

Committees:	Dates:
Housing Management and Almshouses Sub Committee	28 November 2016
Subject: Middlesex Street Estate, Petticoat Tower Replacement of Windows and Balcony Doors	Public
Report of: Director of Community and Children's Services	For Decision

Summary

The purpose of this report is to advise Members on a funding issue that has arisen in relation to works to replace the windows and balcony doors to flats in Petticoat Tower on the Middlesex Street Estate and to seek confirmation from Members of its previous decision not to recharge long-leaseholders for this work.

Recommendations

The Sub Committee is asked to:

1. Consider and discuss the funding issue that has arisen in relation to the works to replace the windows and balcony doors to flats in Petticoat Tower on the Middlesex Street Estate.
2. Confirm its decision at its meeting on 26 September 2016, to proceed with the works and not to recharge long-leaseholders.

Main Report

Background

1. Back in 2010, the City carried out a planned programme of replacement windows to all properties (HRA and leasehold) on the Middlesex Street Estate. The programme was entirely funded from S106 monies received from Minerva PLC in relation to the development of Minerva Tower and no recharge was made to leaseholders for this work.
2. At the time, the City also had plans to carry out a wider sustainability project on the Middlesex Street Estate that included overcladding the existing concrete structure with a high energy efficient insulated wall cladding system. As a result of these plans, a decision was taken not to replace the balcony doors and screens to the flats in Petticoat Towers as these would effectively have been encapsulated as part of the overcladding works.
3. The City subsequently decided that the wider sustainability project on the Middlesex Street Estate would not go ahead, which meant that the balcony doors and screens to the flats in Petticoat Towers were not replaced but were left in their original condition.

4. The issue of replacing the balcony doors and screens to the flats in Petticoat Towers has remained contentious for some considerable time after the completion of the planned window replacement programme back in 2010. More recently, the issue has been compounded by a need for clarity on the extent of the City's repairing obligations under the terms of the long leases with particular regard to the balcony doors and screens. On 26 November 2015, the City formally sought the opinion of the Barrister, Jonathan Manning, on this matter.
5. Jonathan Manning's advice and opinion was eventually received on 13 May 2016. In relation to the balcony doors and screens, he concluded that:

"...the works in question are works of repair, within the landlord's repairing covenant, and they are also therefore within clause 4(3)(a) and (e) (i) of the lease. This means that I consider the costs of the works to be recoverable in principle (i.e. assuming that the procedural requirements for recovery have been or will be satisfied) from the leaseholders within the service charge provisions of the lease".

6. On the basis of the advice we now have from Jonathan Manning, we are now in a position to proceed with the long-outstanding replacement of the balcony doors and screens to the flats in Petticoat Towers.

Considerations

7. A legal challenge has been made by a long leaseholder relating to the potential apportionment of recoverable costs. The challenge has arisen as the original approach that was proposed for the Middlesex Street Sustainability Project was structured in such a way that leaseholders were not going to be recharged for this work.
8. At the time the windows to the properties were replaced some 6 years ago, the balcony doors and windows were priced at approximately £200,000. The cost of this work at that time would have been covered by the S106 funding from the Minerva Tower development and leaseholders would not have been required to contribute towards the cost.
9. The cost of replacing the balcony doors and windows today is estimated at £787,500. At its meeting on 26 September 2016, this Committee approved a Gateway 3/4 Options Appraisal to proceed to Gateway5.
10. It had originally been intended that the cost of replacing the balcony doors and windows to leaseholder properties would be met from the remainder of the S106 funding from the Minerva Tower development. Unfortunately, we have recently been advised that the S106 contributions for the double-glazing works were time limited to the fifth anniversary after the completion of the Minerva Tower development and the contributions were subsequently applied to the New Public Square Works.

11. In the absence of any further S106 funding, the full cost of the works of £787,500 will be borne by the Housing Revenue Account (HRA) including the cost of works to the leasehold properties.
12. The question for members is, in the absence of S106 funding, do you still stand by your previous decision to proceed with the works and not recharge long-leaseholders?
13. In reaching its previous decision, members took into account that it was the City of London's decision not to carry out this work back in 2010 and leaseholders will be particularly aggrieved if they are now required to contribute towards the cost of the works that they were originally told would not be rechargeable especially given the number of times they were told they would not be required to pay.
14. Members should also be aware that following its decision at its meeting on 26 September 2016, to proceed with the works, letters were sent out to all residents including long-leaseholders, who were advised of the Committee's decision not to recharge for these works.
15. It remains the view of the Departmental Leadership Team (DLT) that despite the changes in the funding arrangements for this work, the reasons behind the decision not to recharge leaseholders still remain valid. Indeed, it is highly likely that a legal challenge against a decision to require leaseholders to contribute to the cost of these works would be successful.

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