

**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 [12 - Paper No.18-12. Report by Director of Housing &
Regeneration dated 09.01.18]**

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

WANDSWORTH BOROUGH COUNCILHOUSING AND REGENERATION OVERVIEW AND SCRUTINY COMMITTEE – 18TH
JANUARY 2018EXECUTIVE – 22ND JANUARY 2018

Report by the Director of Housing and Regeneration on retro-fitting sprinklers in high rise blocks in the Council's housing stock and an update concerning recladding works to Sudbury House, SW18 (Southfields) and Castlemaine, SW11 (Latchmere).

SUMMARY

The Council's response to the tragedy at Grenfell Tower is underpinned by the absolute commitment to improve fire safety for all the residents of the authority's high-rise stock. In accordance with expert advice this included bringing our blocks up to current new build standards through a proposed programme of retro fitting sprinklers.

In recognition of concerns raised by some leaseholders over the proposed works, the report recommends that the Council makes a proactive application to a First Tier Property Tribunal to ensure that the leaseholders' voice is listened to and to seek a clear decision on the Council's ability to undertake the works. The Council would fund this application and leaseholders would be encouraged to submit their views to the Tribunal. Their points would be fully considered before any decision was made. In addition, the report details the revised advice from the London Fire and Emergency Planning Authority in regards automatic fire suppression systems and provides an update on recladding works which have commenced at Sudbury House, SW18 (Southfields) and are due to be undertaken at Castlemaine, SW11 (Latchmere).

The Director of Resources comments that a positive Housing Revenue Account capital budget variation of £24 million was approved in July 2017 (Paper No. 17-243) specifically in relation to the installation of sprinklers in Council owned social housing blocks of ten floors and above. Should the scheme be extended to include sheltered housing properties in line with the London Fire Brigade's updated advice, a further positive Housing Revenue Account capital budget variation will need to be recommended for approval at the appropriate time as there is presently no financial provision made.

With regards to the cladding costs at Sudbury House and Castlemaine a positive Housing Revenue Account budget variation of £6 million was also originally approved in July 2017. Due to the increase in the estimated cost of these works it is now necessary to include an additional provision totalling £12.286 million in the Housing Revenue Account framework and capital bids considered elsewhere on this agenda for approval.

GLOSSARY

AFSS	-	Automatic Fire Suppression Systems
AWFSS	-	Automatic Water Fire Suppression Systems

Fire safety update

DCLG	-	Department for Communities and Local Government
HRA	-	Housing Revenue Account
LFEPA	-	London Fire and Emergency Planning Authority
LFB	-	London Fire Brigade
RA	-	Residents' Association

RECOMMENDATIONS

1. The Housing and Regeneration Overview and Scrutiny Committee are recommended to support the recommendations in paragraph 3.
2. If the Housing and Regeneration Overview and Scrutiny Committee approve any views, comments or additional recommendations on this report these will be submitted to the Executive for consideration.
3. The Executive are recommended to: -
 - (a) approve that the Council makes a proactive application to a First Tier Property Tribunal to seek a clear decision on the Council's ability to undertake the works;
 - (b) note the position regarding sheltered property and that options for the Wandsworth sheltered housing stock will be reported to future meetings of the Committee and Executive; and
 - (c) note the progress which has been made concerning the recladding works to Sudbury House and Castlemaine and the increase in costs which is occurring in relation to these works due to current market conditions

BACKGROUND

4. Following the fire at Grenfell Tower on 14th June 2017, a report (Paper No. 17-239) was presented to the Housing and Regeneration Overview and Scrutiny Committee and the Executive in June 2017 setting out the implications for fire safety high-rise blocks in Wandsworth Council's housing stock. Paper No. 17-243 to the Finance and Corporate Resources Overview and Scrutiny Committee in June 2017 sought approval for the Council to fit water sprinklers to flats in existing blocks over a ten-storey height and Paper No. 17-269 to the Housing and Regeneration Overview and Scrutiny Committee and the Executive in September 2017 sought approval to proceed with recladding works and retro-fitting sprinklers and for extension of resident leaseholder repayment arrangements from ten to 48 months.

CURRENT POSITION

5. Although a number of other councils have announced that they also intend fitting sprinklers to their high-rise blocks, none have indicated that they are able to require residents to accept sprinklers or that they will be recharging leaseholders. The Council is of the view that if works are necessary and chargeable under the terms of the lease then the Council is under a strict fiduciary duty to recharge and that meeting leaseholders' contributions from the Housing Revenue Account (HRA) or the General Fund is likely to be challengeable.
6. The Council is keen to minimise the financial impact of these works on leaseholders and

has written to the Department for Communities and Local Government (DCLG), the Housing Minister and Chancellor seeking financial assistance which it is hoped will be forthcoming. The likelihood of additional funding will improve if the retro-fitting of sprinklers forms part of the recommendations which emerge from the review of Building Regulations being led by Dame Judith Hackitt or the Public Enquiry into the Grenfell Tower fire. This could result in new burdens funding.

7. There has been some resistance from leaseholders to date: objections have been lodged by five residents' associations (Battersea High St RA (St Mary's Park), Ethelburga Tower RA (St Mary's Park), Andrew Reed House RA (West Hill), Edgecombe Hall RA (West Hill) and Totteridge House RA (St Mary's Park)), a small number of individuals from other blocks and one non-resident indicating they were opposed to the Council's decision to impose the retro-fitting of works and recharge leaseholders. They have argued that many of the blocks have two staircases, no cladding and are designed to contain fires within the property and that sprinklers are not, therefore, a necessity. Whilst some of these points are valid, it should be stated that significant fires with exceptional fire spread, such as Lakanal where six residents died and in Manchester last week when the blaze spread across multiple floors, have occurred in tower blocks of different design and construction both cladded and not. It is anticipated that some residential leaseholders are opposed to sprinklers regardless of whether they have to pay for them or not on grounds of disruption and aesthetics or because they feel they are not needed, whilst for others the cost will be the main issue.

REVISED LONDON FIRE AND EMERGENCY PLANNING AUTHORITY (LFEP) ADVICE

8. On 6th December 2017, Assistant Commissioner Dan Daly, Head of Fire Safety and the LFEP, issued a Refreshed Sprinkler Position Statement to LFEP members. These are the key extracts: -

"With the recent level of public interest and debate on sprinklers and other automatic fire suppression systems (AFSS), officers have revisited and refreshed the LFEP Sprinkler Position Statement. This is with the aim of setting out as clearly and concisely as possible where we recommend and would like to see AFSS installed."

"Automatic Fire Suppression Systems (AFSS): Refreshed position statement

London Fire Brigade (LFB) believes that Automatic Fire Suppression Systems (AFSS) play a significant role, as part of an appropriate package of fire safety measures, in reducing the impact of fire on people, property and the environment. They also assist firefighters in carrying out search and rescue operations by limiting fire development, which significantly reduces the risks to firefighters.

There is clear evidence that AFSS (also referred to as Automatic Water Fire Suppression Systems - AWFSS), such as sprinklers and watermist systems are effective in the rapid suppression of fires. We therefore recommend AFSS in the following building types to protect those living in, working in and visiting London:

Residential premises

While current Building Regulations recognise that all new residential buildings in excess of 30m height should be provided with AFSS, LFB are of the opinion that this should be extended to existing buildings and that the appropriate height is 18m in

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both cases. We therefore recommend AFSS in:

- *All new residential developments over 18m¹ in height.*
- *Existing residential blocks over 18m in height (retrofitting), subject to a risk based approach that should include consideration of the vulnerability of the residents.*

Schools

Building Bulletin 100 (BB100): Design for fire safety in schools, published in 2007, introduced the 'expectation' that all new schools would have AFSS installed. We recommend that:

- *AFSS is mandatory in all new school builds and as part of major refurbishments.*

Care homes and sheltered (specialised) accommodation

We recommend the inclusion of AFSS in:

- *All new residential care homes and sheltered (specialised) accommodation.*
- *Existing residential care homes and sheltered (specialised) accommodation (retrofitting), subject to a risk based approach that should include consideration of the vulnerability of the residents.*

Other priorities

We also strongly advocate the use of AFSS in the following premises:

- *All homes occupied by the most vulnerable in our communities.*
- *All other residential properties which include hotels, hostels and student accommodation, over 18m in height.*
- *All new London Fire Brigade buildings."*

"Additional information supporting this statement is available on the London Fire Brigade website: <http://www.london-fire.gov.uk/sprinklers.asp> ."

WAY FORWARD

9. Although the Council's approach has been underpinned by legal advice, if it were to proceed with the programme it is highly likely its position would be challenged at a First Tier Property Tribunal (a statutory tribunal which assesses the reasonableness of service charges and other lease disputes/issues) and a determination made. In recognition of the concerns expressed by some leaseholders, it is proposed that officers be tasked with making a proactive application to a First Tier Property Tribunal to seek a clear decision on the Council's ability to undertake the works. The Council would fund this application and leaseholders would be encouraged to submit their views to the Tribunal. This would determine if and how the programme is implemented, would allow time for further innovations in such systems to be progressed and considered and would enable financial clarification on potential contributions to the cost of such works from the HRA and General Fund to be obtained. The Tribunal decision would not be known until late 2018.
10. In recognition of concerns regarding disruption and aesthetics associated with retro fitting sprinklers the officers are currently fitting out a sprinkler "show flat" which will demonstrate the most up to date and unobtrusive sprinkler systems currently available and which can be viewed by residents and elected members for their information in due course.

¹ 18 metres is equivalent to 6 storeys

11. The Council is currently looking to appoint suitable consultants to deliver the programme of sprinkler installation which due to its scale will need to be phased over four/five years. It is unlikely that any installation work will be undertaken until the back end of 2018 and certainly not before the Tribunal's decision has been made. Technical innovation is moving at pace in this area and misting systems are looking increasingly like they may offer a viable and effective and less intrusive alternative although at present none have yet been fully accredited to British Standards. In light of the strong recommendations from the London Fire Brigade, there is an identified need to retro-fit sprinklers to all properties and the communal areas of the Council sheltered housing schemes and to make financial provision to do so. Officers will review the position with regards to the Council's sheltered housing properties (1,078 in total) and will report back in due course.

SUDBURY HOUSE SW18 (SOUTHFIELDS) AND CASTLEMAINE SW11 (LATCHMERE) – RECLADDING WORKS

12. In October 2017, approval was obtained under the Council's SO83(A) consultation arrangements to make a direct award to the Council's Environment and Community Services' Operational Services Section, to replace the external cladding at Sudbury House, SW18 (Southfields) in the estimated sum of £5.537 million inclusive of professional and administrative fees. These works are now well underway with the erection of scaffolding almost complete and removal of cladding having commenced. However, recent and highly volatile market forces affecting the provision of materials and labour associated with such recladding works subsequent to the Grenfell House fire, have resulted in costs substantially increasing on site with estimated costs now being in the region of £9.9 million.
13. In relation to Castlemaine, SW11 (Latchmere), tenders to undertake recladding works, including window renewal, were obtained in December 2017 and following an assessment by the Council's consultant, approval is currently being sought under the Council's Standing Order No 83(A) consultation arrangements to enter into contract with the winning tenderer to undertake the works. However, as with the additional costs which it is anticipated are to be incurred in relation to the works at Sudbury House, the tendered sums which have been received in relation to the proposed recladding works at Castlemaine are substantially in excess of the initial estimates and indicate broadly comparable increases.
14. In relation to these two schemes it is now estimated that the additional expenditure which will need to be incurred, inclusive of professional and administrative fees will be significantly in excess of the sums originally approved for which financial provision will need to be built into the HRA framework.

COMMENTS OF THE DIRECTOR OF RESOURCES

15. The Director of Resources comments that a positive HRA capital budget variation of £24 million was approved in July 2017 (Paper No. 17-243) specifically in relation to the installation of sprinklers in Council owned social housing blocks of ten floors and above. Should the scheme be extended to include sheltered housing properties in line with the LFB's updated advice a further positive HRA capital budget variation will need to be recommended for approval at the appropriate time as there is presently no financial provision made.

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16. Officers will continue to explore all potential funding options which may emerge as part of the ongoing reviews and enquiries. The costs of making a proactive application to a First Tier Property Tribunal to seek a clear decision on the Council's ability to undertake the works will be met from existing budgets.
17. With regards to the cladding costs at Sudbury House and Castlemaine, a positive HRA budget variation of £6 million was also originally approved in July 2017. Due to the increase in the estimated cost of these works it is now necessary to include an additional provision totalling £12.286 million in the HRA framework and capital bids considered elsewhere on this agenda for approval (Paper No. 18-14).

CONCLUSION

18. If the Committee supports and the Executive approves the recommendation in this report, then officers will proceed with making an application to the First Tier Property Tribunal and will report back on the Tribunal decision in due course. Further reports will follow future meetings to keep the Committee and Executive updated on fire safety measures,

The Town Hall,
Wandsworth,
SW18 2PU.

BRIAN REILLY
Director of Housing and Regeneration

9th January 2018

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 committee secretary (Thayyiba Shah, 020 8871 6039; email tshaah@wandsworth.gov.uk) can supply if required.