

BARBICAN RESIDENTIAL COMMITTEE

MONDAY, 17 JUNE 2019

NOT FOR PUBLICATION

By virtue of paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972.

23. HOUSING MANAGEMENT SYSTEM UPGRADE

Members considered a report of the Director of Community and Children's Services in respect of the Housing Management System. Members noted that the apportionment of the cost of the system was 2/3rd to the HRA and 1/3rd to the Barbican and that, for many years, the HRA had been subsidising the Barbican's usage.

Members noted that the upgrade was necessary as the existing system was becoming obsolete and would involve just the interfaces, with no customisation or changes to the package.

RESOLVED, that :

1. Option 2, as set out in the report, for proceeding to procurement and Gateway 5 be approved.
2. The total estimated cost of £320,000 be approved.
3. The estimated costed risks of £90,000 be approved.
4. The budget of £10,000 to reach the next Gateway be approved.

24. ENFORCEMENT ACTION

Members considered a report of the Director of Community and Children's Services, which considered the escalation of a dispute in respect of enforcement action taken by the Barbican Estate Office, against a resident who had fitted a wooden floor, and the decision of the Barbican Residential Committee, in January 2019, to not take further action. Since then the claimant had challenged the validity of the decision, as he said his original complaint had been about a breach of the Lease and not about noise disturbance.

The Chairman advised that he had supported drafting a further report to the Committee and had worked with the City Solicitor to present a fresh perspective to ensure the decision was given further consideration in light of the claimant's response to the original decision in January 2019.

During the discussion and questions the following points were noted:

1. The Lessee was technically in breach of their Lease, having installed wooden flooring, and despite the quality of the underlay used. However, in raising a subsequent complaint, the complainant confirmed that they had no issue

with sound transmission, just the fact that the Lessee was in breach of the Lease.

2. Counsel advised that; *'I do not consider the City would be successful in obtaining an order requiring the Lessee to remove the wooden flooring and, in its place, lay a carpet'* and accordingly if proceedings were taken it was likely the Court would simply grant a declaration that the Lessee was in breach and would not grant an injunction which was a discretionary remedy.
3. It was not relevant that the initial breach occurred prior to the change in the City of London Corporation's Enforcement Policy but Counsel advised that it might have some impact on the Court exercising its discretion.
4. The decision was based on Counsel's opinion and would have been the same if the breach had been after the change in the City Corporation's Enforcement Policy.
5. The decision in this case was fact specific and, in the future, each case would be judged on its merits and this case would not set a precedent.
6. Given the likely remedy, Counsel had advised that it was not in the best interests of service charge payers to take proceedings in this case, nor the Court's time in the City Corporation taking proceedings to endorse the Lease Covenants. In all other cases, it would depend on the specific facts of the case and the advice received from the Comptroller and City Solicitor.

In concluding the Chairman stressed, and Members agreed, that the Committee would take any future evidence of noise disturbance very seriously and each case would be judged on its own merits. Members felt they had given this case very serious and lengthy consideration, to both context and reasoning, on the two occasions they had received the report.

RESOLVED, that:

1. Having considered further representations from the affected lessee, the BRC agreed that no action should be taken to enforce the lease covenant to carpet the flat; and
2. The Director of Community and Children's Services be instructed to inform both the lessee and the complainant of the context and reasoning behind the Committee's decision.

25. **BLAKE TOWER**

The Assistant Director, Barbican and Property Services was heard in respect of the Estate Office's takeover of Blake Tower on 1st September 2019. Members noted that there had been some issues with Redrow's performance in responding to a number of outstanding issues and the Estate Office had sought to resolve this. However, having had some initial successes, more issues had come to light recently and there was a perception that Redrow were relying heavily on the warranty to resolve them.

The Chairman of the BRC had taken an active role in seeking to resolve this and had inspected the contract documents. Members noted that, if the City Corporation and Redrow were not able to reach agreement in resolving the issues, before the Estate took over Blake Tower, then in accordance with the contract arbitration proceedings could be commenced to resolve the outstanding issues. Members also noted that the Chairman had consulted the City Surveyor and there could be considerable costs to the City Corporation, should the City Corporation become liable for the cost of remedying the defects.

As the next meeting of the Committee was not until 16th September 2019, the Chairman asked Members to approve a delegated authority. Members suggested that, going forward, the City Corporation avoid being locked into handover dates and, instead insist on a set of conditions before agreeing to handover. In concluding, Members thanked the Chairman for his intervention and tenacity in this matter.

RESOLVED, that - authority be delegated to the Town Clerk, in consultation with the Chairman and Deputy Chairman of the BRC, to commence arbitration or other appropriate proceedings on the transfer claim in respect of Blake Tower, should this become necessary, in order to protect the City Corporation's position.

26. REPORT OF ACTION TAKEN

Members received a report of the Town Clerk in respect of action taken, under Urgency, by the Town Clerk and in consultation with the Chairman and Deputy Chairman, in accordance with Standing Order No. 41 in respect of Shelfcorp 59 Ltd, Barbican Laundrette (Lease Renewal).

Action taken:

The Town Clerk, in consultation with the Chairman and Deputy Chairman of the Barbican Residential Committee agreed that:

1. A new five year lease for the property be granted directly to Mr Marboth Kochak, rather than to the current tenant, on the terms and conditions listed above.
2. The Comptroller and City Solicitor be instructed to undertake any necessary documentation.
3. Any major changes to the proposed terms be delegated to the Town Clerk, in consultation with the Chairman and Deputy Chairman, with any minor changes delegated to the City Surveyor, in consultation with the Chamberlain for those of a financial nature.

RESOLVED, that – the report be noted.

Chairman

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The meeting ended at 3.35pm.