

London Borough of Enfield

Portfolio Report

Report of: Joanne Drew

Subject: Walbrook

Cabinet Member: Cllr Gina Needs

Executive Director: Sarah Cary

Ward: Lower Edmonton

Key Decision: KD 5449 / U241

Purpose of Report

1. This report sets out actions proposed to be taken in response to a notice issued by Cadent, responsible for the gas provision at Walbrook House

Proposal

2. Enter into formal consultation with the residents of Walbrook House on the future of the building and note that a further report on the outcome will be brought back to Cabinet.
3. Note that in tandem with this consultation, officers will seek to minimise spend on the district heating contract by negotiating with residents to vacate the building. Note that letters have been issued to residents progressing discussions about options to move.
4. Note officers' use of existing authority under the Housing Allocations Scheme to prioritise residents in Walbrook House for rehousing as an exceptional need to move.
5. Note existing authority (KD5129) to enter into a contract for the design and installation of District Heating and hot water at Walbrook House as urgent works. The installation element of the contract and associated enabling and building safety works will only be progressed subject to a review of progress on the issues outlined in this report.
6. Delegate authority to the Director of Housing and Regeneration, in consultation with the Cabinet Member for Social Housing to set the rates for homeloss, disturbance payments and other costs relating to the decanting of Walbrook House.
7. Agree to engage with leaseholders regarding the acquisition, on a voluntary basis, of all leaseholders' interests in Walbrook House.
8. Delegate authority to the Director of Housing and Regeneration, in consultation with the Director of Finance (Capital and Commercial), to agree the price and terms of each acquisition of leaseholder properties.
9. Delegate authority to the Director of Housing and Regeneration to enter into such contracts as necessary in order to ensure the continued security of vacant premises at Walbrook House.

10. Note that budgetary approvals will be required in the event that more than 25 households remain in Walbrook House in order to complete the associated district heating enabling works and essential safety works which could involve temporary housing.
11. To approve a virement of £0.8m from the approved fire safety capital budget to fund decant and initial works costs at Walbrook House in 2022-23.
12. Note the risk of capital expenditure incurred on this project (up to £3.2m to date) being de-capitalised and reverting to the Housing revenue account which will trigger a need for a review of the HRA business plan as part of the annual review cycle in the Autumn.

Reason for Proposal

13. The Council has been served notice of termination of the gas supply by Cadent, the gas carrier. As such, the Council must take steps to remove the gas service and provide an alternative source of heating and hot water to the 126 households and community space in Walbrook House or empty the block. The notice expires on 19th July 2022, and (unless an alternative arrangement is agreed with Cadent) the gas supply will be disconnected on this date. The Council has already made steps to reduce demand on the gas supply at Walbrook House by removing all gas cookers. For safety reasons additional gas boiler checks are being made on a monthly basis.
14. This block was already identified for priority building safety works. As part of this programme a district heating solution had been recommended and has been procured. Authority to award the contract is covered in KD5129. Due to market conditions and further work arising through the construction management approach to this complex project, overall project costs have increased so officers are reviewing options for the building.
15. The timeline for putting in the alternative source of heating and hot water for the block is subject to negotiation with the provider. The electrical supply to the block is insufficient to enable electrical heating and hot water for all the flats. Subject to design, the current electrical infrastructure can support a number of flats (up to twenty-five) with fully electric heating and hot water.
16. Section 105 of the Housing Act 1985 places a statutory duty on the council to consult its secure tenants on matters of housing management. The proposal to move secure tenants out of Walbrook, carry out works or demolish the building are matters of housing management that require consultation under section 105. We are therefore proposing to begin formally consulting with residents on the future of Walbrook House in parallel with progressing voluntary rehousing of residents or temporary housing should this be required to comply with the gas notice.
17. The Section 105 consultation will take the form of a letter to Walbrook residents letting them know that the Council is carrying out an options appraisal and how they can make their views known. This will be followed up with face to face meetings with residents to discuss their individual circumstances, views and options. The consultation process will help to inform the options appraisal process. No decision regarding the future of the block will be made until the outcome of the consultation is understood.
18. Two options will be pursued in parallel with the consultation.
19. The first option is to rehouse most residents from Walbrook House by 18th July 2022. This would enable the Council to either expedite the building safety works more quickly

and with less disruption to residents' lives or to be ready to deliver an alternative solution for the site depending on the options appraisal.

20. The second option, if this proves necessary, is to move forwards with the design and installation of district heating for the block. The contract is due for award for the works although the first phase to design the new system is underway. Should we decide to abort the works, the extent of liability will be limited to the design and preparation works for the in-building element.
21. Should significant progress have been made in rehousing residents and the Director of Housing and Regeneration is confident that the Council will have moved most households out of Walbrook by 18th July then the installation of the district heating system will be postponed pending the outcome of the options appraisal and a temporary solution for electrical heating and hot water will be installed for any residents remaining in occupation, although to match the timings, the procurement, design and spec must be initiated before end of March 2022.

Relevance to the Council's Corporate Plan

22. The Council has a statutory and regulatory duty to ensure homes are decent and safe. Disconnection of the gas supply without alternative provision having been made will result in homes being classified as non-Decent and residents would need to be rehomed. Whilst options for the building longer term are being considered this decision allows us to protect residents from the impact of the disconnection.
23. Good homes in well-connected neighbourhoods: The decision will allow for a full options appraisal to be carried out to ensure the best possible outcome for the local community, whilst protecting the interests of Walbrook House residents.
24. Sustain strong and healthy communities: The decision will allow for a full options appraisal to be carried out to ensure the best possible outcome for the local community, whilst protecting the interests of Walbrook House residents.
25. Build our local economy to create a thriving place: The decision will allow for a full options appraisal to be carried out to ensure the best possible outcome for the local community, whilst protecting the interests of Walbrook House residents.

Background

26. Walbrook House is a 23-storey occupied tower block built in the 1960s. It was overlaid with a new rainscreen cladding system in 2002/3 due to historic water penetration and to enhance thermal efficiency. The external wall system was removed in 2019 following a review of wall systems across the Council's portfolio.
27. The Council was considering the undertaking of a deep retrofit project at Walbrook House, following the removal of the High-Pressure Laminate cladding at the block, due to fire safety concerns. This was proposed to address building safety requirements as well as bring the building up to a long-term lettable standard.
28. As part of the design process, a structural engineers report was commissioned given the block is known to be of Large Panel Construction, to confirm the findings of a historic report commissioned by the Council that stated the block had received structural strengthening in the 1980's which would prevent collapse, in the event of an unplanned load (i.e., gas explosion).
29. The structural engineer's report has confirmed, following opening up of the structure, that the building does not meet the upper (34kn) test requirements and as such the

gas mains, providing heating and hot water to flats, must be de-commissioned. Furthermore, additional structural strengthening is required to the two upper floors to meet the lower (17kn) requirements.

30. Based on the findings of the interim report, the Council has proactively engaged with Cadent as the gas provider and has, in consultation instigated a program of safety measures, to mitigate any immediate risks to residents and the building so that it is safe to occupy.
31. The original estimate for essential works was for £14m. These estimates have now risen significantly and are likely to rise further due to market conditions. They do not include the ongoing asset management requirements of the building over the next 30 years, which are significant in their own right.
32. Before committing to the essential works, we must carry out a full options appraisal as even with the essential works the block will require significant further investment over the next 30 years. Current projected costs suggest that over a 30-year period the building will cost more to maintain than the rental income generated.
33. The options appraisal will include looking at full refurbishment, demolition and redevelopment linking the site to other potential sites in the neighbourhood, and the potential sale of the building.

Offer to Tenants

34. Council tenants will be rehoused using the existing Allocations Scheme. Officers have used their existing powers within the existing Allocation Scheme to prioritise residents of Walbrook House. Residents will be able to express their choice of area to be rehoused in.
35. Properties will be allocated based on household need to enable us to address issues such as overcrowding or under occupation. Where we are unable to secure alternative accommodation in the household's areas of choice, we will award decant points to enable them to bid from a property in a different area. Because of the timeframes we will make direct offers of accommodation rather than using the Choice Based Lettings System. Council tenants will be eligible for homeloss payments and a disturbance allowance to cover moving costs and setting up a new home.
36. In addition, the Council will provide a wraparound moving service to Walbrook residents to minimise the disruption. This will include a moving service and reconnection of appliances in their new home. We will also ensure that residents are supported to settle into new communities and their wider needs are identified with a plan of support to address these.

Offer to Leaseholders

37. Officers are in the process of developing an offer for leaseholders. This will be based on market value of their flat plus a disturbance allowance the approach for which is based on the principles set out for compulsory purchase orders (market value plus 10%). Leaseholders who agree to move will also avoid the potentially high service charges that they would incur if we were to progress works. We estimate that these charges would be approximately £100k per flat.

Proposal of Works

38. The timelines for the heating solutions are as follows:

Gas – move to district heating:

39. In order to install the new district heating there are a number of associated works with this approach. Which includes the connection to the Energy Centre for Energetik; an alternative approach for hiring connection is being reviewed.
40. Design of the new district heating system is currently in progress, with main works commencing in homes following completion of enabling works. Current programming indicates completion mid 2023
41. There are also some associated building safety works, these include firestopping to flats and communals, fire detection and fire doors, but exclude sprinklers which are not currently legislatively required. These works are as advised by the Building Safety and Programme Manager as essential in keeping residents safe. It would not be appropriate to carry out works to the block without completing these also if a reasonable number of residents are to remain.

Electric Heating to support a number of residents

42. An indicative timeline for moving to an electric heat and hot water solution for a number of flats for an interim period whilst the district heating works are carried out could be completed by July 2022 if commenced in short order (Appendix A). Costs for this option will increase if remaining flats were completely dispersed over the 20 floors and assumes the installation will be temporary - removed upon completion of district heating works or the delivery of alternative options for the building.

Options Appraisal for the future of Walbrook House

43. The options appraisal will examine the future options for the site which will include refurbishment and redevelopment options.
44. Good homes in well-connected neighbourhoods: The decision will allow for a full options appraisal to be carried out to ensure the best possible outcome for the local community, whilst protecting the interests of Walbrook House residents.
45. Sustain strong and healthy communities: The decision will allow for a full options appraisal to be carried out to ensure the best possible outcome for the local community, whilst protecting the interests of Walbrook House residents.
46. Build our local economy to create a thriving place: The decision will allow for a full options appraisal to be carried out to ensure the best possible outcome for the local community, whilst protecting the interests of Walbrook House residents.

Main Considerations for the Council

47. The Council has statutory duties under the Landlord and Tenant Act (1985) and Commonhold and Leasehold Reform Act (2002) to maintain its buildings in a good state of repair. We are seeking to ensure investment in the building is based on sound asset management reasons whilst also consulting residents on the future options.

Safeguarding Implications

48. There are a number of households living in the block who will require support to move. We are developing a full moving service to assist residents with moving home. We are carrying out full tenancy audits to ensure that we identify and support households

that need additional help including where appropriate working with adult social care and children's services.

Public Health Implications

49. By moving residents to properties identified on the basis of housing need, the council will be able to address issues of overcrowding as well as issues around mobility as well as ensuring health during the winter period.
50. The opportunity should be taken to review health needs to ensure that needs are taken into consideration for new housing offered. Additionally, there is opportunity to ensure that tenants are provided with wrap around support for employment, welfare/ debt and health and wellbeing through the Councils Community Hubs. A Health and Wellbeing offer should contribute to the wrap around package covering factors such as support registering with GPs, local dentists, and where appropriate referral through primary care social prescribing to ensure that residents are supported to settle into new housing and communities.

Equalities Impact of the Proposal

51. The Public Sector Equality Duty requires all public bodies to have due regard to the need to
- a. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c. Foster good relations between people who share a protected characteristic and those who do not.
52. The broad aim of the duty is to integrate equality considerations into general policy and decision making and we do this using the process of equality impact assessment.
53. An initial impact assessment of the proposals has been carried out and is attached at appendix B. At this stage no differential impacts have been identified.
54. We will ensure that the consultation process is fully inclusive and ask residents about their communication requirements in our initial contact.
55. We will collect profiling information during the tenancy audit process, to gain a better understanding of the profile of residents and use this in further iterations of the EQIA. This will enable us to target services to address any specific needs identified. A full impact assessment will be carried out as part of the options appraisal process.

Environmental and Climate Change Considerations.

56. to the proposals in this report will enable the Council to carry out a full options appraisal of the building. This will help to ensure that a sustainable long-term solution is found.

Risks that may arise if the proposed decision is not taken

Risk	Mitigation	Likelihood	Impact
Building costs continue to escalate	Robust contract management Refresh of the HRA business plan	High	High

Cadent refuse to extend the notice period to enable works to be completed	Proactive engagement with Cadent Residents would need to be temporarily rehoused pending completion of the district heating works	High	High
Increased costs to the Council as a result of having to decant residents out of Walbrook whilst also progressing the essential works. There is a real possibility that the Council will incur both the costs of rehousing residents and the cost of essential works	If Cadent refuse to extend the notice period, then the only option will be to decant residents.	High	High
The Council will be unable to take a long-term solution for the block because residents have not been properly consulted	Consultation with residents over the future of Walbrook House. Accept potentially abortive costs of installing district heating.	High	High
Leaseholders unable to afford service charges	Services charges are currently estimated at £90k-£110k per flat. The range of payment options would need to be extended to support leaseholders.	High	High
Walbrook House becomes a net drain on the HRA with income being less than the cost of maintaining the building.	Proactive asset management strategy for the building to reduce ongoing costs	High	High

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

Risk	Mitigation	Likelihood	Impact
Unable to move sufficient number of households out of Walbrook House	District heating system would be installed	High	High
Cadent refuse to extend the notice period to enable works to be completed	Proactive engagement with Cadent Residents would need to be temporarily rehoused pending completion of the district heating works	High	High
There is a significant cost of buyback and disturbance payments to residents in Walbrook House. The rent loss of 102 units of social housing. Expenditure may not all qualify as capital resulting in pressure in revenue reserves.	This is a known cost and therefore can be budgeted for by reprioritising existing capital plans. This is a known cost and therefore can be budgeted for Proposal for treatment of expenditure in 2021/22 statutory accounts and onwards to be put to external auditors to ensure impact on revenue reserves is minimised. HRA Business Plan then to be refreshed with revised	High	High

	assumptions to demonstrate continued viability.		
Increased costs of Temporary Accommodation in General Fund as a result of decanting tenants from Walbrook House	Homeless families are placed mainly in the Private Rented Sector, not HRA units, therefore the decant process is not expected to have a significant adverse impact on General Fund	High	Low
Increased costs to the Council if works are progressed but insufficient numbers of residents move out to enable the installation of electric heating	If insufficient numbers of residents move out, then we would need to progress the installation of the district heating system. An extension of the notice from Cadent would be a prerequisite for enabling residents to remain whilst the works are carried out. In the event that this is not forthcoming, we would need to progress with rehousing or decanting residents.	High	High

Financial Implications

57. This report is proposing to continue with the pending contract for the design and installation of a district heating at Walbrook House, this contract is £2.2m. In addition, enabling works and connection to energetic will need to happen in conjunction with the design and installation contract which total £3.9m. In total these works are estimated to cost £6.1m, however, these works may not be fully progressed or may not be utilised in full. This will be dependent on how many residents vacate the building.
58. These works are part of the existing Walbrook House building safety works capital budget approved at Council as part of the Rent Setting and budget report (KD5354).
59. To note the block has 126 properties in total, with 102 tenants, 14 leaseholders and 10 properties currently void.
60. There is a risk that prior expenditure (up to £3.2m) and future capital expenditure related to Walbrook House could be de-capitalised and revert to the Housing revenue account which would trigger a need for a review of the HRA business plan as part of the annual review cycle in the Autumn. The accounting treatment can't be confirmed until the future plans for Walbrook are established.

61. Legal Implications

MD 9th March 2022

Under Section 1(1) Localism Act (2011) the Council can do anything individuals' generally may do provided it is not prohibited by legislation and subject to public law principles. There is no expressed prohibition, restriction or limitation contained in statute law against the use of this power in this manner proposed in this report.

Under Section 111 of the Local Government Act (1972) the Council has power to do anything (whether involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

The Homes (fitness for human habitation) Act (2018) requires landlords to ensure that property (under their ownership and/or control) is fit for human habitation on the occupation date and for the duration of a contract. Repairing obligations imposed under Section 11 of the Landlord & Tenant Act (1985) covers the structure, and the exterior including drains, gutters, external pipes, installations in homes including water, gas, electricity and sanitation with the Landlords obligations extending to any part of the building in which they have an estate or interest.

Cadent issued a letter to the Council on 23rd August 2021 stating that the gas supply to the building would be disconnected on 19th July 2022. The Council is required to comply with the requirements of that letter including a requirement to (i) undertake regular (at least monthly) Gas Safety Inspections of each of the appliances and internal gas installations within each residence; (ii) remove all gas cookers; (iii) install Excess Flow Devices on each of the resident's supplies; (iv) install Methane Detectors to alert to the potential of natural gas leaking in the building; (v) where necessary, facilitate access to all parts of the building for Cadent Gas to complete monthly gas safety inspections of its gas assets; and (vi) comply with any other safety-driven or risk management requirements notified by Cadent. If the Council does not comply with these requirements the gas supply may be disconnected sooner. There is no evidence that there is any situation at Walbrook House that currently presents risk to life or property, such that immediate disconnection of the gas supply to part or all of the block or an emergency evacuation of the block is required.

Section 105 of the Housing Act 1985 places a duty on the council to consult its secure tenants on matters of housing management. For the purposes of section 105, a matter of housing managements is the management, maintenance, improvement or demolition of dwelling-houses let by the authority under secure tenancies, or the provision of services or amenities in connection with such dwelling-houses. The proposals to move secure tenants out of Walbrook or carry out works or demolish the building are matters of housing management that require a consultation under section 105.

Any consultation exercise must be fair, transparent and allow tenants an adequate time to respond. Any consultation must be undertaken at a time when proposals are still at a formative stage; the consultation must give sufficient reasons for any proposal to allow intelligent consideration and response; adequate time must be given for consideration and response to the consultation; and the product of consultation must be conscientiously taken into account in finalising the proposals. In this case a 4-8 week consultation period should be sufficient, taking into account the urgency of the matter at hand, any prior discussions and the complexity of the information to be shared. If there are flaws in the consultation exercise, it can render the subsequent decision unfair and unlawful and there could be a risk of a judicial review. The court has the power to declare the consultation unlawful and order the Council to carry out a new consultation. While the Council must comply with the fundamental principles of fair consultations described in this paragraph, it is not prevented from seeking agreement to relocate from current residents in the meantime.

The Council must comply with the public sector equality duty set out in s149 Equality Act 2010. This requires The public authorities, in the exercise of their functions, to have due regard to the need to eliminate discrimination, harassment,

victimisation and any other conduct that is prohibited by or under the Equality Act; advance equality of opportunity between persons who share a 'relevant protected characteristic' and persons who do not share it; and foster good relations between persons who share a 'relevant protected characteristic' and persons who do not share it. The public sector equality duty should be complied with before a decision is made. It is a continuing duty and therefore the equality implications of a decision need to be kept under review. An initial equalities impact assessment has been prepared and is summarised in the body of this report.

The decision to transfer tenants must be in accordance with the procedures in the Council's published housing allocation scheme. Where there is an emergency or exceptional need to move, the allocation scheme allows the Council to award a high level of priority to tenants. The relevant council officer has determined that residents of Walbrook have an exceptional need to move.

Any acquisition of property must comply with the Council's Property Procedure Rules. Section 120 of the Local Government Act 1972 permits the Council to acquire any land for the purposes of the any of its functions or for the benefit, improvement or development of its area.

The Land Charges Act 1979 gives a right to home loss payment if a person is displaced from their home. The payment is designed to compensate people for the distress and inconvenience of having to move home at a time not of their choosing. The maximum and minimum amount of home loss is prescribed annually by set Home Loss Payments (Prescribed Amounts) (England) Regulations 2021. A person qualifies for a home loss payment only if they have in occupation of the dwelling as their only or main residence for a one-year period ending on the date of displacement, and that occupation must be as a result of an interest or right in the property. This means that the person must be a tenant, leaseholder, a spouse or civil partner who has succeeded to the statutory tenancy of a deceased spouse or civil partner, or a child who has succeeded to the tenancy of a parent is entitled.

Disturbance payments are made to compensate a residential occupier for reasonable expenses in moving from the house. People who do not qualify for a home loss payment, for example because they do not satisfy the residence requirement, may be entitled to a disturbance payment. Disturbance payments cover reasonable expenses incurred by the displaced person during moving. People who are displaced from properties that have been adapted for disabled people are entitled to the comparable cost of those modifications.

Any contract entered into must comply with the Council's Contract Procedure Rules and, if applicable, the Public Contracts Regulations 2015. Any instruction to cease the installation of district heating and hot water supply must comply and be issued in accordance with the provisions of the relevant contract.

As the value of the proposals in this report exceeds £500,000, officers must ensure that the Council's Key Decision process is followed.

Workforce Implications

62. Staff from the Decant Team will support the work of the Place Management team in meeting with tenants and leaseholders. A priority will be offering 1:1 meetings with all residents to talk through their housing options and the support which the council can

make available – meetings can take place in residents' homes and can be arranged in the evenings or on Saturdays.

Property implications.

63. HRA Property Implications: These are found throughout this report. Corporate Implications: None

Options Considered

64. The cost of completing the essential works is currently estimated at £23m and it is not sensible to invest this level of expenditure without carrying out a full options appraisal.

Conclusions

65. Given the detrimental impact on residents from the removal of the gas service, by Cadent the Council must act swiftly to secure the safety of residents.

Report Author: Abigail Ellis, Investment and Resident Safety Programme Director
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Date of report: 15/03/2022