

12 July 2023		ITEM: 10 Decision: 110656
Cabinet		
Housing Capital Programme Contract Modifications		
Wards and communities affected: All	Key Decision: Key	
Report of: Cllr Barry Johnson, Cabinet Member for Housing		
Accountable Assistant Director: Ewelina Sorbjan, Assistant Director of Housing		
Accountable Director: Ian Wake, Corporate Director of Adults Housing and Health		
This report is Public		

Executive Summary

This report sets out a recommendation for the Contract Modification to the Refurbishment of Non-Traditional Construction Properties contract awarded to Wates Property Services.

The original term of the contract ran until 30 April 2023. An extension is required to increase the length of the contract term and value of the overall contract sum.

The requested increase to the value of the contract sum and timeframe is due to the following factors:

- Increased scope of work due to additional structural requirements
- Incorporation of new retrofit standards (PAS 2035)
- Inflationary price changes (beyond predicted levels)
- Availability of accredited supply chain

By law, councils must have a balanced budget. If a council cannot find a way to finance its budget, it must issue a 'Section 114' notice. On 19 December 2022, the Council issued the 'Section 114' notice. This puts strict limits on what the Council can spend.

The Section 114 notice was necessary as the Council was unable to balance its budgets for the financial years of 2022/23 and 2023/24.

In September 2022, Directions issued to the Council by the Government required us to put in place an Improvement and Recovery Plan to the satisfaction of Commissioners. The plan has 5 main themes:

- financial sustainability
- governance and scrutiny
- strategic direction
- place leadership and growth
- leadership and culture

These recommendations fit within the objectives of the Thurrock Improvement and Recovery Plan 2022 for a financially sustainable council.

Previous reports

Procurement of Housing Capital Programme Delivery, Cabinet 10th March 2021 item 121.

Commissioner Commentary

1. Recommendation(s)

- 1.1 Approve the Modification to Contract to increase the contract sum by £1,757,471.74 to the total of £5,272,415.**
- 1.2 Approve the Modification to increase the Contract term for the Refurbishment of Non-Traditional Construction Properties to April 2024.**
- 1.3 That Cabinet agrees to delegate authority to the Corporate Director of Adults, Housing and Health in conjunction with the Portfolio Holder and Section 151 Officer, to sign the contract variation.**

2. Introduction and Background

- 2.1 Non-traditional construction generally refers to prefabricated building systems, frames and construction methods that known as Prefabricated Reinforced Concrete (PRC) properties. They were mostly constructed post-war up between 1945 and 1951 and were only envisaged to last 10 years, but such was the durability that many are still standing today. Within the Thurrock housing stock we have over 200 of these non-traditionally constructed properties all of which are tenanted family sized homes. These properties are designated defective within the meaning of the Housing Defects Act 1984, now part of the Housing Act 1985, because they have the potential for corrosion of the embedded steel reinforcements and are generally considered by lending institutions not to be mortgageable.
- 2.2 The refurbishment of these properties will make them both structurally safe and achieve improved standards of thermal comfort and energy efficiency. Improvements are tailored to the different build types of which the level of refurbishment required varies. It incorporates measures such as new external wall insulation, new windows and doors, sustainable heating systems and sustainable energy sources. These will both improve the energy efficiency

ratings of the properties providing more comfortable and economical homes for our residents, in line with the Councils climate change agenda.

- 2.3 The Housing Revenue Account Business Plan and Budget Report of 12 February 2020 outlined a budget of £7.5m to invest in the refurbishment of the properties of Non-Traditional construction in the housing stock. In March 2021 Cabinet approved the procurement of the Non-Traditional Housing Stock Refurbishment programme to deliver these the required refurbishment.
- 2.4 A mini competition was carried out via South East Consortium framework. A process of cost evaluation was carried out during this period. Following full evaluation on the basis of 60% quality and 40% price and the contract sum awarded at £3.5m. The contract start date was confirmed as 6th September 2021.
- 2.5 The original sum budgeted in the HRA business plan was £7.5m. Although the costs received at tender stage were substantially lower than anticipated, due to the risks identified in relation to the scale and complexity of the delivering this project, a contingency sum was retained and the overall budget set at £5.28m.
- 2.6 Mobilisation of the programme commenced in October 2021 and engagement with residents began in November 2021. The construction phase of the programme then began with specialist surveys and design work. To date 41 number of homes were started, of which just under 30 are nearing completion, namely: 11 properties at Arisdale are ready to handover, 12 properties in Daiglen Drive and 4 in Cample Lane are having windows installed and external wall installation is to follow as the last element. To date £2,382,338.00 was spent.

Summary of costs

Item	Sum
Original budget allocation based on feasibility studies	£7.5m
Revised budget	£5.28m
Tender return	£3.5m
Spent to date	£2.382m
Anticipated final account	£5.272m
Amount requested by way of contract amendment	£1.757m

- 2.7 Work has continued to date but has not progressed at the anticipated rate due to a number of factors.

2.7.1 Introduction of the PAS 2035 retrofit standard

The full implementation of the British Standards Institute (BSI) PAS 2035 coincided with the procurement timeline for this project, and as the contract was awarded (June 2021) compliance with PAS 2035 became

mandatory for all companies installing energy efficiency measures, including domestic retrofit.

This meant that the scope of the planned measures was reviewed and enhanced to ensure compliance with the new standards. The direct consequence the revisions had on the programme is an associated increase in the cost, and the additional time needed to design, plan and undertake the additional work.

2.7.2 Additional elements of structural work

Prior to, and at the commencement of the project properties were occupied, therefore due to the level of disturbance this would have caused, it was not possible to undertake fully intrusive surveys. Once residents were temporarily relocated and work progressed, the exposure and inspection of the full structure of the buildings led to the identification of a significant level of additional work required.

Earlier visual inspection along with the review of other known data did not suggest evidence of the underlying condition.

- I. High levels of carbonation identified in the concrete panels and frames.
- II. High levels of degradation and carbonation was found to be present within the structural concrete posts.
- III. The existing foundations were found to be shallow and required underpinning, to comply with current design criteria and Building Regulations.
- IV. As the existing foundations were revealed it became apparent that a redesign of the wall structures was required to ensure the load bearing capacity. This was done by incorporating a lightweight steel frame system.

2.7.3 Inflationary factors

Since the first quarter of 2020, costs for the residential sector (based on our cost consultants in house data) have increased by 33.3% to July 2022, which reflects an increase of approximately 1.2% per month over 28 months evaluated.

This is even more pronounced over the last 12 months, where increases of 16.4% have been seen, reflecting an increase of almost 1.4% per month.

These increases are primarily driven by material cost increases rather than labour. There have been well reported rises in material costs within the construction sector, with 2021- 2022 seeing sharp rises in the cost of timber and steel products, with many other elements following suit.

This had an impact on the projects budget as inflationary changes applied to materials that were not within scope at the point of tender.

2.7.4 Availability of accredited supply chain

The supply chain carrying out the various elements of work must have PAS 2030 accreditation to undertake retrofit installation/works (in accordance with PAS2035 Retrofit Whole-Dwelling Assessments and Retrofit Designs).

In addition to being restricted to accredited suppliers, the obtainability has been further diminished by the delivery of Social Housing Decarbonisation Fund projects (SHDF) across the sector. Consequently, this has elongated the procurement process and is a cause of delay.

2.7.5. Summary of issues

The combined impact of the factors outlined in this report have directly extended both the timeframe for delivery and contract sum as outlined below.

The original provisional completion date for the programme was June 2022, it is now projected to complete in June 2024 if all properties are completed.

- 2.8 Opportunity has also been identified and pursued in the form of external funding (ECO 4). The Energy Company Obligation (ECO) is a government energy efficiency scheme administered by Ofgem. The main objective of ECO4 is to improve the least energy efficient housing stock. This will directly support the financing of the project. This funding would be paid direct to Thurrock so would not reduce the final account payable or the overall contract sum required.

3. Issues, Options and Analysis of Options

- 3.1 Remedial actions have been carefully considered. They all consider the current position of the programme and include a review of potential adjustment to the scope of works or reprogramming options for selected properties of which works have not yet commenced.
- 3.2 Our underlying objective remains to improve the thermal and energy performance of as many properties as possible and support residents out of fuel poverty, we recommend that Cabinet approve the contract modification to allow for the contract sum to be increased to £5,272,415 to be in line with procurement regulations spend limits. Also extend and contract term to April 2024 to allow for completion in line with the recommended option below.
- 3.3 The table below outlines the options appraised. Option 2 is identified as the preferred option and aligns with the recommendations being made to Cabinet.

Option	Opportunity/Strengths	Risk/Weakness
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<p>1. Complete full scope of works to all (67) properties as per current programme.</p> <p>Anticipated final account £7,051,166</p> <p>Attracts ECO funding amount of £315,556</p> <p>This option is not recommended.</p>	<ul style="list-style-type: none"> • Maximum number of properties refurbished. 	<ul style="list-style-type: none"> • Anticipated final account exceeds budget. • Risk of further unforeseen elements at currently unopened properties.
<p>2. Complete works to 44 properties in progress and maximum number of properties not yet started. Anticipated to achieve 53 properties in total.</p> <p>Anticipated final account £5,272,415</p> <p>This option attracts a funding amount of £226,470</p> <p>This option is recommended</p>	<ul style="list-style-type: none"> • Maximum number of properties completed in budget. • Risk of ongoing unforeseen elements reduced. 	<ul style="list-style-type: none"> • Up to 14 properties would require reprogramming. • Delay to allow for procurement and mobilisation for the properties that need reprogramming. • It would be the intention to pick up these properties as part of the transforming homes programme in future. • Residents expecting works as part of this programme would require appropriate liaison and support.
<p>3. Complete works only to 44 properties currently in progress.</p> <p>Anticipated final account</p>	<ul style="list-style-type: none"> • Risk of unforeseen elements reduced. 	<ul style="list-style-type: none"> • 23 properties would require reprogramming and this volume would necessitate commissioning of

<p>£4,972,746</p> <p>Attracts ECO funding amount of £220,833</p> <p>This option is not recommended</p>		<p>a separate programme in future.</p> <ul style="list-style-type: none"> • Residents expecting works as part of this programme would require appropriate liaison and support. • Considerable delay to allow for procurement and mobilisation on a larger scale than option 2 • Costs would be subject to inflationary increases and therefore will be higher overall and therefore outside of provision in HRA business plan • Logistically it would mean doubling up of cost for resources to demobilise and remobilise
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4. Reasons for Recommendation

- 4.1 There is an existing budget allocated for this programme of work, initially set at £7.5m and subsequently revised to £5.280m.
- 4.2 The increase in contract value does not exceed the Public Procurement Regulations 2015 contract variation spend limits, and therefore is permissible under these regulations. The recommendation complies with the requirements of Regulation 72 of the Public Contracts Regulations 2015.
- 4.3 Due to the risks associated with works of this nature and scale the original budgeted amount of £5,280,000.00 was retained to provide a level of contingency.

- 4.4 The approval of the report recommendation will support of the delivery of the of the Council's Housing Asset Management Strategy aims and objectives. This includes investing in improving the overall thermal performance and energy efficiency of resident's homes and effectively support them out of fuel poverty.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The Cabinet Lead Member for Housing has been briefed and consulted on this report and is in support of the recommendations.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 In October 2019, the council passed a motion to declare a climate emergency and to take urgent action to reduce its carbon emissions to net-zero by 2030. The work this project is delivering will contribute to reducing the carbon emissions of the Councils housing stock.
- 6.2 This project is linked to the Housing Strategy Vision in that every Thurrock resident will have access to a safe, secure, suitable, and affordable home that meets their needs and aspirations, serving as a foundation to support their health and wellbeing.

7. Implications

7.1 Financial

As detailed in the body of the report, the initial estimate for the works set a budget of £7.5m in 2020/21.

The budget was subsequently revised to £5.280m following further review of the estimated costs of the works.

These works will need to be funded through prudential borrowing, as no external grant funding is available to contribute towards the cost. These costs are ring-fenced to the HRA only

The financing of the recommended option equates to £5.046m, which allows for £0.226m of external funding. This net sum will be financed through prudential borrowing and is included within the 2023/24 total interest and financing budget of £8.937m. The forecast cost of this element is predicted to be £0.237m per year, however, the Council will explore the use of the preferential PWLB housing rate that was announced by the government to be implemented in June 2023.

The works detailed in the contract are essential to ensure that the HRA maintains the properties to the required standard, and therefore form part of the HRA expenditure forecasts contained within the business plan.

Implications verified by: **Mike Jones, Strategic Lead | Corporate Finance – Resources and Place Delivery**

7.2 Legal

Varying a public contract must be done in accordance with Regulation 72 of the Public Contracts Regulations 2015, which outlines the ways in which this can be done legally. Regulation 72(1) b sets out that a variation is permissible where the following requirements are met “for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor would cause significant inconvenience or substantial duplication of costs for the contracting authority”,

The evidence relied upon by the Council for compliance with these requirements is shown at clauses 2.7.2, 2.7.3 and 3.3 above.

The issuing of a Section 114 notice by Thurrock Council means that any new spending - with the exception of protecting vulnerable people, statutory services and pre-existing commitments – must be reviewed on a case-by case basis by a formal spending review panel. Members can be satisfied that the costs referred to in the report are essential, come within pre-existing commitments and comply with appropriate legislation.

The Council have a statutory duty to provide for the Health and Wellbeing of its residents through improvement to their living conditions and this could be by way of delivering this project as proposed in this report, with the ultimate outcome of improving the Wellbeing of its residents.

Implications verified by: **Kevin Molloy
Principal Solicitor Contracts Team**

7.3 Diversity and Equality

It is likely that residents in these homes are experiencing levels of fuel poverty. Fuel poverty has many negative impacts on physical and mental health. The installation of energy efficiency measures and heating systems is intended to address this financial exclusion by delivering a reduction in annual costs for these residents on their heating bills.

The investment made through these improvements in the housing stock represents a real opportunity to provide additional social value initiatives to the local communities in the borough. One example of this was the ‘Christmas

dinner hamper' which was provided to 50 vulnerable residents identified via our Financial Inclusion Officers and the refurbishment of the community room at Chadwell St Mary high rise blocks to provide a warm space with good quality amenities that allows for the community to come together.

Implications verified by: **Roxanne Scanlon | Community Engagement and Project Monitoring Officer, Adults Housing and Health**

7.4 **Other implications** (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

Procurement of Housing Capital Programme Delivery, Cabinet 10th March 2021

<https://democracy.thurrock.gov.uk/documents/s29882/Procurement%20of%20Housing%20Capital%20Delivery%20Programme.pdf>

9. **Appendices to the report**

None

Report Author:

Nicola Richards

Capital Programme Delivery Manager

Housing Assets, Repairs and Compliance