

**IN THE FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case ref: LON/00BJ/LSC/0286

In the Matter of: The Landlord and Tenant Act 1985; Section 27A

B E T W E E N:

**THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF WANDSWORTH**

Applicant/ Landlord

and

**VARIOUS LEASEHOLDERS OF
100 HIGH-RISE RESIDENTIAL BLOCKS
IN THE LONDON BOROUGH OF WANDSWORTH**

Respondents/ Leaseholders

**APPENDIX [4 – Paper No. 17-243 – Report by Director of Housing &
Regeneration 28.06.17]**

**TO THE STATEMENT OF CASE
ON BEHALF OF
THE LONDON BROUGH OF WANDSWORTH**

AS PROVIDED FOR UNDER SECTION 100B(4)(b) OF THE LOCAL GOVERNMENT ACT 1972, THE CHAIRMAN IS OF THE OPINION THAT THIS REPORT SHOULD BE CONSIDERED AT THE MEETING AS A MATTER OF URGENCY, BY REASON OF SPECIAL CIRCUMSTANCES WHICH ARE THAT DECISIONS, INCLUDING FINANCIAL AND BUDGETARY MATTERS, ARE REQUIRED WITHOUT DELAY IN ORDER TO GIVE PRACTICAL EFFECT TO THE PROPOSALS BEING MADE TO THE EXECUTIVE AT ITS MEETING ON 3RD JULY 2017 (PAPER NO. 17-239) TO ADDRESS FIRE SAFETY IN THE COUNCIL'S HIGH RISE RESIDENTIAL BLOCKS.

PAPER NO. **17-243**

WANDSWORTH BOROUGH COUNCIL

FINANCE AND CORPORATE RESOURCES OVERVIEW AND SCRUTINY
COMMITTEE – 29TH JUNE 2017

EXECUTIVE 3RD JULY 2017

Report by the Director of Housing and Regeneration on proposed urgent action to address fire safety and related implications for the management of high rise blocks in the Council's housing stock.

SUMMARY

This reports details the action taken since Paper No. 17-239 was considered as a matter of urgency by the Housing and Regeneration Overview and Scrutiny Committee on 20th June 2017 and concludes that the Council should fit water sprinklers to flats in existing blocks over a ten-storey height and that, in addition, the over-cladding on both Sudbury House, SW18 (Southfields) and Castlemaine Tower, SW11 (Latchmere) should be replaced.

The Director of Resources comments that the cost of both actions is estimated at £30 million and will require positive Housing Revenue Account capital budget variations totalling £30 million in 2017/18 to be approved. Whilst this is affordable within the current 30-year business plan it may potentially require the Council to finance more of its future spend relating to estate regeneration plans from external borrowing rather than from retained reserves.

GLOSSARY

ACM - Aluminium Composite Material
BRE - Building Research Establishment
DCLG - Department for Communities and Local Government
HRA - Housing Revenue Account

RECOMMENDATIONS

1. The Finance and Corporate Resources Overview and Scrutiny Committee are recommended to support the recommendations in paragraph 3.

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2. If they approve any views, comments or additional recommendations on this report these will be submitted to the Executive for consideration.
3. The Executive is recommended to: -
 - (a) instruct the Director of Housing and Regeneration, in conjunction with the Director of Resources, to prepare an urgent procurement plan for the undertaking of the installation of a water sprinkler systems to tenanted and leasehold units in all the Council's residential blocks that are ten or more storeys high and that the appointment of any consultants or contractors be authorised as a matter of urgency, including the waiving of relevant provisions of the Council's Procurement Regulations as may be necessary in the circumstances, under the Standing Order No. 83(A) procedure;
 - (b) instruct the Director of Housing and Regeneration, in conjunction with the Director of Resources, to prepare an urgent procurement plan for the undertaking of the recladding of Castlemaine Tower and Sudbury House in as expeditious manner as is practicable and that the appointment of any consultants or contractors be authorised as a matter of urgency, including the waiving of relevant provisions of the Council's Procurement Regulations as may be necessary in the circumstances, under the Standing Order No. 83(A) procedure;
 - (c) authorise the Director of Housing and Regeneration, in consultation with the Director of Resources, to recruit such additional temporary staff, including the use of agency staff or external consultants, as may be required to facilitate the actions in recommendations 3(a) and 3(b) – as described in paragraph 9; and
 - (d) approve positive Housing Revenue Account capital budget variations totalling £30 million in 2017/18 to undertake the above works, subject to approval by the Council, as described in paragraph 17.

ACTION SINCE 20TH JUNE 2017

4. On 20th June 2017, the Housing and Regeneration Overview and Scrutiny Committee considered a report (Paper No. 17-239) by the Director of Housing and Regeneration on the fire at Grenfell Tower, North Kensington, on 14th June 2017 and the implications for the management of high rise blocks in Wandsworth's Council housing stock, with particular reference to fire safety. At that meeting, the Borough Fire Commander reiterated his view that the most certain way of preventing fatalities in high rise blocks was the installation of water sprinklers. This would be standard practice for any new block with a height exceeding 30 metres - in effect any block which is ten storeys high or higher. The Committee agreed to support the recommendations in paragraph 3 of Paper No. 17-239, subject to the amendments shown emboldened below: -
 - (a) "the Director of Housing and Regeneration brings a report back to the Housing and Regeneration Overview and Scrutiny Committee once the investigation at Grenfell Tower has progressed sufficiently to provide

some clarity on the cause and unprecedented spread of the fire, including any required or potential improvements, **which could include but is not limited to sprinklers**, for fire safety in Wandsworth Council housing blocks; **and**

- (b) the Director of Environment and Community Services be asked to prepare a report for the Finance and Corporate Resources Overview and Scrutiny Committee setting out the Council's emergency planning arrangements and preparedness for an event of similar scale in Wandsworth, **and**
 - (c) **to note that this Committee welcomes the Leader of the Council's commitment that a 'watching brief' will be kept by all relevant committees."**
5. Following discussion with the Leader of the Council and the Cabinet Member for Housing, it is clear that the installation of water sprinklers would give a measure of re-assurance to the 6,400 tenants and leaseholders who live within the 100 affected blocks managed by the Council and, as such, it is proposed that a programme of works be drawn up and prioritised. The cost of this work is estimated at £24 million and a budget variation is sought to cover this work. The position regarding leaseholder owned flats requires clarity and legal advice is being sought on this and will be reported to a future meeting of the Housing and Regeneration Overview and Scrutiny Committee and the Executive.
 6. The Council has two high rise blocks that have external Aluminium Composite Material (ACM) cladding - these blocks are Castlemaine Tower, Culvert Road, SW11 (Latchmere) and Sudbury House, SW18 (Southfields). These works were undertaken in 2004 to 2006 and 2001 to 2003 respectively as part of wider estate renewal works. Both schemes were compliant with the relevant Building Regulations at that time. Works to both blocks were managed by external consultants under the supervision of the Major Works Team in the then Housing Department. Subsequently, both blocks have also had fires in individual flats and these fires have been effectively contained within each flat.
 7. In common with all other over-clad blocks in England, the Council, as requested by the Department for Communities and Local Government (DCLG), has submitted cladding panels to the Building Research Establishment (BRE) for testing; and, in common with every other sample tested by the BRE at the time of writing, these panels have failed a stringent fire safety test. Subsequent to this, the London Fire Brigade has undertaken a detailed fire safety examination of both blocks over the weekend of 24th/25th June 2017 and has declared in both blocks that they are satisfied there is no undue risk to the residents of the blocks and no reason for them to move out. Residents were informed of the Fire Brigade's decision by letter. However, as a result of the test results, the Council will need to replace the over-cladding systems on both blocks; the initial estimate of this is a total of £6 million.

NEXT STEPS

8. Works of this nature would normally be managed by the Major Works Team in the Housing and Regeneration Department, whilst contract management and design

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would be undertaken either by the Property Services Division's Design Service within that Department or by external consultants.

9. The addition of some £30 million of additional work may not be able to be absorbed within existing staffing resources. Therefore, it is proposed that the Director of Housing and Regeneration, following consultation with the Director of Resources, be authorised to recruit such additional temporary staffing resources, including the use of agency staff or external consultants, as are necessary to commence work both on the design and programme management of both the sprinkler retro-fit and the over-cladding of the two blocks.
10. These actions will enable the Council to commence procurement plans for both areas of work. Also, it is proposed that authority be given to the Director of Housing and Regeneration, following consultation with the Director of Resources, to commence procurement as soon as is practicable. Any external appointment of consultants or contractors would be appointed as a matter of urgency under the Standing Order No. 83(A) procedure, although it should be noted that in some instances the full requirements of the Council's Procurement Regulations may be waived. In particular, paragraph 8.2 of the Regulations provide that a Director may place orders of up to the European Union Services threshold (currently £164,176) without obtaining competitive quotations or tenders where the Goods, Works or Services are urgent and necessary for the protection of life or property.
11. One issue in relation to the procurement of consultants and contractors which will have to be considered is the need to seek exemption from the requirement to comply with the Public Contracts Regulations 2015, including the need to publish a notice in the Official Journal of the European Union and comply with all the requirements to which the Regulations apply, given the current financial thresholds to which the Regulations relate. However, Section 32c of the Regulations does allow for a negotiated procurement procedure without prior publication for public works contracts, public supply contracts and public service contracts insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with. As far as the proposed works are concerned, and for reasons of public safety, it is felt that this test is duly met in that the works are of an extremely urgent nature and the rationale for the need to undertake the works is not in any event attributable to the Council.
12. It is clear that the events at Grenfell Tower on 14th June 2017 and the subsequent publicity surrounding this tragedy is a matter of great concern to many residents and it is important that the Council effectively communicates the urgent steps it is taking to ensure that their safety is paramount. Positive reassurance meetings with residents of both blocks have been held over the last week and it will be necessary to keep all affected residents updated on a regular basis of progress in both work programmes.
13. The DCLG have intimated that Government financial support may be available for some or all of this work. No details of any support package have been announced yet, but officers will liaise with DCLG officials to pursue funding for the proposed programme of works.

COMMENTS OF THE HEAD OF SOUTH LONDON LEGAL PARTNERSHIP

14. The Head of South London Legal Partnership comments, with regard to the observation in paragraph 5 above, that urgent advice is being sought from counsel concerning the legal implications of fitting water sprinklers in leasehold flats and will be reported to a future meeting of the Housing and Regeneration Overview and Scrutiny Committee and the Executive.

COMMENTS OF THE DIRECTOR OF RESOURCES

15. The Director of Resources comments that the cost of both actions (water-sprinklers and cladding) is estimated at £30 million and will require positive Housing Revenue Account (HRA) capital budget variations totalling £30 million in 2017/18 to be approved. The budget variation will be approved in 2017/18 with the intention of undertaking the work as soon as practically possible. Revisions to the programme to reflect more accurate cash flows will be recommended for approval within future reports to the Housing and Regeneration Overview and Scrutiny Committee and the Executive once a more detailed work programme emerges. The cost of any additional staff required will be a direct project cost.
16. Whilst this significant investment in the Council's housing stock is affordable within the current 30-year business plan it may potentially require the Council to finance more of its future spend relating to estate regeneration plans from external borrowing rather than from retained reserves. The Government has suggested that there might be financial support available to meet some or possibly all of the cost of these improvements although no details have yet to be announced. Should any financial assistance be made available, this will be reflected in future updates of the HRA business plan.
17. The HRA business plan and budget framework is set by the Council each year together with a controlling parameter to limit the expenditure and consequential reduction in forecast reserves that the Executive can commit to within each framework period. In January 2017 this limit was set at a level of £40 million (Paper No. 17-9). The cumulative effect of budget variations being recommended for approval in this committee cycle results in a breach of this parameter. Approval of these budget variations must, therefore, be referred to the Council for decision. This matter is dealt with in the separate report on Budget variations (Paper No. 17-237) on the agenda for this meeting of the Committee.

**COMMENTS OF THE ASSISTANT DIRECTOR OF RESOURCES
(CORPORATE SERVICES) IN RELATION TO STAFFING MATTERS**

18. The Assistant Director of Resources (Corporate Services) comments that in relation to the additional staff needed to implement recommendations 3(a) and 3(b), the Director of Housing and Regeneration is authorised under delegated authority to proceed with the recruitment of the necessary temporary resources. It is anticipated that given widespread similar work demands across the country over the coming months, there are likely to be recruitment and retention issues which impact both in the management of existing staff and contractors, as well as in the recruitment of new staff. The Director of Housing and Regeneration will

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work with Human Resources to proactively address these issues within existing frameworks of recruitment and retention incentives to mitigate any impacts.

CONSULTATION

19. Representatives of the trade unions recognised by the Council have been consulted on the staffing proposals in this report and any comments received from them will be reported to the Committee.

The Town Hall,
Wandsworth,
SW18 2PU.

BRIAN REILLY
Director of Housing and Regeneration

28th June 2017

Background Papers

There are no background papers to this report.

All reports to Overview and Scrutiny Committees, regulatory and other committees, the Executive and the full Council can be viewed on the Council's website (www.wandsworth.gov.uk/moderngov) unless the report was published before May 2001, in which case the Democratic Services Officer (Graham Collins – 020 8871 6021; email gcollins@wandsworth.gov.uk if required.