

MAYOR'S EXECUTIVE DECISION MAKING

Wednesday, 22 November 2017


Mayor's Decision Log No. 178

1. **BARLEY MOW ESTATE: MALTING AND BREWSTER HOUSES
EXTERNAL FIRE RISK WORKS (Pages 3 - 32)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Matthew Mannion, Committee Manager, Democratic Services

Tel: 0207 364 4651, e-mail: matthew.mannion@towerhamlets.gov.uk

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<p>Individual Mayoral Decision Proforma</p> <p>Decision Log No: <u>178</u></p>	 <p>TOWER HAMLETS</p>
<p>Report of: Ann Sutcliffe - Acting Corporate Director, Place</p>	<p>Classification: Unrestricted</p>
<p>Barley Mow Estate: Malting and Brewster Houses External Fire Risk Works</p>	

Is this a Key Decision?	No
Decision Notice Publication Date:	13/11/17
General Exception or Urgency Notice published?	Yes In the public interest - The report details urgent fire safety works that must be addressed immediately.
Restrictions:	Unrestricted
Reason for seeking an Individual Mayoral Decision	The report details urgent fire safety works that must be addressed immediately.

EXECUTIVE SUMMARY

Executive Summary

1. Malting and Brewster Houses are two adjacent, identical 14 storey tower blocks on the Barley Mow estate. Each contains 56 x 1 bed and 2 bed flats. 32 (29%) flats are leasehold and 80 are tenanted (currently 1 void). The council embarked on a programme of Fire Risk Assessment (FRA) across its housing stock in 2016. Malting and Brewster Houses were assessed as two blocks being of Substantial Risk. Following this assessment, further detailed investigations were made on the block in order to fully assess the works required.

2. In April 2017, London Fire Brigade advised investigation into the external cladding of the blocks. These investigations, conducted by Savills, have recommended that the cladding to the blocks are removed within 6 months and replaced as soon as is practicable. Replacement materials would take the form of a mineral fibre type insulation with render weatherproofing as installed at Brodick House recently. This form of cladding insulation is fire resistant.

3. Tower Hamlets Homes (THH) currently have temporary measures in place sufficient to maintain safety to the blocks, these include 24/7 concierge, fire warden patrols and fire alarms.

4. Whilst structural strengthening of the internal concrete panels and floors has been verified, some further external structural strengthening works may be required. Provision will be made in the contract proposed in this report for any further strengthening works that might be required to these blocks.
5. This report sets out the works recommended as a result of the investigation, advice from Savills Fire Safety Director and the comments from the London Fire Brigade. Savills report recommends the removal and replacement of the cladding from Malting and Brewster Houses.
6. The options for undertaking this work and the implications for leaseholders are also set out in this report.

DECISION

Recommendations.

The Mayor is recommended to:

1. Agree a waiver of contract standing orders to allow the award of contracts in relation to the proposed works and consultancy services in the manner set out in the report;
2. Adopt a capital estimate of £3.413 million for inclusion within the Housing Revenue Account capital programme to make provision for the necessary works to be undertaken on Brewster and Malting Houses. The component elements of the required estimate are shown in paragraph 3.22.
3. Waive the Council's potential right to recover the cost of the works and services from leaseholders due to the urgent nature of the works required.
4. Authorise the Corporate Director of Place, after consultation with the Corporate Director of Governance, to agree the final contract terms, to award the contracts up to the value stated in recommendation 2, and to execute all contract documentation necessary to give effect to the decisions.

APPROVALS

1. Corporate Director proposing the decision

I approve the attached report and proposed decision above for submission to the Mayor. I confirm that the Mayor and/or Lead Member have agreed to this decision being taken using this process.

Signed  Date 20/11/17 .

2. Chief Finance Officer

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 20/11/17

3. Monitoring Officer

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only – delete as applicable)

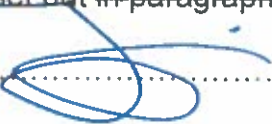
I confirm that this decision:-

- (a) has been published in advance on the Council's Forward Plan OR
- (b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.

Signed  Date 21/11/17


4. Mayor

I agree the decision proposed in the recommendations above for the reasons set out in paragraph ~~XX~~ in the attached report.

Signed  Date 21/11/17

- 5 The Mayor may at his discretion make a decision in relation to an Executive function, including a Key Decision, alone and outside the context of a meeting of the Executive. In relation to any decision made by the Mayor under this provision:-
- (i) The decision may only be made following consideration by the Mayor of a full report by the relevant officer(s) containing all relevant information, options and recommendations in the same format as would be required if the decision were to be taken at a meeting of the Executive;
 - (ii) In the case of a Key Decision as defined in Article 13 of the Constitution, the provisions of the Access to Information Procedure Rules in relation to prior publication on the Forward Plan, and the provisions of the Overview and Scrutiny Procedure Rules in relation to call-in, including the rules regarding urgent decisions, shall apply; and
 - (iii) The decision shall not be made until the Mayor has confirmed his agreement by signing a Mayoral Decision Form (sample as attached at Appendix A) which has first been completed with all relevant information and signed by the relevant Chief Officers.
6. All Mayoral decisions taken in accordance with paragraph 5 above shall be:-
- (i) Recorded in a log held by the Service Head, Democratic Services and available for public inspection; and
 - (ii) Published on the Council's website

save that no information that in the opinion of the Head of Legal Services is 'exempt' or 'confidential' as defined in the Council's Access to Information Procedure Rules shall be published, included in the decision notice or available for public inspection.

Individual Mayoral Decision [178]	 TOWER HAMLETS
Report of: Ann Sutcliffe – Acting Corporate Director - Place	Classification: Unrestricted
Barley Mow Estate: Malting and Brewster Houses External Fire Risk Works	

Key Decision?	No
Lead Member	Councillor Sirajul Islam, Cabinet Member for Housing
Originating Officers	Mark Baigent, Interim Divisional Director – Housing and Regeneration - Place John Coker , Strategic Housing Manager – Place
Wards affected	Limehouse
Community Plan Theme	Great Place To Live

Executive Summary

1. Malting and Brewster Houses are two adjacent, identical 14 storey tower blocks on the Barley Mow estate. Each contains 56 x 1 bed and 2 bed flats. 32 (29%) flats are leasehold and 80 are tenanted (currently 1 void). The council embarked on a programme of Fire Risk Assessment (FRA) across its housing stock in 2016. Malting and Brewster Houses were assessed as two blocks being of Substantial Risk. Following this assessment, further detailed investigations were made on the block in order to fully assess the works required.
2. In April 2017, London Fire Brigade advised investigation into the external cladding of the blocks. These investigations, conducted by Savills, have recommended that the cladding to the blocks are removed within 6 months and replaced as soon as is practicable. Replacement materials would take the form of a mineral fibre type insulation with render weatherproofing as installed at Brodick House recently. This form of cladding insulation is fire resistant.
3. Tower Hamlets Homes (THH) currently have temporary measures in place sufficient to maintain safety to the blocks, these include 24/7 concierge, fire warden patrols and fire alarms.
4. Whilst structural strengthening of the internal concrete panels and floors has been verified, some further external structural strengthening works may be required.

Provision will be made in the contract proposed in this report for any further strengthening works that might be required to these blocks.

5. This report sets out the works recommended as a result of the investigation, advice from Savills Fire Safety Director and the comments from the London Fire Brigade. Savills report recommends the removal and replacement of the cladding from Malting and Brewster Houses.
6. The options for undertaking this work and the implications for leaseholders are also set out in this report.

Recommendations

The Mayor is recommended to:

1. Agree a waiver of contract standing orders to allow the award of contracts in relation to the proposed works and consultancy services in the manner set out in the report.
2. Adopt a capital estimate of £3.413 million for inclusion within the Housing Revenue Account capital programme to make provision for the necessary works to be undertaken on Brewster and Malting Houses. The component elements of the required estimate are shown in paragraph 3.22.
3. Waive the Council's potential right to recover the cost of the works and services from leaseholders due to the nature and urgency of the works required.
4. Authorise the Corporate Director of Place, after consultation with the Corporate Director of Governance, to agree the final contract terms, to award the contracts up to the value stated in recommendation 2, and to execute all contract documentation necessary to give effect to the decisions.

1. REASONS FOR THE DECISIONS

- 1.1 Located on the Barley Mow estate, Malting and Brewster Houses were identified as two of the Council's Substantial Risk Blocks following a recent review of cladding systems by THH across the whole Council stock. The cladding was installed as part of a programme of works undertaken by the LDDC in 1993. The London Fire Brigade (LFB) advised further investigations should be conducted in April 2017. These investigations identified that the cladding insulation layer is polystyrene and that there is a small cavity between the cladding and the external concrete panels of the buildings. As a result of this investigation Savills Fire Safety Service, who have undertaken all of the Fire Risk Assessments (FRA's) in THH stock, recommend that the cladding should be removed within 6 months from the date of the report.
- 1.2 Tower Hamlets Homes (THH) currently have temporary measures in place sufficient to maintain safety. These include 24/7 concierge, patrols and fire alarms. Safety will be further enhanced once the works to remove timber partial ceilings in the communal corridors, which is currently in progress, have been completed. On that basis it is considered that whilst the above measures provide a temporary solution, permanent solutions must be put in place as soon as possible.
- 1.3 On the basis of advice received from Savills, works are required to remove and replace the cladding from Malting and Brewster Houses. Replacement materials would take the form of a mineral fibre type with render weatherproofing. This form of cladding insulation is fireproof.
- 1.4 It is also proposed that provision is made for any further strengthening works that might be required to these blocks. THH have been working with the Council's Building Control Team to assess the need for any further strengthening works that might be required, which can only be confirmed once the cladding has been removed and a full inspection is undertaken. Internal intrusive inspections in the empty flat at Brewster House have identified appropriate internal strengthening measures have taken place.

2. ALTERNATIVE OPTIONS

- 2.1 There are no viable alternatives to this proposal as the works are critical to prevent the potential rapid spread of fire across the buildings in the event of a fire and have been recommended following expert advice from Savills and LFB inspections.

3. BACKGROUND

- 3.1 These two adjacent, identical 14 storey tower blocks on the Barley Mow estate each contain 56 x 1 bed and 2 bed flats. One flat in Brewster is empty and has been used for investigation of the cladding and structure of the building. 32 (29%) flats are leasehold and 25 residents are seen as vulnerable in view of their health or age. There are no known hoarders in either block that would present a potential fire risk.
- 3.2 Both blocks are fully clad with a polystyrene based external wall insulation system. This covers original concrete panel walling that was previously strengthened

internally and externally. There is no evidence of any structural problems in these blocks at present.

- 3.3 Following a recent review of cladding systems by THH across the whole Council stock, several blocks of flats have been identified as incorporating polystyrene based systems.
- 3.4 Apart from Brewster House and Malting House tower blocks, all other blocks are low-rise blocks with open access staircases. Four of these are 3 storey blocks on Barley Mow estate adjacent to the two towers.
- 3.5 The reason for subsequently undertaking a detailed investigation of the cladding on these two tower blocks is that LFB recommended in April 2017, prior to Grenfell, that landlords investigate the materials and construction details of all fully clad blocks above 6 storeys in height.
- 3.6 Following a new set of FRAs commissioned by THH in 2016, Malting and Brewster were also identified as being of 'Substantial Risk'.
- 3.7 The particular issue that brings about this level of internal fire safety risk is the presence of timber bulkheads on each communal landing. These were installed in the early 1990s as part of a joint LDDC/DoE/LBTH refurbishment project that also installed the external wall cladding.
- 3.8 THH has recently agreed proposals with the Council to replace these internal features and to also carry out other internal fire safety works at a cost of £520,000. Due to the urgency of the works the Council has not levied a charge to leaseholders for these works.
- 3.9 This package of internal works is now on site following a residents meeting held on August 7th 2017.
- 3.10 LFB visited both blocks prior to the residents' meeting and noted a number of mitigating safety features present in the block generally and the additional measures put in place by THH for the duration of works.
- 3.11 These include:
 - 24/7 concierge cover plus a night time fire warden (later increased to 24/7),
 - Well lit, short communal corridors,
 - A well protected staircase with emergency lighting,
 - A corridor ventilation system linked to a fire alarm system with an automatic link to LFB call out
 - A generally good standard of solid core staircase and flat entrance fire doors
 - No gas supply in either block
 - Landlord's electrical risers and laterals were renewed during the refurbishment project.
- 3.12 LFB indicated that they felt the blocks had good resilience measures in place and would want to see the timber bulkheads removed and replaced. A deficiency notice from LFB has now been received to cover this work with a timescale of February 1st

2018 for completion of the fire safety internal works. A programme has now been agreed with contractors for all of the internal fire safety works to these blocks. The bulkheads will be removed and all other internal works will be completed by February 2018 as mandated by LFB.

- 3.13 The LFB were informed of the type of cladding present on these blocks and the results of the investigation have been shared with LFB.

The External Wall Cladding System

- 3.14 There has been an investigation by THH of the construction history and cladding finishes applied in 1993 and 1994. This includes intrusive sampling on various parts of both buildings to ascertain the exact wall finish of the building and to identify the way in which the cladding is constructed and attached to the original rough aggregate faced panels.
- 3.15 The external wall insulation system installed on the two blocks has been identified as the Sto External Wall Insulation System M. This is a mechanically fastened system of expanded polystyrene insulation overlaid with flexible renders and glass-fibre reinforcing mesh. The British Board of Agreement certificate dated 14 March 1990 certified the product as a non-combustible system and LBTH Building Control are understood to have received a notification of the proposals at the time. Fire stops are incorporated at various storey levels. The non-combustibility refers to the class 0 rating of the system and not the composite parts such as the polystyrene insulation which is combustible.
- 3.16 No fire test results from the time of installation are available and it has not been possible to have a sample tested currently as the only two test facilities in the country are only testing ACM panels at present.

Investigative Findings

- 3.17 An investigation has been undertaken in relation to the installation of the system and considerations as to the likely performance of the system as fitted in the event of a fire.
- 3.18 The key findings are as follows:
1. The installed insulation specification is generally as per the description above.
 2. The two blocks appear to be identical in finish.
 3. There is a 1-3cm cavity present between the original concrete panels and the fixing rails that support the insulation. This is probably because the rough aggregate panels were too uneven for an adhesive fixing system to be used. This is also due to some retro fitted steel bars on the exterior of the panels from the previous Large Panel System remedial strengthening works.
 4. The same cavity is also present behind the fire stopping levels.
 5. There is no fire stopping present around the window details just render covered polystyrene. The windows are UPVC and are around 25 years old. However they have 15 years remaining life.
 6. The investigation indicates the presence in each flat of 4 penetrations in the

concrete panels from current and former ventilation systems. Further intrusive surveying in the void flat on 29th August 2017 indicated that 3 of these penetrations are fire stopped from the cladding cavity but one very small 25mm former pantry ventilator appears not to be fire stopped.

Works Required

- 3.19 The advice from Savills is to remove the cladding to the two blocks in order to mitigate the risk, however the blocks would then require replacement insulation measures, and so it is proposed to remove the cladding and replace it with mineral fibre type with render weatherproofing as installed at Brodick House recently. This form of cladding insulation is fireproof. A detailed risk assessment as Appendix 2 has been undertaken and is attached and the discussions with the Fire Brigade have been based on expediting the works and being able to keep the residents as safe as possible until the risk level is lowered.
- 3.20 THH have been working with the Council's Building Control Team to assess the need for any further strengthening works that might be required. It is now clear that the blocks were internally strengthened as part of the LDDC project in 1993, but any need for further works will only be confirmed once the cladding has been removed. At this stage it is therefore appropriate to make some provision for further strengthening work should it be necessary, once the cladding has been removed and a full inspection is undertaken.

Capital programme

- 3.21 These recommended external works to Malting and Brewster Houses are not part of the Better Neighbourhoods programme. For this work to proceed it will be necessary to reprioritise resources within the capital programme.
- 3.22 The total estimated cost of the works is set out in the table below. These estimates are based on similar work recently undertaken at Brodick House (not a detailed priced specification), so it is therefore considered prudent to allow a contingency of 15% to allow for market pricing changes and any additional work that may be required:

Element	Brewster House £	Malting House £	Total £
Scaffolding	348,700	348,700	697,400
Removing existing cladding	87,900	87,900	175,800
New Mineral wool insulation	527,400	527,400	1,054,800
Strengthening/fabric repairs	270,000	270,000	540,000
Estimated cost of works	1,234,000	1,234,000	2,468,000
Prelims	123,400	123,400	246,800
Subtotal	1,357,400	1,357,400	2,714,800
Fees	126,500	126,500	253,000
Grand Total	1,483,900	1,483,900	2,967,800
Contingency at 15%	222,600	222,600	445,200
Total inc contingency	1,706,500	1,706,500	3,413,000

- 3.23 Resources are available within the capital programme to fully finance these works. The initial expenditure profile is shown below, although resources are flexible for use between years as necessary.

2017-18	2018-19	Total
£m	£m	£m
1.100	2.313	3.413

Leaseholder Implications

- 3.24 There are a total of 112 flats in the two blocks and 29% of these homes are leasehold.
- 3.25 The split between resident and non-resident leaseholders is shown in the table below.

Block	Residential	Sublet	Grand Total	% Sublet
Brewster House	12	3	15	25%
Malting House	13	4	17	31%
Grand Total	25	7	32	28%

- 3.26 A significant element of the cost of the works could therefore be considered chargeable to leaseholders, including the contingency, and this could offset approximately £1,009k of the cost. A detailed assessment of the potential leaseholder charges are shown as Appendix 1 to this report. The degree, if any, of the strengthening work required cannot be confirmed until the cladding has been removed and a full inspection is undertaken.
- 3.27 The costs of the 24/7 patrols is estimated at £3,400 per week. This means that the total cost will be in the region of £136,000 by the time the cladding has been removed. It is currently the view of officers that this cost should not be rechargeable to leaseholders.
- 3.28 If the fire safety cladding works are not undertaken within the recommended period, there is a risk that the Council will be obliged to decant the blocks. If that were the case, substantial costs would be incurred in providing temporary accommodation for displaced residents. THH have estimated that if all 112 households were to require temporary accommodation as was the case recently with the Camden tower blocks, costs could rise to £1 million every 10 weeks (112 x £900 per household per week = £100,800 per week).
- 3.29 The advice from Savills, that the cladding should be removed within six months, means that there would not be sufficient time to undertake consultation with leaseholders in accordance with the Section 20 process. It is estimated that consulting leaseholders would add at least three months to the project. As an urgent piece of work, a retrospective application could be made to a First Tier Tribunal for dispensation to allow charges to be made.
- 3.30 THH has contacted other local authorities on this matter and of those that responded, the emerging consensus is that it is not appropriate to charge

leaseholders for the cladding element of any works. In part this is because leaseholders would usually have been charged for its installation and in part because the safety requirements of this work could not have been foreseen.

3.31 The Council has a fiduciary duty to recover monies due, and does not dispense with the requirement to consult lightly. Given the information above it is proposed that the Council waives its potential ability to recover up to £1,009k for the works by not recharging leaseholders for the following reasons:

- There would not be sufficient time to undertake consultation with leaseholders in accordance with the Section 20 process if Savills and LFB advice is to be complied with.
- An additional three month consultation period could potentially lead to the blocks being decanted and an additional cost of over £1 million.
- Waiving the leasehold charge in this case strikes a balance between the potential loss of recoverable costs against the need to effect the necessary works in a way that minimises exposure to risk for residents.
- Reviewing advice from other authorities there is a strong likelihood that any charges levied would not be recovered at the First Tier Tribunal as this matter can be viewed as a public safety issue that could not have been foreseen and has arisen through no fault of either the landlord or the leaseholders.

Procurement

3.32 The works will be funded from within the Housing Revenue Account capital programme. As has previously been confirmed in relation to other Fire Risk Works there is not a contract already in place to allow the works to be undertaken in compliance with the Council's procurement procedures.

3.33 In order to undertake the works within the six months timeframe recommended by Savills it will be necessary to waive the procurement procedures and procure a suitably resourced and experienced contractor and technical consultancy support.

3.34 Approval will be needed to waive standing orders to conduct a restricted procurement exercise with three contractors who have the necessary skills and expertise to undertake the removal and replacement of the existing cladding. In this context it should be noted that the estimated costs are within the EU threshold for works so the Public Contracts Regulations 2015 do not apply in this instance.

3.35 A similar waiver will also be required to appoint an external consultant to administrate and project manage the contract. This is a single tender action with a consultant who has current experience of cladding works. There is an agreed price framework which will be used to benchmark their tender return thus ensuring probity and value-for-money. This process facilitates expediency whilst allowing costs to be benchmarked and controlled.

Keeping Residents Informed

3.36 THH has kept the TRA up to date with developments on these blocks, including detailed discussions around the internal works and the patrols. THH have informed residents of the investigations into the cladding, and at a meeting on 30th October

2017 outlined Savills conclusions that the cladding should be removed within six months.

- 3.37 A joint LBTH / THH communications plan has been developed so that residents are kept informed as soon as decisions are taken. All residents have received a detailed letter describing the need for the works and the timescales.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report seeks the approval of the Mayor to the adoption of a capital estimate of £3.413 million to enable urgent external fire risk works to be undertaken at Malting and Brewster Houses.
- 4.2 There is flexibility to reprioritise works that were included within the HRA capital programme that was approved by Council in February 2017. If these works are approved, the amendments will be incorporated into the 2018-19 budget process. The costs have been profiled as 2017-18: £1.100 million, 2018-19: £2.313 million, but the resources are flexible for use between years as necessary. The capital estimate includes both external fees and the Tower Hamlets Homes project management fees that will be charged directly to the scheme.
- 4.3 32 of the 112 properties (29%) within the two blocks are owned by leaseholders, meaning that a significant proportion of the costs could be recharged, although there is a view that leaseholders may not be liable for costs due to the nature of the works involved (see paragraph 3.30). This would need to be legally determined. Any recoveries will be dependent upon relative property sizes with an assessment of likely recharges based on the full contract sum (including contingencies) shown in Appendix 1. These total £1.009 million. It is however proposed that these costs are not recovered for the reasons set out in paragraphs 3.29 to 3.31.
- 4.4 Members may consider that some works are of such urgency to maintain the safety of all residents that a decision to not charge leaseholders for that element of works could be taken. However, in reaching that decision specific consideration should be given to the balance between the overall benefits against where those costs will be borne. Because of the ring-fenced nature of the HRA that cost will either fall to be met by the relevant leaseholders or will be met by all tenants paying rent to the Council regardless of where they live. Paragraph 3.8 also identifies that there is a precedent in similar circumstances.
- 4.5 It should be noted that if these works are delayed there is a risk that the Council will need to decant the blocks, incurring significant costs which could equate to £100,000 per week (paragraph 3.28). Not recharging leaseholders and therefore removing the need for Section 20 consultation will enable works to be undertaken in a timely manner and provide some mitigation against this risk.
- 4.6 In advance of the works being undertaken, THH has arranged for various interim safety measures to be put in place, including 24 hour concierge services and patrols. The costs of these service provisions are estimated at £3,400 per week, and it is intended that these arrangements will remain in place until the cladding is fully removed. As a consequence, the total costs are estimated at £136,000. These

costs will initially be borne by THH and will subsequently be financed from available HRA revenue resources.

- 4.7 The capital estimate includes a contingency sum of £445,000, equating to 15% of the estimated costs. This contingency will only be utilised if essential and will be available for reallocation to finance other priorities within the Housing Revenue Account capital programme if not required.
- 4.8 The report also requests approval to waive the Council's procurement procedures in order that the works and services contracts can be awarded following a negotiated process with three contractors. The legal comments confirm that this approach will meet all necessary statutory requirements for a contract of this value (see paragraphs 5.9 to 5.12).

5. LEGAL COMMENTS

- 5.1 The report recommends the adoption of a capital estimate, the waiver of a potential right to recover the cost of works and services from lessees and the award of contracts without competition.

Adoption of capital estimate

- 5.2 The Council's chief finance officer, for the purposes of section 151 of the Local Government Act 1972, has put in place financial regulations and procedures for the proper administration of the Council's financial affairs. Pursuant to financial procedures FP 3.3(5) and 3.3(6), Chief Officers may only proceed with projects when there is a capital estimate adopted and adequate capital resources have been identified. As here, where the value of the capital estimate to be adopted exceeds the sum of £250,000, the decision is reserved to the Mayor.

Waiving recovery of the cost of works and services

- 5.3 Section 20 of the Landlord and Tenant Act 1985 as amended, imposes a duty on the Council to consult leaseholders about qualifying works or before entering into a qualifying long term agreement for which they intend to recharge the leaseholders. Qualifying works are defined as works carried out on a building or any other premises. The various works referred to in this report would constitute qualifying works and thus require consultation to be carried out. If the council does not consult or the First Tier Tribunal (FTT) refuses to dispense with the requirement to consult, then the council would ordinarily be limited to recovering £250 per leaseholder for works undertaken.
- 5.4 Although there is provision in the Landlord and Tenant Act to seek dispensation of the requirement to consult in relation to any works from the FTT, the tribunal will only do this if it is satisfied that it is reasonable to do so and there is no guarantee that this would be permitted.
- 5.5 Moreover, given the nature of the works, it is quite possible that the FTT would not in the circumstances permit the Council to recover the cost of these works in any event.

- 5.6 Councils owe a fiduciary duty to their rate payers to recover monies due to them and should not dispense with the requirement to consult lightly. Should the Council be minded to not recover the cost of the works, if it were able, then it would need to have some objective justification. The Council would need to strike a balance between the potential loss of recoverable costs against the need to effect the necessary works in a way that minimises exposure to risk for residents. If leaseholders are to be consulted then the timescales for consultation must be built into the programme.
- 5.7 The Housing Act 2004 places a duty on local authorities to take appropriate enforcement action where serious hazards are identified in residential properties. This includes where there is a risk of harm associated with exposure to uncontrolled fire and associated smoke.
- 5.8 Should it be required, there are provisions within the council's RTB leases that permit the council to enter the flats to carry out works considered necessary or advisable for the proper management, maintenance and safety of the building so long as reasonable notice is provided to lessees. This will include works required to ensure the fire safety of the building. In case of emergency, no reasonable notice to lessees is required.

Awarding contracts for works and services

- 5.9 The Council intends to award contracts in respect to the proposed works and related consultancy services and the report seeks a waiver of the Council's Procurement Procedures (for the works) and permission to use the negotiated procedure without a prior advert (for the services) in this regard.
- 5.10 The value of the contract for the works is below the relevant European threshold of £4,104,394 and therefore ordinarily requires only domestic advertisement and compliance with the Council's internal Procurement Procedures. The value of the contract for services is higher than the European threshold of £164,176 and would therefore require a call for competition in accordance with the Public Contracts Regulations 2015 (the "Regulations").
- 5.11 The Regulations permit the use of a negotiated procedure without a prior advert in limited circumstances, the effect of which would be that the Council could lawfully negotiate the award of contracts directly with one organisation, without exposing the opportunity to the market. One of the circumstances which allows this procedure to be invoked is where there are "reasons of extreme urgency brought about by events unforeseeable by the contracting authority".
- 5.12 In the circumstances and based on the justification contained within the report it is entirely appropriate to rely on the negotiated procedure under the Regulations for the award of the services contract and to waive the requirement to comply with the Council's Procurement Procedures for the award of the works contract.
- 5.13 The Council is required to abide by section 3 Local Government Act 1999 in as far as its activities must represent best value and this is further discussed at paragraph 7 below.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 Recommendations made in this report will ensure increased safety to all residents at Maltings and Brewster Houses. Resident consultation has started on these blocks and will be increased as the programme progresses.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 This report recommends urgent action at a potential cost to the Council, however the inherent value of the proposal lies in the risk of not proceeding quickly with the recommendations.
- 7.2 Given the considerable concern across the UK regarding fire safety, it is vital that the borough minimise any risk in this area by providing adequate fire safety measures.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no specific implications arising from the recommendations in this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 A detailed fire risk review of the blocks is attached as Appendix 2. The document identifies the fire risk in the buildings categorizes them and identifies mitigating actions and provides a timescale for this. These risks will be closed following the proposed actions by April 2018.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no significant implications arising from these specific recommendations.

11. SAFEGUARDING STATEMENT

- 11.1 Recommendations made in this report will ensure increased safety to all sections of the community.

Linked Reports, Appendices and Background Documents

Linked Report

None

Appendices

Appendix 1 - Detailed analysis of the leaseholder charges in Brewster and Malting Houses

Appendix 2 - Tower Hamlets Homes - Brewster and Malting House – Fire Safety Risk Review

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012
None

Officer contact details for documents:

- N/A

Originating Officers and Contact Details

Name	Title	Contact for information
John Coker	Strategic Housing Manager – Housing & Regeneration	020 7364 3782

Detailed analysis of the leaseholder charges in Brewster and Malting Houses

Each block has 56 units.

Brewster has 15 (27%) lessees Malting has 17 (30%).

Brewster

Individual charge (rounded)	Number of lessees	Total recharge
£35,000	2	
£31,000	11	
£26,000	2	£463,000

Malting

Individual charge (rounded)	Number of lessees	Total recharge
£35,000	6	
£31,000	10	
£26,000	1	£546,000

The different GRV's have a significant effect.

**TOWER HAMLETS HOMES
BREWSTER AND MALTING HOUSE – FIRE SAFETY RISK REVIEW**

29 09 17

Ref	Risk	Detail	Mitigation	Time-Line	Residual Risk
1	Flat front entrance doors.	This is the most important fire safety measure for residents.	Replace and / or upgrade doors where necessary on a worst first basis. All doors are good condition solid core but need smoke brushes. Leaseholders will receive doors or upgrade free of charge where necessary. Corridor smoke detection system is present immediately outside flats and is linked to concierge and LFB.	Mar 2018	Currently Medium - Low once current works are completed.
2	Flat heat and smoke detectors.	This is the second most important fire safety measure for residents.	Records indicate that all tenanted properties have heat and smoke detectors installed. Visits made to sample of flats in both blocks to check smoke detectors are in place. Leaseholders: Battery powered linked heat and smoke detectors will be installed in leaseholder properties if they are found not to be installed. Test all smoke detectors are functional.	Dec 2017	Currently Low – will remain low once works are completed.
3	Compartmentalisation and fire stopping.	All flats have a concrete compartment structure. Removal of corridor bulkheads will establish whether there are any risks between	Any fire stopping needed will be carried out as part of the replacement communal lighting works.	Feb 2018	Medium - Low once any identified works are completed.

Ref	Risk	Detail	Mitigation	Time-Line	Residual Risk
		corridor and dwellings.			
4	Electrical Intake and riser cupboards.	This considers the risk to communal areas from a fire starting within the electrical intake and riser cupboards.	The cover panels will be renewed to ensure 30 minutes fire and smoke resistance. This work includes fire stopping laterally and between floors. Risers and laterals were renewed in 1990s so in good condition.	Feb 2018	Medium - Low once works are completed. Fire alarm system in corridor will quickly detect any fire from this source.
5	Corridor bulkheads.	These are constructed of plywood Various electrical services and lighting run through the bulkheads.	Remove all bulkheads as earliest part of works package, Then provide a fire protected duct in which all wiring will be placed. This will include fire stopping of any discovered penetrations into the dwellings and intake cupboards. Removal of bulkheads commenced Sept. 11 th . Potential new risks arising during works to be assessed through review of CDM plan.	Feb 2018	High -due to containment of electrical services within combustible plywood- Low once bulkheads are removed. In interim the fire alarm system covers this area.
6	Communal doors.	These are good solid doors but they require new intumescent and smoke seals to be installed. This will strengthen the resilience of the protected staircase as an LFB access /evacuation route.	Intumescent and smoke seals to be installed as a priority. The suitability of the existing door glass is to be reviewed.	Jan 2018	Medium upon completion - as there is only one emergency staircase.
7a	Cladding:	The cavity	Short term: Fit Supalux	Supalux	High-

Ref	Risk	Detail	Mitigation	Time-Line	Residual Risk
	Cavity between concrete wall panels and the expanded polystyrene insulation.	could create a chimney effect in the event of a fire. This would happen if there is sufficient air flow in the cavity. However cavity is capped at roof level and largely closed at ground floor level.	boarding to parts of cladding base that do not have a brick base to restrict any airflow and provide additional fire resistance. Continue regular 24/7 warden patrols of exterior of building. LFB have visited site and been provided with results of cladding investigation. Medium term: Progress the removal of cladding – target time of 6 months advised by Savills Fire Safety Team.	not required.	mitigation measures are in place to manage risk No risk once new Class 0 specification is installed. This will include an A1/A2 Euroclass category glass wool insulation which is fixed direct to the structure without a cavity.
7b	Cladding: Likelihood of external fire	Render coat is Class O- but system not tested in recent years.	There is no parking or refuse bin storage adjacent to the cladding. Ground floor flat gardens have been checked for combustible materials. 3 tenants instructed to remove wooden storage sheds and trellises. Various garden barriers and railings at ground floor level discourage casual arson.	Dec 2017	Medium risk Difficult to determine when/ where a fire would break out. Removal of sheds will mitigate part of risk.
8	External wall penetrations.	There are 3 of these in each flat. Intrusive survey 29 th August with Building Control present indicates 2 penetrations for	The filling of the small former pantry vent with suitable fire resistant material would eliminate any risk of fire travel between dwellings via the cladding cavity. Access from within flats may be impractical. Further	Mar 2018	Medium (in view of small size of single unfirestopped penetration and mitigation

Ref	Risk	Detail	Mitigation	Time-Line	Residual Risk
		bathroom and kitchen ventilation fans are fire protected through the cavity. The third opening is from a redundant larder ventilation system and comprises of a pair of adjacent openings. The largest appears to be fire stopped from the flat side but the small 25mm one is not.	investigation is needed. Continue with frequent fire patrols outside the buildings.		measures) pending fire stopping works. These works will be easiest to carry out if the existing insulation is stripped.
9	Staircase emergency lighting.	Stair must provide adequate lighting for access and egress.	Emergency lighting renewed and luminescent guidance strips have been installed.	Complete	Low
10	Basement Garage areas	.	Garage areas very well ventilated and have secondary means of escape.	Inspection completed	Low
11	Storage rooms within basement garage area	Steel faced doors present.	Survey completed of resident and caretakers stores for any flammable materials.	Complete	Low
12	Garage lift and secondary escape area.	No combustibles.	Survey completed –minor works included in project on site. There are regular inspections by concierge, fire patrols and caretakers for any dumped combustible items	Complete	Low.
13	Concierge office.	Requires some improved fire resistance.	Upgrade screen and remove any combustible material.	April 2018	Low

Ref	Risk	Detail	Mitigation	Time-Line	Residual Risk
14	Waste disposal chutes.	Potential source of fire.	Hopper doors to be checked for seals. Chute access doors to be upgraded.	Feb 2018	Medium - Low once works carried out.
15	Basement bin store area.	Potential source of fire but bins are secured in a locked chamber	Bin store sprinklers and waste chute seals to be installed.	Feb 2018	Medium - Low once works carried out.
16	Dwelling windows.	These are UPVC and may fail in the event of a fire.	The focus is on smoke detectors and safety measures to prevent fires in the flats.	Not applicable	Medium.
17	Instructions to residents in the event of a fire.	Block is designated as stay put.	Residents meeting held on August 7 th covered fire safety in flats and fire safety measures in the blocks. Continue THH/LFB engagement with residents and TRA. Issue information on fire warden patrols to residents after next TRA meeting.	Complete	Medium. Low once key areas of work have been carried out.
18	Monitoring of the blocks.	Via fire warden patrols covering interior and exterior of blocks and garages around the clock.	Retain this cover until works are complete. There is also the communal fire detection system present with a link to LFB.	Continuous	Decreases risk of any fire getting out of control due to early warning.
19	Fire within a Resident's flat	Most fires are started by a resident or a domestic appliance.	Visit during summer identified all vulnerable tenants and discussed personal evacuation plans. Consider possibility of PAT testing of residents white goods appliances. Ensure all flats have smoke detectors.	Not recommended following review	Will remain at medium.
20	Hazards in communal areas	Internal corridors- so THH zero tolerance policy applies.	Continue hourly THH checks to remove any obstructions and check for any combustibles on landings and in intake cupboards.	Continuous	Low, providing a vigilant approach is maintained
21	Compliance	Safety and	Regular servicing and	As per	Low,

Ref	Risk	Detail	Mitigation	Time-Line	Residual Risk
	e	servicing of installations	ordering of any repairs: landlords electrics, emergency lighting, AOVs	servicing intervals	currently compliant.

