 8.4 The cost of the overall proposal with BB7 is £235,271 or £10,695 per building based on up-to 20 surveys. There is also a 10% contingency allowed for within this overall cost.
- 8.5 The cost of the proposal from WC Evans is £4000 per building based on 2 days onsite. In total £88,000 for up-to 20 buildings. This includes a 10% contingency.
- 8.6 The overall cost of these works, £323,271, will come from the £350,000 already allocated to building safety costs for the current financial year.

9. TIMETABLE

- 9.1 Subject to approval, it is proposed that the surveys will be completed over a 4month period from December through to April 2022. This will allow THH to absorb the potential findings and follow behind with a programme of type 4 fire risk assessments. These 2 documents will then be used to inform the scope of works if necessary. As already confirmed THH will prioritise Brodick House in view of recent events.
- 9.2 This approach will also allow to reconsider how THH procure surveys for the rest of the stock and THH may also be able to find out a little more about the transition period for the introduction of building safety cases.

10 EQUALITIES IMPLICATIONS

- 10.1 An equality analysis quality assurance checklist was completed, and the surveys will have no impact on the Council's Duties under the Equality Act 2010.

11 OTHER STATUTORY IMPLICATIONS

- 11.1 **Best Value Implications:** The sums which will inform the 2 contracts have been negotiated with BB7 and WC Evans. The costs are broadly in line with market rates for similar projects that we are aware of elsewhere. Given the considerable concern across the UK regarding the building safety and the scarcity of specialist engineers, it is vital that the borough minimise any risk in this area to the health and safety of residents and the wider community by progressing these surveys.
- 11.2 **Risk Management Implications:** There are significant risk implications associated with building safety which the EWS will help us to mitigate. The MHCLG guidelines and the Building safety bill call for Councils to prove the safety of buildings over 6 storeys.
- 11.3 **Crime and Disorder Reduction Implications:** There are no specific Crime and Disorder reduction implications.
- 11.4 **Safeguarding Implications:** These surveys will ensure increased safety for all residents in the 20 blocks by identifying any defects allowing the Council to undertake remedial works as necessary...

12 COMMENTS OF THE CHIEF FINANCE OFFICER

- 12.1 This report is seeking approval to award contracts to BB7 and WC Evans to conduct external wall surveys in up to 20 of the council's highest risk residential buildings and to exclude the award of this contract from external competition. This decision is based on quality and could lead to additional costs from not tendering the works. The estimated cost of this contracted work is £323k and will be contained within the HRA.

- 12.2 A one-off growth bid of £350k was approved for 2020/21 to start the process of assessing the building safety requirements arising from the Grenfell enquiry. Due to delays in the legislation being brought forwards this growth was rolled forward into the current financial year as part of the 2021/22 budget setting process. To date there have been no commitments made against this budget and it is available to fund any of these works completed in year.
- 12.3 Further growth bids have been submitted as part of the 2022/23 budget setting process relating to building safety. Any costs incurred in 2022/23 for this survey work will need to be met from this growth and therefore can only be funded if the growth is approved.
- 12.4 The HRA will recover the cost of any surveys undertaken on leasehold properties from the leaseholder as part of their service charge. Survey costs will be charged based on an average cost per property within each block. If the leaseholder requires a certificate to be issued, then an additional one-off charge of £350 will be made.
- 12.5 The cost of any remedial works relating to the outcomes of the survey will be managed through the HRA capital governance and business plan processes.

13 COMMENTS OF LEGAL SERVICES

- 13.1 The Council urgently needs to commence surveys of the type described in this report following well publicised difficulties with building safety and fire risk. Whilst the likelihood of significant risk occurring is low, the potential impact should the risk crystallise in terms of impact on life is so significant to justify the urgency in this case.
- 13.2 Regulation 32 of the Public Contracts Regulations allows the Council to negotiate with a supplier without placing an advert first where for reasons of extreme urgency the Council is unable to meet the timescales required for an open or restricted procurement. This is the case here as described above.
- 13.3 The Council has benchmarked the prices and they are in line with current market prices. Both contractors will be subject to contractual terms and related contract monitoring to ensure that the services are properly delivered. This assists the Council to demonstrate that in the circumstances, the activity represents statutory Best Value.

Linked Reports, Appendices and Background Documents

Linked Report: None

Appendices: Appendix 1: BB7 profile
Appendix 2: BB& Proposals
Appendix 3: EQIA Check list

Background Documents – None

Officer contact details for documents: N/A