

Lancaster City Council | Report Cover Sheet

Meeting	Cabinet	Date	12 April 2022
Title	Gateway, No. 1 Gateway, White Lund Industrial Estate, Morecambe: Fire Damage Reinstatement and Insurance Matters		
Report of	Director for Economic Growth and Regeneration		
Purpose of Report			
Following damage from a fire within tenanted units at the city council's property at Gateway, Southgate, Morecambe, authority is sought for the Chief Executive to accept construction tenders for the insured reinstatement works.			
Key Decision (Y/N)	Y	Date of Notice	February 2022
		Exempt (Y/N)	N

Report Summary

The progression of work to address insured fire damage within the council's commercial property portfolio is described. In addressing repair and reinstatement the role of the individual parties involved is described, particularly the need for the city council to issue and accept the major reinstatement construction tender as client. The mechanism for direct contractor payments and minor residual financial risk arising from progression of insured works is also described.

Recommendations of Councillors

- (1) Officers tender the insured reinstatement works via the Chest procurement portal
- (2) Authority to accept the preferred tender and contract the works is delegated to the Chief Executive
- (3) The mechanism for contractor payments direct from the insurance company, handling of VAT, and minor residual financial risk arising from progression of insured works is noted.

Relationship to Policy Framework

The report is concerned with matters relating to prudent management of the city council's commercial property portfolio

Conclusion of Impact Assessment(s) where applicable

Climate	Wellbeing & Social Value
Digital	Health & Safety
Equality	Community Safety

There are no matters arising from the progression of reinstatement works to fire damaged property.

Details of Consultation

Matters have been progressed between officers of the city council, it's insurers and representatives of the tenant occupier of the fire damaged unit.

Legal Implications

The city council is under a legal obligation as landlord to carry out repair works to the damaged aspects of the building. Legal advice can be provided internally or externally in respect of the terms and conditions of any construction contracts to be used.

Financial Implications

The city council is the named insured party and any payments to contractors would normally be made direct. However, the insurers can pay the contractors direct on the receipt of signed off approved works by the project manager, Sanderson Weatherall. This will streamline the process of undertaking the works relieving the burden of making allowance for works through the capital programme and assisting the council's cashflow.

Sanderson Weatherall will undertake the principal designer's role and provide the tender specification for issue on the city council's behalf. The council's buildings insurance policy covers the council for financial losses caused by fire, including loss of rent. The insurance company, via communication between the appointed loss adjuster and city council officers, has confirmed policy liability. The loss adjuster cannot yet confirm that the entire tender specification will be fully eligible for payment by the insurers as this has not yet been agreed and issued. At this stage a risk remains that were any of the works to be considered by the insurer to be "betterment" rather than like for like reinstatement that these would not be covered.

On approval of works the insurers will make stage payments as the reinstatement project progresses. The Gateway building has been "opted to tax" for the purposes of VAT and therefore the insurers will pay only the sum net of VAT. The appointed contractor will invoice the council separately for the VAT sum which the council will pay directly. This sum will be reclaimed through the council's monthly VAT return and is regarded as a minor short-term recoverable cashflow matter of no significant bearing to the council's finances. The council will remain below its VAT claim threshold limit at the level of spend anticipated.

Other Resource or Risk Implications

Strategic matters are being handled by officers within the city council's Property Group and by the Insurance Team. The contract for project management, including taking the CDM and Principal Designer's role in managing the construction has previously been awarded and will be undertaken by consultants, paid out of insurance. Appropriate liaison between designers and insurers should help to mitigate the risk to the council of uninsured works being undertaken.

Section 151 Officer's Comments

Sanderson Weatherall have been appointed to designing and provide the tender specifications on behalf of the Council for the restitution of fire damaged areas. The council's insurers will only consider reasonable and appropriate costs associated with this claim, any additional reinstatement works over and above will be classed as betterment and will not be paid by the insurance company, as a result the city council would need to fund these costs.

Although the scale of the risk is considered by officers within service to be minimal, it is not possible to quantify at this stage as no agreement has been reached with the loss adjuster, nor it is clear what mitigation, or limitations are currently employed either by the city council, or Sanderson Weatherall.

Monitoring Officer's Comments

The Monitoring Officer has been consulted and has no further comments to add

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Links to Background Papers

1.0 Introduction

- 1.1 Gateway, No.1 Southgate, White Lund Industrial Estate, Morecambe is a large industrial property owned by the city council extending to 6 units occupied by 4 tenants of approximately 180,000 sqft. Recently, a fire within one of the units has caused damage to circa 35,000 sq.ft. of commercial accommodation. The property comprises low and high bays, being steel and portal frame construction over clad with insulated metal profile sheeting with inset translucent roof lights and with concrete floors.
- 1.2 The units affected within the portfolio are 2a, 2b and 3 with some smoke damage to Units 1 and 4. Two tenants are substantially affected within Unit 2a and separately 2b and 3. The occupiers of Units 1 and 4 remain fully operational. A fire damage report is provided in Appendix 1.

2.0 Role of the City Council

- 2.1 The city council is the freehold owner of the Gateway site and is under a contractual obligation under the commercial leases to undertake the repairs works of the fire damage. There is also an obligation to get the damaged units back into use and operational by the tenants. The council's buildings insurance policy covers the council for financial losses caused by fire, including loss of rent. The insurance company, via communication between the appointed loss adjuster and city council officers, has agreed policy liability. There is a residual risk that work elements approved and undertaken may be considered ineligible for payment by the insurers. This should be minor if only reinstatement works

are designed by the appointed project manager. The insurers will consider reasonable and appropriate costs associated with this claim, any additional reinstatement works over and above will be classed as betterment and will not be paid by the insurance company; the council will need to fund these costs.

- 2.2 Business interruption is not covered for the council's commercial property, so the tenants need to mitigate their losses through their own business interruption insurance. For information the city council's insurance policy is with QBE Insurance Group Limited. McClaren's are appointed as the Insurer's Loss Adjuster.
- 2.3 Lancaster City Council is the contracting body for the repair works on this occasion. While insurance is covering the repair costs, the city council needs to abide by its Contract Procedure Rules, initiate a formal / compliant tender process, and secure an appointment for the reinstatement contract value.

3.0 Tendering mechanism

- 3.1 Estimates for the insurable reinstatement works and claim are between £500K and £1M. In respect of the council's contract procedure rules this requires a competitive tender procedure.
- 3.2 Following a previous competitive tender the city council has already appointed Sanderson Weatherall as Chartered Building Surveyor to provide Project Management, CDM Regulation and Principal Designer's role in respect of fire damage reinstatement. The appointed party will also undertake the role of securing Building Regulation Approval for the reinstatement works.
- 3.3 On initiation of the work Sanderson Weatherall will sign off and approve works as they progress. Stage payments will be made directly by the insurers to the contractor and there is no need for capital programme provision. This flexibility in payments suits the city council in terms of its cashflow position (**refer to Financial Implication**)

4.0 Options and Options Analysis (including risk assessment)

Option 1: Delegated authority is given to the Chief Executive to issue and accept construction tenders for the insured reinstatement works.
Advantages: Allows the insured fire damage reinstatement works to progress and for the industrial unit to be brought back into commercial use at the earliest opportunity.
Disadvantages: No disadvantages identified.
Risks: There is a minor residual financial risk arising from progression of insured works as the insurer may not finally agree pay for all reinstatement works. The

insurer will not pay for additional works over and above reinstatement as this is classed as betterment. However, it is considered that all designed reinstatement works will fall under the remit of the insurance policy.

Option 2: No authority is given to officers to issue and accept construction tenders for the insured reinstatement works.

Advantages: No advantages identified.

Disadvantages: The insured fire damage reinstatement works cannot progress, and the industrial unit is not brought back into commercial use.

Risks: Leaving the unit in a fire damaged state will have a detrimental effect on the council's commercial property income and the council's financial position.

4. Officer Preferred Option (and comments)

4.1 The officer preferred option is Option 1.