

**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 [ 13 – Minutes of HROSC meeting 18.01.18]**

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

---

**MINUTES OF A MEETING OF THE  
HOUSING AND REGENERATION OVERVIEW AND SCRUTINY COMMITTEE  
HELD AT THE TOWN HALL, WANDSWORTH, SW18 2PU ON  
THURSDAY, 18TH JANUARY, 2018 AT 7.30 P.M.**

Councillor Mrs. J. Cooper (Chairman) ; Mrs. Clay (Deputy Chairman) ; Councillors Dikerdem, Hart, Lescott, McKinney, Thom and White

In attendance: Councillor Salier (Cabinet Member for Housing) and Councillor Hogg (Leader of the Opposition). Councillors Heaster (Council's Member-level Fire and Emergency Planning Champion), Mrs. Graham, Grimston and O'Broin (Councillors Grimston and O'Broin attended the meeting for Paper No. 18-12 – Fire Safety Update); and Mrs. M. Price (Vice-Chairman of the BRF) were also present.

### **APOLOGIES**

Apologies for absence were received from Councillor Cuff.

The Committee proceeded to consider the business set out on the agenda for their meeting (a copy of which is interleaved, together with a copy of each of the supporting papers).

### **DECLARATIONS OF INTERESTS**

No disclosable pecuniary interests or other relevant personal interests were declared.

Councillor Mrs. Clay disclosed a connection with item 9 (Paper No. 18-16) insofar as she rents out properties to Wandsworth residents.

Councillor Hart disclosed a connection with item 9 (Paper No. 18-16) insofar as he is a private landlord in Wandsworth and a Director of a Residents' Association.

Councillor Thom declared a connection with item 7 (Paper No. 18-14) insofar as he is a Council leaseholder.

### **ORDER OF AGENDA**

At the suggestion of the Chairman, the Committee agreed to deal with the following items:

- item 13 – Supplemental Agenda Item: Deputation Request (Paper No. 18-12A); after
- item 3 – Borough Residents' Forum - Report of meeting on

11th January 2018 (Paper No. 18-11) before returning to the numerical order of the agenda.

## **MINUTES OF THE MEETING HELD ON 16TH NOVEMBER 2017**

Signed as correct.

### **BOROUGH RESIDENTS' FORUM - REPORT OF MEETING ON 11TH JANUARY 2018 (PAPER NO. 18-11)**

The Chairman reminded members of the Committee to give attention to the views of the Borough Residents' Forum (BRF), as set out in Paper No. 18-11, when considering related items on the agenda.

During discussion, the Vice-Chairman of the Borough Residents' Forum (BRF), Mrs. M. Price, re-iterated the response given at the BRF meeting on 11<sup>th</sup> January 2018 in relation to having a separate Leaseholders' Forum and a Tenants' Forum. Mrs Price stated that the current form of resident participation/engagement in this Borough had evolved through the years with an emphasis and direction provided by the BRF of the consultative arrangements being more inclusive. The Cabinet Member for Housing, Councillor Salier, added that participation was more inclusive in that it now included at the behest of the BRF sub-letters, leaseholders, tenants and various other resident groups. Following discussion

Item 3 was then received as information.

### **DEPUTATION REQUEST - FIRE SAFETY UPDATE (CONT'D) (PAPER NO. 18-12A)**

On item 13, (Paper No. 18-12A) the Chairman stated that as provided for under Section 100B(4)(b) of the Local Government Act 1972, she was of the opinion that this report should be considered at the meeting as a matter of urgency, by reason of the special circumstances which were that the request for a deputation to be heard by the Committee was received subsequent to the despatch of the agenda and that the views of the deputation would have to be heard at this meeting. It was then

**RESOLVED** – That the Deputation be received.

Mr. Young on behalf of a number of concerned residents on the Edgecombe Hall Estate Residents' Association SW19 (West Hill), made a presentation to the Committee.

The Deputation had given notice that they would be raising the following points:

- Necessity of the proposed solution;
- Design, selection and implementation of the proposed solution; and,
- Financial costs associated with the procurement, installation and future management of the solution.

A summary of the points raised during the deputation is given below:

- Praise was given to the Council for both making and funding a proactive application to a First Tier Property Tribunal.
- The RA was in favour of appropriate fire safety measures.
- William Harvey House and Edgecombe Hall are not cladded and have passed every fire-risk assessment.
- Fire risks are associated with communal areas as opposed to flats themselves.
- Fire sprinklers are an excessive measure and will not address the fire risk identified.
- Concerns raised by residents in relation to disruption and aesthetics associated with retro fitting sprinklers in their homes.
- The Council has not shared its legal advice with residents.
- Lack of consultation with residents.
- Kensington and Chelsea Council are not intending widespread installation. Instead would retro-fit sprinklers on a block by block basis.
- Residents are concerned that the cost to leaseholders for the retro-fitting of sprinklers will increase as has the estimate for cladding works.

Following the answering of questions from members of the Committee, the Chairman on behalf of the Committee thanked Mr. Young for his deputation. Mr. Young then left the Committee Room and returned to the Public Gallery.

### **FIRE SAFETY UPDATE (PAPER NO. 18-12)**

Councillor Grimston, not being a member of the Committee, spoke with the agreement of the Committee. In summary, Councillor Grimston welcomed the paper as it allows the community as a whole to raise their concerns at an independent First Tier Property Tribunal. However, Councillor Grimston raised the following concerns:

- Within a week of the Grenfell fire, this Council was without consulting its residents enforcing sprinklers upon them.
- The advice from experts had changed since the last Committee meeting, i.e. the recommended height for fitting Automatic Fire Suppression Systems (AFSS) is now 18 metres; and that it should be fitted to existing residential blocks subject to a risk based approach.
- The paper recognises the concerns of five RAs but does not mention the blocks in Roehampton where leaseholders and residents are also concerned.
- Wandsworth is the only Council where legal opinion was that this Council's standard Wandsworth right to buy lease contains a provision that allows the Council to retro-fit sprinklers and recharge for such works.
- Residents have also taken legal advice. The advice received states that the lack of consultation with residents on the retro-fitting of sprinklers was not correct procedure.

Councillor Grimston concluded by stating that the retro-fitting of sprinklers should be done on a block by block basis subject to a technical and risk based approach. In response to a question from the Committee, Councillor Grimston stated that the

decision to have sprinklers fitted or not was for the individual resident to make and not the Council.

Councillor Heaster attended the meeting in his new additional capacity as the Council's Member-level Fire and Emergency Planning Champion. Councillor Heaster gave an update to the Committee on the current position in respect to fire safety. He advised the Committee that Leeds Building Society had red-lined a purpose built property that did not have sprinklers, i.e. lenders will not give a mortgage to properties that are red-lined which in turn makes the sale and purchase of such properties difficult unless it is a cash purchase. Councillor Heaster referred to the strong recommendations emerging from Dame Judith Hackett's interim report and reminded the Committee that the findings from the Grenfell fire were still awaited. Councillor Heaster acknowledged that since the last meeting of this Committee there had been significant and notable developments. Councillor Heaster stressed that the current building requirement is that all new builds over 10 storeys must be fitted with sprinklers. The London Fire and Emergency Planning Authority (LFEPA) are now strongly recommending Automatic Fire Suppression Systems (AFSS) being fitted to existing residential tower blocks over 18 metres in height. The case of fitting such systems in council residential tower blocks with a range of residents with various needs and requirements and current building regulations continued to be strong. Councillor Heaster also identified that recent tower block fires had identified that spread of a fire from an individual unit can be unpredictable and that such fires and spread do not just happen in blocks with defective cladding as identified in the Grenfell fire tragedy. Councillor Heaster added that we should not pre-judge the outcome of the Tribunal's findings.

Councillor O'Broin, not being a member of the Committee, spoke with the agreement of the Committee. In summary, Councillor O'Broin welcomed the paper and stressed that a large number of Londoners had lost their lives in the Grenfell fire and, therefore, he was pleased that Wandsworth Council had acted as quickly as it had.

Councillor O'Broin was of the view that the 'gold standard' of fitting sprinklers to residential blocks 10 storeys and higher should also apply to existing residential blocks. Councillor O'Broin on behalf of the RAs in St Mary's Park requested the Committee to bear in mind that a number of leaseholders had just finished paying for major refurbishment works on their blocks. In response the Cabinet Member for Housing, Councillor Salier, advised that the Council had agreed to extending the repayment period available to resident leaseholders to 48 months. In addition, Councillor Salier confirmed that officers would continue to explore all potential funding options which may emerge as part of the ongoing reviews and enquiries. Councillor Salier added that the Leader of the Council and the Housing and Regeneration Department have made written representations to the Government requesting assistance with the costs for both re-cladding and the retro-fitting of sprinklers.

Councillor O'Broin also asked how consultation with leaseholders was envisaged by officers. Officers advised that all affected leaseholders would be written to advising them of what was happening and how to respond. The Committee was advised that at the BRF meeting the Assistant Director (Housing Management) had stated that he was open to receiving views from Forum members on how to develop the consultation process with residents. The Director of Housing and Regeneration stated that the AHPs would be asked for views on how they would want to represent

their views to the Tribunal. The Director confirmed that the Tribunal was independent of the Council, led by a Judge. The decision of the Tribunal was binding on all.

The Director of Housing and Regeneration stressed that safety of our residents is of paramount importance to the Council. The Director advised that the assumption that concrete blocks are always safe and that fires only spread in cladded blocks is not correct. The Director presented video footage of the fire in:

- Manchester on 30<sup>th</sup> December 2017 where fire had spread to multiple floors of a 12-storey block (the fire had started on the ninth floor and spread to the eighth, tenth and eleventh floors before it was brought under control). The block had no cladding;
- Belfast in November 2017 where the blaze damaged flats on the ninth and tenth floors before it was brought under control. This was a brick built block where fire spread through retro fitted plastic coated windows (which on a warm night with open windows could have led to significant fire spread); and
- In Shepherds Bush in August 2016 where the fire had spread over six floors. The block was of traditional construction, and had no over-cladding. The fire had spread due to flammability of retro fitted spandrel panels fitted under the windows.

The Director of Housing and Regeneration stated that the advice of professional experts should be sought on matters of fire safety and also how to understand and balance risk. This was not an area where any non-expert in the field should present as giving an informed opinion as safety consideration must be paramount. He added that the Council needed to recognise that the profile of residents in council tower blocks would also be a factor in terms of considering their potential vulnerability and what response this might require in terms of action.

The Director of Housing and Regeneration stated that he fully understood and appreciated that leaseholders and residents would have concerns regarding disruption and aesthetics associated with retro fitting sprinklers in their homes. In recognition of these concerns, officers are currently fitting out a sprinkler “show flat” which would demonstrate the most up to date and unobtrusive sprinkler systems currently available and which may be viewed by residents and elected members for their information shortly.

The Opposition Speaker of the Housing and Regeneration Overview and Scrutiny Committee, Councillor White, re-iterated his opinion and that of his colleagues that was given at the Committee meeting in September 2017, in that consultation should take place on a block by block basis and where the retro-fitting of sprinklers was not popular and not wanted, it should not be forced on residents of these blocks, albeit the findings of the interim Grenfell enquiry should be taken into account. Councillor White added that residents should be given full information about the vulnerability of each block so that they can make an informed decision. If a clear majority of residents are not in favour, their wishes should be respected. Councillor White further added that the Council should not deter from installation work being carried out speedily, where it is legally possible, supported by the Grenfell enquiry and where it is a popular decision to do so. Councillor White was also concerned that as the costs for de-cladding blocks in Wandsworth had more than doubled, that it was highly likely that the costs of retro-fitting sprinklers would also increase given demand for such works to be undertaken.

A Majority of the Committee were concerned that the safety of residents that had voted in favour of retro-fitting of sprinklers would be compromised because a majority in a block had voted against this, particularly given that the LEFPA were recommending that Automatic Fire Suppression Systems should be fitted to all existing residential blocks without exception.

It was then proposed by Councillor White and seconded by Councillor Dikerdem, an amendment to recommendation 3(c) as set out below (amendments shown emboldened) and a new recommendation 3(d):

- (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 **and in light of this review tendering process and financial scrutiny on all contracts especially fire safety works going forward;**
- (d) after making a full review of each block's fire vulnerability, the Grenfell enquiry findings and bearing in mind the legality of any move as evidenced by the First Tier Tribunal, to carry out a block by block consultation where the residents' views on the installation of sprinklers in their block should be heeded.

A Member of the Majority Group stated that the amendment sought to widen the scope of the paper. The key recommendation of the paper is to approve the Council's application to a First Tier Property Tribunal.

The Director of Housing and Regeneration added that the cladding in the Borough had been found to be of the most dangerous type, necessitating its speedy removal. The tenders received for this work had followed the Council's procurement processes and a number of prices had been received for the works of which the one reported was the lowest. He assured the Committee that the tender submissions had been scrutinised by appointed independent expert consultants who have advised that the tenders received were in accordance with current prices for this work. It was also noted that such costs factored in the additional risks and amelioration that contractors felt were required given the scrutiny such works would have applied to them.

The Director confirmed that the cost of the cladding works would not be re-charged to leaseholders as the cladding has now been determined to be defective, and as such must be removed and replaced. He also pointed out that such works were being recharged to leaseholders in private blocks where individual charges of £30k were not uncommon.

There being 3 votes for Councillor White's motion and 5 votes against the Chairman declared the motion to be not carried. It was then

**RESOLVED** – That the Executive be informed that the Committee supports the recommendations in paragraph 3 of Paper No. 18-12.

[Post meeting note: The Director of Housing and Regeneration has been advised that the First Tier Property Tribunal will determine how best to engage with leaseholders.]

## **COUNCIL LED DEVELOPMENT PROGRAMME (PAPER NO. 18-7)**

During their consideration of Paper No. 18-7, the Committee noted the amendment to paragraph 5 of the report to indicate that the overall Council led development programme to provide additional housing on current modelling will deliver just over 1,000 homes with a forecast 60% of these homes being of affordable housing tenures.

The Committee welcomed the paper and noted that the delivery of hidden homes was very innovative and that Wandsworth was the first Council to have explored and developed hidden homes. The Assistant Director (Strategy & Development) advised the Committee that most Councils over the past 10-15 years had not developed Council homes and this was because of lack of available financing which was not the case for Wandsworth. Wandsworth Council's programme had also benefited from retention of Right to Buy one for one replacement receipts. The Assistant Director added that the programme was based on providing additional council developed homes on infill sites with the Council's commitment remaining that all social housing demolished being replaced in the regeneration areas.

A Member of the Labour Group was concerned that the Council was aiming to deliver only 50 per cent of homes across the extended programme as affordable social housing on public land, the remainder being private housing. It was stressed that land would run out and so we should maximise the level of affordable social housing provided on it. The Opposition Speaker of the Housing and Regeneration Overview and Scrutiny Committee, Councillor White, stated that the programme was not ambitious enough. The Opposition Speaker of the Housing and Regeneration Overview and Scrutiny Committee believed that there was an opportunity to increase the level of affordable social housing by using rental revenue and thereby helping to resolve the housing shortage. The Assistant Director of Resources (Financial Management) advised that based on the latest update of the HRA business plan as reported to this committee in September 2017 (Paper No. 17-270) the HRA has the capacity to invest the level of subsidy currently identified as being required to support the 50 per cent Affordable Housing and 50 per cent cross subsidy Market Housing delivery model taking account of other HRA business commitments and the need to maintain reserves to deal with unforeseen events.

Investment at the significant levels now envisaged across the Housing Capital Programme, including the delivery of 1,000 additional homes, regeneration and fire safety works, would have to be made through a mix of external borrowing and utilisation of reserves insofar as these remain available. The Assistant Director added that the development programme would have to be kept under review and that dependent on risk and benefit the % of affordable social housing may change as the programme is refreshed.

In response to a question from the Opposition Speaker of the Housing and Regeneration Overview and Scrutiny Committee, Councillor White, the Assistant Director (Strategy & Development) confirmed that residents would be consulted on the layout and design of new build schemes and gave the example of where Patmore RMO and residents at Gideon Road had been consulted as to what was



proposed and that changes had and would be made to future plans as they were further developed and consulted on.

The Assistant Director further confirmed that parking is a planning matter and that in reality new homes and units rarely have parking allocated to them on a one for one basis with priority being given to disabled bays. He also confirmed that, parking surveys were undertaken with all new schemes proposed to understand parking pressures and whether there was spare capacity. The Assistant Director also confirmed that the no. of bedrooms, height might be subject to change as plans were further developed and other sites considered (e.g. in relation to site linkages that could be made which would better enable the objectives of the programme to be delivered). The Committee was advised that the GLA Design Services may provide us with some assistance with design. The Assistant Director identified that he was not clear what services might be offered by this fairly new service but this could be investigated. He added that the Council would seek to utilise and increase capacity of its own inhouse Design Service, but any procurement of such services would need to be subject to the proper procurement processes.

In response to a question by Councillor White the Assistant Director confirmed that currently the Council could not let accommodation as London Living Rent as it could not meet the criteria for letting accommodation on an intermediate rent basis. However, he did confirm that grant could be sought for both affordable rent and shared ownership housing. The Cabinet Member for Housing, Councillor Salier, was willing to consider proposals from Councillor White to use our own vehicle to provide such intermediate housing and how such proposals would work to ensure the tenure mix proposed would maintain affordability in each particular development.

In response to further questions from Councillor White, the Assistant Director advised that the funding application made under the GLA's 2016 to 2021 Affordable Homes Programme would be made and early indications were positive that grant funding would be available – noting that this matter had again been discussed with the GLA Investment Team the day before Committee. However, it was noted that the Mayor's current investment priority for remaining grant is shared ownership/ intermediate housing which might possibly limit the Council's ability to secure funding to support the delivery of affordable rent housing.

It was then proposed by Councillor White and seconded by Councillor Dikerdem, an amendment to recommendation 3(b) and 3(c) as set out below (amendments shown emboldened):

- (b) in respect of the ten areas and sites listed in paragraphs 12-68 of this report, authorise the Director of Housing and Regeneration to procure, as required, consultancy services, including but not limited to cost consultancy, project management, architectural **(reaching out to GLA Design Services when possible)** and, as required, other multi-disciplinary services as detailed in paragraphs 70-76 to develop detailed technical designs and proposals for each site, submission of planning applications in 2018 and, in due course, advice and assistance on procuring building contractors to secure timely delivery of these sites;
- (c) in respect of the ten areas and sites listed in paragraphs 12-68 of this report and taking account of further feasibility work required, to note and continue to

support the delivery objectives of the overall programme, the principal strategic aim of which is to deliver ~~50~~ **65%** per cent of homes across the extended programme as affordable with market sales targeted to Wandsworth residents and workers and to support an approach that links sites to maximise returns from development and sale of market housing to cross subsidise affordable housing delivery; and

There being unanimous support for Councillor White's motion 3(b), the Chairman declared the motion to be carried. There being 3 votes for Councillor White's motion 3(c) and 5 votes against, the Chairman declared the motion to be not carried. It was then

**RESOLVED** – That the Executive be informed that the Committee supports the recommendations in paragraph 3 (a) to (c) ((including recommendation (b) as tabled at the meeting) of Paper No. 18-7.

### **EXCLUSION OF PRESS AND PUBLIC**

On item 11, it was

**RESOLVED** – That under Section 100A(4) of the Local Government Act 1972, members of the public and press be excluded from the meeting whilst item 12 is being considered, because it is likely that exempt information as described in paragraph 3 of Part I of Schedule 12A to the Act would be disclosed to them if they were present; and it is considered that, in all the circumstances of case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **COUNCIL LED DEVELOPMENT PROGRAMME (CONT'D) (PAPER NO. 18-7A)**

Item 12 (Paper No. 18-7A) was then received as information.

### **PERFORMANCE MONITORING (QUARTER 3) - COMMITTEE'S TOPLINE PERFORMANCE INDICATORS (PAPER NO. 18-13)**

Following discussion, item 6 (Paper No. 18-13) was then received as information.

### **HOUSING REVENUE ACCOUNT RENTS AND SERVICE CHARGES FOR COUNCIL DWELLINGS AND NON-RESIDENTIAL CHARGES (PAPER NO. 18-14)**

**RESOLVED** – That the Executive be informed that the Committee supports the recommendations in paragraph 3 of Paper No. 18-14.

### **HOMELESSNESS REDUCTION ACT 2017 (PAPER NO. 18-15)**

During their consideration of Paper No. 18-15, the Assistant Director (Housing Services) advised that the focus would be on looking at the causes for

homelessness and trying to prevent this. The Assistant Director also confirmed that a person was not homeless if in a private shorthold tenancy. The six-month period was a figure derived from Government, but the Council would always seek a longer tenancy period.

A Member of the Labour Group welcomed the proposal by the Council to form a strategic partnership with Citizens Advice Wandsworth; and the proposal to invest a sum of £100,000 into the London-Plus Credit Union to help the homeless with more affordable loans.

The Opposition Speaker of the Housing and Regeneration Overview and Scrutiny Committee, Councillor White, welcomed the paper as a timely and pro-active intervention by the Council, but was concerned that landlords had to be paid an incentive in order to take on the homeless.

It was then proposed by Councillor White and seconded by Councillor Dikerdem, an amendment to recommendation 3 as set out below:

- (h) recognising that this historical inability of this Administration to replace council homes sold through right-to-buy has led to this situation where the Council has had to incentivise landlords to take on our homeless with the excessive costs thereof.

There being 3 votes for Councillor White's motion and 5 votes against, the Chairman declared the motion to be not carried. It was then

**RESOLVED** – That the Executive be informed that the Committee supports the recommendations in paragraph 3 of Paper No. 18-15.

### **HOUSING SERVICES ACTIVITY UPDATE (PAPER NO. 18-16)**

The following motion was proposed by the Opposition Speaker of the Housing and Regeneration Overview and Scrutiny Committee, Councillor White, and seconded by Councillor Dikerdem, as set out below:

'We deplore the failure of this Administration to replenish the stock of council housing which now sees the Borough struggle to accommodate its homeless and sees the homelessness figures rise with no sign of abating'.

There being 3 votes for Councillor White's motion and 5 votes against, the Chairman declared the motion to be not carried.

Item 9 (Paper No. 18-16) was then received as information.

### **REVIEW OF THE HEATING AND HOT WATER ACCOUNT (PAPER NO. 18-17)**

**RESOLVED** – That the Executive be informed that the Committee supports the recommendations in paragraph 3 of Paper No. 18-17.

The Chairman, Councillor Mrs. J. Cooper, thanked Members of the Committee and officers for their help over the past year.

The meeting ended at 10.20 p.m.