

Leasehold Policy		Policy Section: Alterations	
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Abbreviations used in the policy			
LBTH	London Borough of Tower Hamlets		
THH	Tower Hamlets Homes		
GRV	Gross Rateable Value		

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Introduction to the policy

The purpose of this Policy is to set out a consistent approach by LBTH /THH when leaseholders and freeholders want to make alterations to their properties, and also when they have made alterations without first gaining permission from LBTH.

The main purpose of this policy is to set out how LBTH/THH will make sure that owners act within the terms and conditions of the agreements they (or the original purchasers) entered into when the properties were sold. These documents will be the lease agreement for leaseholders and the transfer document for freeholders.

Background to the Policy

This policy applies both to leaseholders on long lease agreements and some freeholders. Throughout the document the term Owner is used to cover all leaseholders and freeholders.

When a property is sold an agreement or contract is agreed between the seller and the buyer which amongst other things sets out the location, extent and boundaries of the property. For leasehold properties this will be recorded in the Lease which clearly defines the access areas of the block and estate within which the property is located, and show the demised areas of the property. They also clearly indicate the obligations of the landlord and of the leaseholder, and set out what restrictions may exist for the leaseholder and the demised premises.

In the case of freehold properties sold by the Council this will be the transfer document which may contain covenants requiring the freeholder to obtain permission from the owner of the estate before alterations or additions can be made.

Reference is also made within this policy to Gross Rateable Value and Mapsites. These are the usual mechanisms by which service charges are apportioned to individual properties. An explanation is available through the Leaseholder Handbook or from THH Leasehold Services, or direct from the THH website.

Legislative references

- The lease agreement or transfer documents for each property concerned
- Law of Property Act 1925
- Housing Act 1980
- Housing Act 1985
- Landlord and Tenant Act 1985 as amended by the Landlord & Tenant Act 1987
- Landlord & Tenant Act 1987
- Consumer Protection Act 1987
- Property Misdescriptions Act 1991
- Leasehold Reform, Housing and Urban Development Act 1993
- Housing Act 1996
- Arbitration Act 1996

- Commonhold and Leasehold Reform Act 2002
- Housing Act 2004

Policy Statement

1 Policy Context

- 1.1 LBTH recognises that it manages blocks and estates that contain a mixture of tenants, leaseholders and freeholders. Residents of any tenure may wish to alter and improve their properties and LBTH recognise the important contribution that such alterations can make to the quality of life of residents. The broad approach adopted by LBTH and THH is that alterations will be permitted (subject to all necessary consents) unless there is good reason to turn down a request. Examples of good reasons to decline a request include (but are not limited to) unacceptably adverse effects on the building or other residents.

2 The need for landlord's/estate owner's permission to carry out alterations

- 2.1 Certain alterations are allowed within the lease agreement and can be carried out without the landlord's permission. However, for many alterations the leaseholder needs to obtain the landlord's permission. In the case of all residential properties owned by LBTH, landlord's permission should always be sought from THH. THH will administer all requests for permission for alterations. When a request is ready for approval THH will pass all relevant information to LBTH who will make the final decision on the request. For freehold properties permission may be required from the estate owner under the covenants.
- 2.2 Some alterations will need one or more types of approval or certification. Examples of approvals and or certification include (but are not limited to):
- planning permission
 - building control approvals
 - gas safety certification
 - electrical safety certification

- 2.3 If they are available copies of these permissions should be submitted when requesting landlord's/estate owner's permission. Proof of all necessary permissions will be required before Landlord/Estate Owner Consent can be granted.
- 2.4 It is important to note that this permission is separate from and in addition to any other permissions that are required. The presence of all other necessary permissions does not constitute Landlord's/Estate Owner's Permission which must be sought in addition to all other permissions.
- 2.5 Some guidance can be gained from the Leaseholder Handbook but this is not definitive, and Owners are asked to contact the THH for guidance. The responsibility to make sure that all necessary permissions are obtained lies with the Owner.
- 2.6 Owners are advised to check their lease or transfer agreement prior to starting any works or alterations in order to avoid any breach of their lease or transfer agreement. In each case they are advised to check with THH before they start any work.
- 2.7 Some alterations are not allowed if they could cause danger to the properties or structures involved.
- 2.8 Owners shall request permission in writing stating:
- details of the planned alterations
 - including any plans and technical product details
 - information on planned start date
 - who will carry out the work
- 2.9 The timescales for dealing with each stage of the process are set out in THH Procedures. Depending on the type and extent of the planned alterations THH surveyors may need to inspect the property in question.
- 2.10 If a visit is not required, a response explaining this will be provided explaining the terms on which final consent can be granted which may include the payment of fees.
- 2.11 When THH receives from the Owner a letter accepting the terms, THH will ask LBTH to give their formal permission and when they have received LBTH's formal permission THH will issue a formal letter granting consent. If a formal licence/supplemental lease is required, LBTH/THH will instruct solicitors to prepare it.
- 2.12 For leasehold properties if the alterations include an extension to the demised premises (the area of the building that is given over to the leaseholder), Corporate Property Services will also be involved. Corporate Property Services will write to the leaseholder (copying THH staff) regarding valuation of the property, Council fees payable and inspections required. It is

likely that THH surveyor will still be required to inspect and therefore joint inspections will be co-ordinated wherever possible. Depending on the proposed development this may also be the case for freehold properties where estate consent is required.

- 2.13 All applications to extend the demise of the premises which have been agreed will need a supplemental lease drawn up by LBTH/THH's solicitors for the works to proceed. If there is an increase in the GRV/floor area, this will increase the service charge to that property. The effect of changes to floor area on service charge calculations will be governed by a calculation within THH Procedures. It will also involve the payment of a premium. These will be recorded in the supplemental lease.
- 2.14 Leasehold alterations, which involve the subdivision of rooms/creation of new rooms, will need permission. Where a leaseholder wishes to combine two or more rooms resulting in a reduced room count, there will normally be no reduction in the service charge as the floor space will not be reduced, otherwise other leaseholders would have to pay for the shortfall. In this circumstance, a provision will be included in the licence stating it is a condition of the landlord granting consent that the GRV remains the same despite alterations. If the subdivision results in an independent separate unit being created then a premium may be payable.
- 2.15 There may be technical reasons that restrict the ability to extend property's demise, for example: communal services sited within a loft space, such as water cisterns, lift machinery or gas/electrical services. There may also be safety requirements where proposals affect primary or secondary means of escape, or maintenance issues, which limit the landlord's ability to carry out essential repairs and maintenance. LBTH /THH reserves the right to refuse permission on these grounds and/or impose restrictions on proposed schemes where essential landlord access will need to be maintained
- 2.16 Before final Landlord's Consent can be given all permissions and conditions must have been complied with, all the fees relating to the request must have been paid and the leaseholder's service charge account must be clear.

3 Fees payable

- 3.1 The Policy on fees is set out in Section 2.7 of the Various Policy statement.
- 3.2 A fee will be charged to cover the cost of administering each request for an alteration.
- 3.3 Depending on the type and extent of the alteration the teams involved may include (but are not limited to):
- THH Leasehold Services
 - THH Surveyors

- LBTH/THH Legal
- Corporate Property Services
- Specialist engineers

3.4 An estimate of the fees will be included within the initial letter sent out to the Owner.

3.5 Where an alteration involves extending the demise, Corporate Property Services will also require a fee to carry out a valuation. Where additional hours are required, the Valuer will notify the leaseholder of the extra fee. In cases where a licence and/or a supplemental lease are required, the Council's solicitor will charge fees for their preparation.

3.6 Where the alteration involves changing the layout of a property and the lease allows for a premium to be charged, a LBTH/THH Officer will forward plans to Corporate Property Services to assess if the works attract a premium. A premium is a sum of money, which represents the addition to the value of the premises created as a result of the consent to alterations or extension of the demise.

3.7 Premiums would normally only be applied if the demise of the premises is extended or an independent separate unit is created. Corporate Property Services will advise the leaseholder if this is the case and will make arrangements to inspect the property and notify what the premium will be. Where there is an extension to the demise, a premium will always be charged.

4 Unauthorised alterations

4.1 There are two circumstances where unauthorised alterations may occur:

- Where an Owner (or a previous Owner) has carried out alterations without the consent of the landlord/estate owner, and is now seeking retrospective permission for works that have been completed
- Where THH becomes aware an Owner has started alterations without formal permission being granted

4.2 Carrying out alterations/additions without obtaining landlord's or estate owner's consent can affect a sale of the property, so it is important that you obtain consent before you carry out the work. The broad approach adopted by LBTH and THH is that retrospective permission for unauthorised alterations will be granted (subject to all necessary consents) unless there is good reason to turn down a request for example if it adversely affects a neighbouring property. However if there is such a reason the consent may be refused and

you may be required to put the property back into the condition it was in prior to the Unauthorised Alterations/additions.

- 4.3 LBTH/THH take the safety of all residents very seriously. Therefore LBTH/THH will work to ensure that issues of Unauthorised Alterations are resolved as quickly as possible. LBTH/THH will work closely with Owners to bring issues of Unauthorised Alterations to a satisfactory conclusion. The prolonged existence of Unauthorised Alterations will not be tolerated and any necessary costs or charges will be claimed from the Owner, together with any arrears incurred in this process or already accrued.
- 4.4 The THH surveyor will carry out an inspection to ascertain what works have been carried out so far, and to advise the Owner what will be required in order for the works to progress. Where the alterations involve an extension of the demise, Corporate Property Services will also be notified.
- 4.5 THH Leasehold Services will monitor the application's progress and the outcome.
- 4.6 With retrospective permission as with permission requested in advance it remains the responsibility of the Owner to ensure that all necessary permissions and certificates are obtained.
- 4.7 Subject to all the conditions being met and the fees paid retrospective consent may be granted.
- 4.8 In the event of the Owner failing to cease work, or failing to meet the necessary requirements proposed by technical staff or Corporate Property Services, THH Leasehold Services will instruct their solicitors to commence legal action to seek an injunction to stop the work and have it made good.
- 4.9 Where an Owner does not comply with these requirements, for example, does not provide plans/diagrams or obtain planning permission; or has carried out work for which the LBTH/THH will not grant permission, and the leaseholder is resisting reinstatement; then legal action will commence towards forfeiture proceedings, through service of a S146 notice. For freeholders this will be by means of county court proceedings for breach of covenants.
- 4.10 Subject to these requirements being met, formal consent may be granted depending on the type of alterations in question.
- 4.11 Details and examples of which works may be allowed without landlord's permission, and which ones may need inspection or attract costs and fees, are provided in the THH Leaseholder Handbook. They are also available from the THH website and from LBTH/THH Leasehold Services.
- 4.12 Before final Landlord's Consent can be given all necessary permissions and conditions must have been complied with, all the fees relating to the request must have been paid and

the leaseholder's service charge account must be clear.

5 Changes in property sizes

5.1 There are a variety of ways in which this may happen including, but not limited to:

- Combining 2 neighbouring smaller properties into 1 larger property (known as a Knockthrough)
- Dividing one or more units into a larger number of smaller units. For example converting 1 x 5 bed maisonette into 2 x 3 bed flats

5.2 These requests will all fall within the definition of an alteration and so will be covered by all of the information set out in the preceding sections within the policy.

5.3 As with other improvements LBTH/THH will be minded to approve requests unless there are very clear and strong reasons to refuse. Alterations of this kind will often involve more major structural work so the amount of planning, the amount of work and the costs involved in securing all the necessary approvals will typically be higher. All of these costs will be borne by the Owner making the application.

5.4 Changes in configuration and/or size will often result in the need for a licence and/or an additional lease which will incur a fee for their preparation and may incur a premium for their issue (the leaseholder may have to pay to purchase the extra space).

5.5 If the outcome of an alteration is an increase in floor area this may result in an increase in the Gross Rateable Value for the property and hence an increase in service charge.

5.6 If an alteration results in a reduction in floor area there will be no decrease in the GRV and this will be formally acknowledged in any licence/lease issued. This is because any decrease in service charge collected would cause a corresponding increase for other tenants and leaseholders and it is not fair to expect other customers to subsidise an alteration made by one customer.