

HRSSC – Fire Safety Scrutiny Review (9th September 2021) – Final V-1@11-8-21

No.	Ask of LBTH	Response	Proposal
1. Powers	Stop approving developments where developers have not yet remediated existing buildings.	<p>The council has obtained legal advice on this matter as in addition to the ask by residents, the H&RSSC requested that the final report focuses on how the council can apply pressure to encourage action by developers and building managers in areas of fire safety over which the council has no direct authority.</p> <p>Planning applications are determined in accordance with the development plan unless material considerations indicate otherwise as set out in s38(6) of the Planning and Compulsory Purchase Act 2004. The conduct of a developer or applicant on another development is not a material consideration.</p> <p>Therefore, this is not possible because an application has to be decided on its merits. The identity of the applicant for planning permission is irrelevant when considering the merits of an application for planning permission. It would not be a material planning consideration.</p> <p>In reviewing this area, the council considered a proposal put forward at LB Newham that officers ask developers if they have blocks elsewhere that haven't had remediation works and that this is flagged in committee meetings. The legal advice received confirmed that this approach carries a risk of a Judicial Review claim by the applicant alleging that an error of law has been made and as a result, this approach will not be adopted by the council</p>	No further action is possible - Report outcome to H&RSSC.
2. Powers	Stop approving HMO licences when they are in breach of the lease	<p>The process of issuing HMO licences is governed by legislation and there is little action we can take outside this process.</p> <p>There have been previous matters brought before the First Tier Tribunal in relation to HMO's and breach of leases, unfortunately the Tribunals have stated that these are civil matters and should not be considered when issuing licences. If the freeholder is minded to, they will need to take relevant action under the lease conditions.</p> <p>On issuing licences, the freeholder/managing agent etc. will get a copy of the intention to grant a licence and the final grant of a licence enabling them to review the fire loading/ people in the building that will need to be reflected in their risk assessment.</p> <p>The risk of not licencing these premises, is that there will be no control and properties will still be multi-let. Therefore, the council cannot stop approving HMO licences if legalities are complied with.</p>	No further action is possible - Report outcome to H&RSSC.
3. Powers	The council to set criteria for planning applications which give strength to the residents' voices. Consider a system where residents of buildings already built by a developer are asked to give a reference as part of the planning application	<p>Planning applications are determined in accordance with the development plan unless material considerations indicate otherwise as set out in s38(6) of the Planning and Compulsory Purchase Act 2004. The conduct of a develop/applicant on another development is not a material consideration.</p> <p>The London Plan (2021) includes a policy on fire safety. The London Plan is now part of the development plan and the council is applying this policy to relevant developments in the borough. In addition, 'gateway 1' came into force from 1st August 2021 and requires applicants to submit a fire statement which is then assessed by the HSE as part of the statutory consultation process.</p>	Ensure Fire Statements submitted to the council by developers/builders as part of the Planning process are robust and address all known fire safety issues.

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	process, focusing on safety - . This would concentrate the minds of the developers on safety as priority in the building they have built or manage.	Planning gateway one, the first gateway in the new building safety regime, has been introduced via amendments to secondary planning legislation rather than the Building Safety Bill. It helps ensure that applicants and decision-makers consider fire safety issues relevant to planning such as site layout, water supplies for firefighting purposes and access for fire appliances. This gateway point brings forward thinking on fire safety matters as they relate to land use planning to the earliest possible stage in the development process by requiring a fire statement with relevant applications for planning permission for development which involves one or more relevant buildings. The Health and Safety Executive will be a statutory consultee to provide local planning authorities with fire safety input on proposals.	
4. Powers	Push for commonhold or Resident Management Company to be part of new developments so leaseholders can better manage such problems in future.	<p>A new form of tenure, commonhold, was introduced by the Commonhold and Leasehold Reform Act 2002. One of the aims was to overcome the disadvantages of leasehold ownership. It was assumed that, once in place, commonhold would become the standard form of tenure for new-build blocks of flats. The Government published a Ministerial Statement on Commonhold in January 2021.</p> <p>Leasehold, Commonhold and Ground Rents - Monday 11 January 2021 - Hansard - UK Parliament</p> <p>On the 2nd August 2021 the Government published a House of Commons Paper on Leasehold and Commonhold reform advocating commonhold as the default tenure in place of leasehold. As this is a very recent publication, Legal advice on the matter is being sought.</p> <p>Leasehold and commonhold reform - House of Commons Library (parliament.uk)</p> <p>Council officers should hold a discussion with developers about commonhold ownership at a future meeting of the Developers’ Forum.</p> <p>https://democracy.towerhamlets.gov.uk/ieListDocuments.aspx?Cid=309&MID=10253#AI104552</p>	Investigate the promotion of “Commonhold” with our PRP partners, builders, and developers.
5. Comms	Regularly meet with affected leaseholders	<p>We already meet with a number of different groups of leaseholders. Officers attend resident led meetings at present on an “as and when requested” basis and where availability allows. However, with a large number of buildings with ACM applying to the Government’s Building Safety Fund (293 in Tower Hamlets) and more buildings being identified with cladding issues arising from EWS survey (to date 23 additional buildings have been identified with ACM from the EWS survey and 34 blocks with HPL – High Pressure Laminate cladding) the number of leaseholders and buildings involved continues to increase.</p> <p>The council runs regular <i>Ask the Mayor</i> sessions and will explore regular leaseholder focussed meetings with the Mayor and relevant officers. The last meeting was held on the 22nd July and residents put questions directly to John Biggs, the Mayor of Tower Hamlets, Richard Tapp, Borough Commander, London Fire Brigade, and Will Manning, Director of Asset Management, Tower Hamlets Homes.</p>	Explore regular Quarterly meetings between the Mayor/officers and Leaseholders.
6.	Communicate regularly with leaseholders – tell us what	<p>The council launched its building safety pledge on the 22nd July 2021:</p> <p>https://www.towerhamlets.gov.uk/ign/business/health_and_safety/fire_safety/Building-safety-pledge.aspx</p>	Further publicise the council’s building safety

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Comms	the council is doing	<p>The pledge sets out what the council is able to do using its powers and what it needs partners to do to ensure residents are safe. The council is also reviewing its existing web site pages and has had further engagement with residents on the review.</p>	<p>pledge to residents, building owners and PRPs</p> <p>Set up a fire safety portal that contains clear information for homeowners, tenants, leaseholders and clarifies the role of Housing Associations, builders, and developers.</p>
7. Comms	Signpost leaseholders to sources of help and how to tackle the Building Safety Fund steps.	<p>The council has no involvement in the BSF and is not in a position to advise residents on what is or isn't required for an application to the fund. However, the council has informed a number of applicants on whether a full permission is needed or a certificate of lawfulness.</p> <p>The council has dealt with such requests fairly quickly, recognising the importance of timely applications to the fund. Council officers have approached both the MHCLG and GLA on behalf of residents but have been advised that any communication with leaseholders on BSF applications should be with the applicant to the fund, usually the building owner or the managing agent.</p>	<p>Ensure the council's revamped website explains how the BSF application process works to leaseholders and builders/developers submitting bids.</p>
8. Funding	Spend some S106/CIL on things that might help – e.g., taller ladder?	<p>For Planning Obligations (S106), money is secured in legal agreements with the developer on each development. These legal agreements are very prescriptive regarding how the Council may spend this funding, e.g., “for the delivery of primary school provision” or “for the delivery of improvements to parks and open spaces”. As a result, there are not S106 funds held by the Council, that could legally be used to fund the fire safety work in question, unless we agree a new s106 with developers of affected buildings in order to have more flexibility over how to spend s106 money.</p> <p>CIL is governed by regulations that say it must be spent to support infrastructure. The regulations define infrastructure with examples such as schools, roads, etc. The essence of this is that it must be public infrastructure that is accessible to and supports the strategic development of the area. Spend on staffing is permissible where those staff are delivering infrastructure.</p> <p>Council Officers are currently looking into whether it is permissible to spend CIL money on such an appliance, but the view is that we could use CIL for this request. There are other considerations that make it more complicated, for example, would it just be for use in LB Tower Hamlets or for East London Boroughs, presently we do not know how much these ladders cost and for the appliance itself does the LFB have local storage to accommodate it, and will additional training be required for their firefighters etc. This is a conversation we will have with LFB.</p> <p>In addition to this there is currently a piece of work being undertaken with the LFB on resident's engagement about fire safety, these events will be for all residents in the Borough especially those who are hard to reach.</p>	<p>Explore with the LFB and other London boroughs using CIL money to purchase firefighting equipment.</p>

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		<p>In September 2021, the LFB will be reaching out to London Boroughs to consult with them on risks and local requirements, the council will fully participate in this consultation and will set out what it considers to be the needs of the borough in relation to fire-fighting, based on conversations with relevant experts, including whether such a vehicle would be a useful asset for them to have.</p> <p>Unfortunately, CIL cannot be used for other areas, such as to employ staff for the fire safety work or to provide guidance or advice, as this would not meet the CIL Regulations.</p>	
9. Lobbying	Work with other London boroughs and the GLA to have more clout – why can we hear Manchester louder than our own councils?	The council is an active participant at the London Housing Directors Fire Safety Sub-Group and will continue to work with other London boroughs, the GLA and LFB on building and fire safety.	No further action to be taken-Report outcome/ongoing work to H&RSSC
10. Lobbying	Fund advice service (East End CAB or similar) where leaseholders who are affected, can get knowledgeable help, particularly when facing bankruptcy.	The council will support leaseholders and other residents in lobbying government for more funding for CAB and other advisory services. We currently sign post residents to LEASE the Government funded Leasehold Advisory Service. The council is not providing funding to East End CAB or similar advice service directly.	Continue to lobby the Government with our PRP partners for increased funding for independent advisory services at every opportunity.
11. Lobbying	Gather the economic evidence of this crisis - to help push the govt into action. We need you to be our champions.	Officers will raise this matter with London Councils at a meeting of the London Housing Directors Fire Safety Sub-Group. The aim will be to agree a joint project to collect evidence on the economic impact (financial cost) upon residents of building safety issues.	Raise gathering of economic data/cost implications of building safety issues at the LHD FSG meeting to enlist the support and collaboration of other council's and PRPs.
12. Ways of Working	The council to lead an independent investigation to review what happened on the 7th May 2021 – fire at NPW and what can be learnt so that the community can move forward.	The London Fire Brigade is working on a fire safety report following the fire at NPW And the council will participate fully in providing any evidence if requested to do so. In view of this there is limited value in the council undertaking/leading its own review as this would be unnecessary duplication of work.	Review the findings of the final LFB report into the fire at NPW with our PRP partners, building owners and developers
13. Ways of	Gather the evidence of the serious issues of building safety - LBTH should be the	In collaboration with the MHCLG, the council is collating evidence of the position on all residential blocks over 18M in respect of external wall systems (EWS) and identifying other factors affecting building safety. The council is implementing a dedicated database that will record information on building and fire safety on tall residential buildings	Work with our PRP partners and building owners and developers to

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Working	lead council in UK contributing thinking to building tall residential buildings more safely (update Local Govt Group guidance from 2011)	<p>across the borough and will enable it to contribute to wider thinking on such issues.</p> <p>The MHCLG EWS data collection exercise will inform a national database that the Government is compiling, however, the council will investigate making use of the citizen led Building Safety Map and whether it can use the data it holds in its database to inform the map to inform residents about the blocks containing ACM cladding.</p>	<p>implement the Building Safety database.</p> <p>Explore the feasibility of contributing to the Building Safety Map with our PRP partners and building owners.</p>
14. Ways of working	Create a multi-agency task force – include fire brigade, managing agents, leaseholder reps	<p>The council alongside its THHF partners is working with LFB on how best to engage with residents on fire safety issues. It is recognised that a collaborative approach will result in better fire safety outcomes for residents, particularly to ensure that fire safety messages are “heard and seen” by all residents. The council recognises the need to make sure that it identifies hard to reach communities – Bangladeshi, Somali, Chinese and eastern European etc. There is a transient population in the borough with a number of residents living in HMO’s. Some residents do not know how to contact the emergency services by dialling 999.</p> <p>The LFB has an engagement plan in place and is reviewing this in light of the fire at NPW. Initial engagement with residents has been undertaken to shape a local Community Safety Plan—but vulnerable residents in the borough are seldom heard, particularly from BME communities. In September 2020, the LFB consulted on a London-wide Safety Plan.</p> <p>Findings included that communities were unaware of what the LFB do outside of an emergency response. It was recognised that there was potential for outreach work in the communities – possibly creating a forum led by LFB with membership from various communities and including home fire safety visits to empower communities to help themselves.</p> <p>Currently, the council and THHF partners are working with LFB on producing a fire safety video and creating a Tower Hamlets Fire Safety Forum. This forum may include managing agents and leaseholder representatives as part of the engagement process.</p> <p>The recently held “Ask the Mayor” event on the 22nd July focussed on leaseholder building and fire safety concerns.</p>	<p>Continue to meet with LFB and PRP partners to develop a joint Fire Safety Engagement Plan.</p> <p>Establish a Tower Hamlets Fire Safety Forum with LFB and THHF PRP partners.</p> <p>Work with PRP partners and LFB to develop a fire safety video and other engagement/communication material to promote fire safety.</p>
15. Ways of Working	Evacuation procedures must be reviewed, and this review must involve residents, because they will tell you how residents behave in an evacuation.	Controlled evacuation of a building is a matter for the LFB. Involving residents in any review of the stay put/evacuation process is important and the council will work with the LFB to ensure this is considered by the Tower Hamlets Fire Safety Forum.	Establish a Tower Hamlets Fire Safety Forum with LFB and THHF PRP partners to examine evacuation procedures.
16. Ways of	All residential buildings which have a Simultaneous Evacuation Policy must have	The LFB are carrying out a Building Risk Review on all high-risk buildings to be completed by end of December 2022. The aim is to ensure that appropriate fire protection measures for each block are in place. There are over 800,000 private sector residential buildings in London. The LFB are checking to see that simultaneous evacuation strategies are in place	Establish a Tower Hamlets Fire Safety Forum with LFB and THHF partners to

<p>Working</p>	<p>fire alarms put in as a matter of urgency and waking watches must not be used to give a false sense of security. Fire alarm systems to be installed in all buildings. Waking watch initiative does not work in tall buildings and is not understood by all residents.</p>	<p>with the LFB inspecting properties every six months. The council will explore this issue with its THHF partners and the LFB as part of Tower Hamlets Fire Safety Forum.</p>	<p>examine the appropriateness of fire alarms.</p>
<p>17. Ways of Working</p>	<p>All residential buildings should have fire safety instructions in all common areas Simple procedures must be put in all buildings in a form that all residents can understand, including those for whom English is not their first language.</p>	<p>The LFB have written to (private sector) building owners who have implemented a Waking Watch system reminding them about responsibilities in respect of cladding remediation and providing information on external wall systems. This notification included a reminder on the need to check the internal fire safety of buildings. Checks on the procedures in place and signage should form part of the existing fire risk assessment process undertaken by building owners. The LFB <i>‘operate a risk-based inspection programme based on protecting the most vulnerable and those that are more likely to have a fire’</i>. Source Enforce fire safety legislation London Fire Brigade (london-fire.gov.uk)</p> <p>Under the current Regulatory Reform (Fire Safety) Order (2005), as part of the FRA, building owners in purpose-built flats are required to determine the fire protection measures in the building. This includes and is not limited to emergency escape lighting and fire escape route signs (which are not normally necessary in simple blocks of flats)</p> <p>Fire safety in purpose-built blocks of flats (publishing.service.gov.uk) Updated July 2021 - Page 46 ,Paragraph 34.3:</p> <p>The fire risk assessment must consider the ‘general fire precautions’ defined in the FSO. Of these, the principal ones for a purpose-built block of flats are:</p> <ul style="list-style-type: none"> • measures to reduce the risk of fire and the risk of the spread of fire • means of escape from fire • measures to ensure that escape routes can be safely and effectively used • an emergency plan, (stay put or SME) including procedures for residents in the event of fire • measures to mitigate the effects of fire <p>When the Fire Safety Act (2021) comes into force it will amend the Regulatory Reform (Fire Safety) Order 2005 (with the intention of improving fire safety in multi-occupancy domestic premises). Crucially, the external walls of a building and the fire doors to individual flats will be assessed as part of the requirement for a fire risk assessment. Current FRA’s under the Regulatory Reform (Fire Safety) Order 2005 do not require this.</p>	<p>Establish a <i>Tower Hamlets Fire Safety Forum</i> with LFB and THHF partners to promote that appropriate signage is in place.</p> <p>Establish a <i>Resident and Landlord Fire Safety Forum</i> to ensure effective resident involvement and collaboration in all relevant fire safety issues.</p>