

Cabinet

Date of Meeting: 09 April 2019

Report Title: Notice of Motion – Building Regulations and Fire Safety

Portfolio Holder: Cllr Ainsley Arnold- Portfolio Holder for Housing, Planning and Regeneration

Senior Officer: Frank Jordan – Executive Director Place

1. Report Summary

1.1. The purpose of this report is to respond to the following Notice of Motion considered at the Council meeting on 5th March 2019 in relation to the Building Control Regime proposed by Cllr Mannion:

“This Council notes the conclusions that have been reached so far concerning the Grenfell Tower disaster. In particular it notes the section in the Hackitt report which highlights the “mindset of doing things as cheaply as possible and passing on responsibility for problems and shortcomings”. One longstanding and illogical result of this is that building control remains the only regulatory function of local government to be subjected to competition. Commercially compromised regulation sees safety margins engineered out and corners cut.

The private sector recruits people who have been trained at public expense, and cherry-picks the most lucrative schemes, while leaving the rest to councils – who of course pick up the bill for enforcement and other essential regulatory Tasks

We call for:

(a) the use of inflammable cladding materials on high rise residential buildings to be banned without further delay

(b) adequate compensation for councils faced with essential but significant costs in remediation

(c) local authorities to be the sole provider of building control services in

high residential buildings

(d) recognition of the essential role of regulation and an end to the constant denigration of Health and Safety

(e) the eventual return of this essential regulatory service to local authorities “

2. Recommendations

2.1. That Cabinet:

2.1.1. Reject the Notice of Motion by Cllr Mannion as worded, but support the spirit of the Notice of Motion

2.1.2. Agree that the Portfolio Holder for Housing, Planning and Regeneration write to the Secretary of State for Housing Communities and Local Government to:

- a) Support the Government’s decision to take forward all the recommendations in the Hackitt review.
- b) Support the changes in the Building Amendment Regulations 2018 requiring the use of non-combustible cladding materials on high rise buildings.
- c) Support the Government’s decision to compensate councils faced with remediation costs in relation to high-rise buildings with ACM cladding.
- d) Advocate that local authorities should be the sole provider of building control services in high residential buildings.
- e) Advocate that the Government consider the return of this essential regulatory service to local authorities in relation to all development as, in the interests of health and safety and the well being of residents, it should not be possible for a developer to choose their own building control regulator.

3. Reasons for Recommendations

3.1. In agreeing to the above recommendations, the Council would demonstrate its commitment to the safety and well-being of its residents in and around tall buildings.

3.2. Points (a) – (d) in the Notice of Motion have already been addressed by Government actions. The Government has: agreed to implement all of the recommendations in the Hackitt review; has made recent changes to the regulations to ban the use of combustible cladding on high buildings (as set out in section 5.0); has agreed to fully fund the removal and replacement of

ACM cladding; and has agreed that a new regulatory framework will oversee building regulations approval for high buildings.

3.3. Point (e) in the Notice of Motion is supported by recommendation (e).

4. Other Options Considered

4.1. None Considered - The paper outlines only one option in response to the Notice of Motion presented to Council.

5. Background

- 5.1. A Notice of Motion has been proposed following the tragic events at the Grenfell Tower in the Borough of Kensington & Chelsea and the subsequent independent review published by Dame Judith Hackitt. The Notice of Motion seeks to recognise and support the recommendations by Dame Judith Hackitt.
- 5.2. On the 14th June 2017 a fire broke out in the 24 storey Grenfell Tower block of flats in North Kensington, West London resulting in 72 deaths. Subsequently the government commissioned a number of investigations and in particular commissioned an 'Independent Review of Building Regulations and Fire Safety.'
- 5.3. In May 2018 the final report "Building a Safer Future", was published by Dame Judith Hackitt which determined that the current system is not considered fit for purpose, thereby making a number of recommendations. The report was presented to Parliament by the Secretary of State for Housing Communities and Local Government.
- 5.4. The report, known as the 'Hackitt review,' highlighted a number of key issues underpinning the system failure which included ignorance, indifference, lack of clarity associated with roles and responsibilities and importantly, inadequate regulatory oversights and enforcement tools.
- 5.5. The report recommends a new framework which will be designed to create a simpler and effective mechanism for driving building safety whilst providing a stronger oversight of duty holders, providing effective mechanisms to deal with poor performance.
- 5.6. The new framework would be focussed in the first instance on multi-occupancy higher risk 10 storey residential buildings and would be overseen by a new joint competent authority (JCA) comprised from members of Local Authority Building Control, fire and rescue authorities and the Health & Safety Executive.

- 5.7. It is expected that the framework would provide a series of robust gateway points to strengthen regulatory oversight whilst creating a more streamlined regulatory route to oversee building standards.
- 5.8. The report also highlighted a number of issues to be addressed through legislative changes whilst recognising weaknesses associated with the current structure of building control. Section 2.41 of the review identified concerns associated with the current ability of contractors to choose between Local Authority Building Control and Approved Inspectors to provide regulatory oversight of the building process. This unique competitive environment has been seen to provide the potential for reduced standards within the building industry whilst creating confusion and in certain cases a potential conflict of interest. The report recommends the cessation of this practice in relation to residential buildings over 18m in height.
- 5.9. The report recognises that the differences in the statutory (and non statutory) processes add to the complexity and means there is no level playing field between Approved Inspectors and Local Authority Building Control.
- 5.10. In response to the report the Government has issued a number of directives that strive to address the concerns raised and is seeking to create a stronger and more effective framework to improve building safety which will ultimately result in tougher sanctions for those who risk residents' safety.
- 5.11. The government has issued a statement confirming their commitment to reform over the next few years which will take forward all the recommendations in the Hackitt review, placing residents at the centre of the new system, empowering them with more ways of engagement and more significant redress.
- 5.12. The Government has stated that they accept the need to create a tougher framework and that the review recommended that it should not be possible for the duty holder to choose their own building control regulator, recommending a streamlined regulatory route for the provision of building control through local authorities as part of the new regulatory structure.
- 5.13. Whilst this proposal received widespread support, responses from Approved Inspectors highlighted significant concern about their future role and therefore further consultation on the removal of choice will be undertaken in the spring.

- 5.14. The Government has issued an appropriate implementation plan, suggesting the establishment of a new joint regulators group to help develop and pilot new approaches and in spring 2019 will consult on a number of factors including;
- 5.14.1. The scope of the new regime
 - 5.14.2. Proposals for creating duty holder responsibilities
 - 5.14.3. Proposals for a stronger and more effective enforcement and sanctions regime
 - 5.14.4. How gateways may be used throughout the regulatory process
 - 5.14.5. Proposals for managing the provision of building control with the new framework and the role of Approved Inspectors in supporting duty holders
 - 5.14.6. Options for a more effective framework to oversee the new regime
- 5.15. On the 29th November 2018 the Building Amendment Regulations 2018 were laid before parliament and came into force as of the 21st December 2018. The Regulations made a number of amendments to the principal Building Regulations 2010:

“Clarification associated with the definition of “external wall”, which will include anything located within any space forming part of the wall, decoration or other finish to any external surface forming part of the wall. Any doors, windows and part of a roof with a pitch angle less than 70 degrees to the horizontal.

For the purposes Regulation 7 now includes sub-paragraph (2) which requires building work to be carried out so that materials which become part of an external wall or specified attachment are of a European Classification A2-s1, d0 or A1 classified in accordance with BS-EN 13501 – 1 2007+A1 2009.

Non combustible materials are defined within paragraph 11 of Appendix A to Approved Document B or in terms of performance when tested to BS476 – 4 : 1976 or when classified as A1 in accordance with BS-EN 13501 – 1:2007. As the government has included the requirement for external walls to achieve class A2,-S1, d) or A1 within Regulation 7, this places a statutory requirement to comply with the performance level and therefore excludes the use of non combustible materials on external walls

with certain exceptions such as doors, windows and associated frames.”

- 5.16. The ban is focused on buildings where risks are greatest. It will apply to high rise residential buildings over 18m in height. It will therefore apply to hospitals, residential schools, care homes, and student accommodation. These changes are prescriptive and therefore not open to interpretation.
- 5.17. It is understood that the Government has set out a remediation programme published by the MHCLG dealing with the situation of existing buildings with the type of Aluminium Composite Material (ACM) cladding which will be subject to the ban. Of the 457 high-rise buildings with ACM cladding, 39 buildings have completed the process of remediation, 120 buildings have started remediation, 129 buildings have a remediation plan in place and there are 44 buildings where building owners intend to remediate and plans are being developed. The MHCLG state that they will fully fund the removal and replacement of dangerous ACM cladding on residential social housing buildings over 18m owned by councils and housing associations, with costs estimated at £400m. MHCLG has so far allocated £248m to replace cladding on 135 buildings. The minister has also written to all relevant private sector building owners reminding them of their responsibilities towards making their buildings safe, including reminding them that local authorities have powers to enforce these improvements if building owners do not take action.

6. Implications of the Recommendations

- 6.1. Points (a) – (d) in the Notice of Motion have already been addressed by the Government and the recommendations support those actions. Point (e) in the Notice of Motion is supported by recommendation (e) to advocate the return of Building Control to Local Authorities.
- 6.2. To support the proposals for Local Authorities to be sole providers of Building Control services in high residential buildings will have little impact on the Cheshire East team, as current resources are available to deal with the volume of properties that fit this criteria within the region.
- 6.3. To support the proposals for the eventual return of the Building Regulation service to completely return to the Local Authority will require legislative changes and the Council's resources would require substantial investment to deal with the increased workload, although there would be a resultant increase in fee income to support such an investment.

6.4. Legal Implications

6.4.1. None

6.5. Finance Implications

6.5.1. None

6.6. Policy Implications

6.6.1. None

6.7. Equality Implications

6.7.1. None

6.8. Human Resources Implications

6.8.1. None at this time

6.9. Risk Management Implications

6.9.1. None

6.10. Rural Communities Implications

6.10.1. There are no direct implications for rural communities.

6.11. Implications for Children & Young People/ Looked After Children

6.11.1. There are no direct implications for children and young people.

6.12. Public Health Implications

6.12.1. There are no direct implications for public health.

7. Ward Members Affected

7.1. No specific ward is affected

8. Consultation & Engagement

N/A

9. Access to Information

The background papers to this report are available for inspection on request.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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