

# VHMC Cladding Update Meeting 16<sup>th</sup> November 2021

*Please refer to the PowerPoint Presentation for a record of the Introductions and Agenda.*

## Questions – Cherry, Holly & Elm

Questions Q1, Q2 and Q3 were to be posed to Maria Miller MP, who was unable to attend.

**Q1** – Is there a possibility that government will extend grant aid to cover essential work other than re-cladding e.g., balcony re-decking?

**A1**- Pending

**Q2** – If grant aid were to be extended could leaseholders claim back their costs retrospectively?

**A2**- Pending.

**Q3** – Can we be sure that cost escalation caused by contract delay will be fully met by Homes England?

**A3**- Pending.

**Q4** – What is the timeline for works?

**A4** – **Chris Kensitt** – We estimate the works to take 12months. The risks to that are related to Covid and to material supplies. We have been reassured by Stanlil that they are doing their best to keep to their program. We are working with them to firm up the program in more detail to define how long each block may take and for how long balconies will be inaccessible to residents. We will write to leaseholders and residents once the detail is known.

**Q5 (Paul)** - Will the temporary car parking spaces to replace the Elm undercroft need to move or change when works happen to the sides of the buildings they are near?

**A5 Sarah Morrisen** – No they will stay as they are.

**Q6 (Kathryn Ball)** - Will residents have to have their windows closed? If so how long for?

**A6** – **Chris Kensitt** – They will need to keep balcony doors closed. We will clarify the time periods.

**Q7 – (Sarah Mc)** – What happens if funding from the Government doesn't clear by January 2022? Will scaffolding be left in place if work is halted? Will leaseholders need to provide further funds?

**A7 - Martin Edge** – It would never be our intention to try to use leaseholders to fill a funding gap which subsequently is going to be filled by Government grant so No, we would not intend to ask leaseholders to try to fill that gap.

## **Questions – Birch and Fir**

**Q8** – Why has a Fire Risk Inspection been carried out on Birch and Fir when the Government guidance states there is no need to do so for buildings under 18 meters high?

**A8 – Sarah Morrison** “VHMC and Chaney’s were between a rock and a hard place with regards to this. In early 2021 mortgage lenders would not re-mortgage or buyers could not get a mortgage without an EWS1 form. Numerous leaseholders requested the EWS1 form. Chaney’s and VHMC decided to commission an EWS1 form for Birch and Fir. As a result we now know that both of the blocks do not reach the required standard. Meantime Government said to the major lenders that they should not be asking for the EWS1 form but it took time for this to be recognised. Now Mr Gove has said he is going to make a change, before Christmas 2021.”

**A8 - Karl Manners** of Hampshire Fire and Rescue comments. “We have a remit from the Secretary of State for housing to inspect every single high risk residential building in the County. It primarily focuses on buildings over 18 meters, I will explain why shortly, however, it’s not limited to buildings over 18 meters. We have inspected Birch and Fir in September 2021.

18 meters is a figure that has always been used in building regulations for the purposes of fire safety. It relates to the highest height that our ladders on our trucks can reach up a building to successfully gain entry for purpose of firefighting and rescuing people. The average height of a fire fighter’s service ladder is 11 meters and that was hi-lighted as part of the Grenfell Tower enquiry. So there has been a lot of discussion through fire and rescue services also through the introduction of Fire Safety Act and the Buildings Safety Bill around categorisation of high-rise buildings and what constitutes a high-risk building in respect of flats. We as a fire authority are the enforcing authority on these buildings. We will always look at fire risk regardless of height and that’s directly out of the advice note for building owners and it become apparent that we had issues over the 3 high rise blocks (Cherry Holly and Elm) and while we were inspecting those blocks we also carried out an audit of Birch and Fir.

Birch and Fir are inherently high risk due to the occupancy and the issue of access etc but it is significantly less than in Elm, Holly and Cherry due to the height and the fact that the cladding on Birch and Fir is on the top floor only so that means that the cladding and the risk of external fire spreading is unlikely to detriment the escape of residents who have to pass through a floor that is affected by the cladding. That being said, any risk of external fire spread should be suitably managed by the Responsible Person and that is a requirement of law post Grenfell through the Fire Safety Act.”

**Q9** - Why does the Fire Officer require remediation work which is not required by the County Fire and Rescue Service? Are these works really essential and who is mandating the requirements?

**A9 – Karl Manners** “This is a very simple answer. For the purposes of the Fire Safety Order the decision rests with the Responsible Person. The decision to take any action and apply appropriate control measures will always sit with the Responsible Person so from this point of view we just check compliance against the Fire Safety Order and we are satisfied that you have taken all reasonable steps to ensure the building is compliant and we are satisfied that the risk to residents in the event of fire is sufficiently low due to measures you have put in place.

**Q10 - Sarah Morrison** – “As the Responsible Person for Victory Hill Management Company / Chaney’s on behalf of who ultimately makes that choice, we get an EWS1 form for Birch and Fir that says the buildings are none compliant, where do we go with that? Who can actually say that there are

alternative measures? Are there alternatives to the replacement of cladding? What Mr Gove is going to decide in December is going to have a bearing on everything we are talking about right now, but at this time are there alternatives to the replacement of cladding at the cost of leaseholders?

**A10 - Chris Williams – Environmental Health** - “I did sent to you an excerpt of a letter that we received from (at the time MHGLC) from Lord Greenhausen the Minister of State for Building and Safety for our Community. We (the Council) had written to him and as Winterthur Way is not the only affected development in the borough, one of the questions he asked was about blocks under 18 meters. They did firstly reaffirm they did not need an EWS1 form but for blocks below 18 meters high which already have an EWS1 form it is worth quoting from the statement of a group of experts who strongly recommended that such assessments are reviewed to ensure solutions proposed are both effective and proportionate. In most cases in blocks of flats below 18 meters where fire safety risks are identified adequate levels of safety can be achieved for residents by implementing cost effective risk and mitigations such as smoke and fire detectors, alarms, quick means of escape sprinklers and smoke control measures. You could perhaps consider those rather than works to the cladding. I would suggest it would be for someone more qualified than me someone like Basil Jackson who is more qualified.”

**A10 - Basil Jackson – Fire Officer** makes three points.

“First, making 18 meters a magic number (as Government has done) is not helpful. Legislation now says for any building above 18 meters the external walls of those buildings must be made from non-combustible materials. However, whether a building is above or below 18 meters does not make it safe or unsafe. Factors such as the number of escape routes and the extent to which cladding is surrounding a building are important. So also is the extent to which combustible insulation might be used within the external wall and any lack of cavity barriers. If you have cavity barriers around each flat it means that hot smoke can travel around the building.

The second thing to put across is that I (the Fire Officer) do not drive the EWS1 forms. If I sign off an EWS1 form I am effectively saying that this building meets the Government’s requirements and people should get out of that building with their lives. If I happen to be wrong that is a huge risk that I am taking onto my company’s P.I. Therefore just because the building is below 18 meters does not automatically mean it is safe or low risk.

Thirdly, in my professional view the risks associated with Birch and Fir are significantly lower than many blocks I have surveyed elsewhere and certainly very much lower than Grenfell Tower itself. In some other cases I have written a document that talks through the specific risks in a comparative way. A leaseholder may use this document to negotiate with his valuer/lender and in may be helpful. I would be willing to produce such a document for Birch/Fir if the Responsible Person so requests (for a fee).”

**Q11 - Martin Edge – Chair, VHMC.** “Thank you to Karl, Basil and Chris for those explanations which are very useful and very helpful. However, I am still not clear on the mismatch between providing a relatively safe environment and the commercial requirement driven by the lenders companies and agencies (the EWS1 form).”

**A11 - Karl Manners** – “I can clarify: the requirements that we set down in the Fire Safety Order are solely focused on risk to life within the premises and reducing that risk to life to an acceptable tolerable standard for example through waking watch, alarm systems and sprinklers etc. The insurers and lenders take a more holistic view in terms of the potential cost to them of an occurrence that will result in significant loss or damage. “

**Q12** – What action should VHMC and Birch/Fir leaseholders take now? Will the Fir/Birch work be put on hold until Michael Gove establishes what will happen with the buildings below 18 meters?

**A12 – Sarah Morrisen** – “Yes this is what will happen, until we know what is going on nothing further will happen.”

**Q13** – The blocks managed by Sovereign that are of the same design as Birch and Fir have not been replaced? Does the council have an exemption or reason they are not being assessed?

**A13 - Chris Williams – Environmental Health** – “I will query that with Sovereign. There is no requirement from Government to do that.”

**Q14** – Do all of the leaseholders of flats in the UK under 18 meters (like this built from 2004) need to replace cavity walls and balconies at their own cost?

**A14 – Sarah Morrisen** – “We can only comment on our stock so we cannot really answer that.”

**Q15** - Developers like Rialto (the builder here) create multiple legal entities deliberately to protect from liability. They continue to trade as Rialto Home Ltd, Rialto Properties Ltd & Beverley Homes Ltd. Yet are somehow absolved from any legal responsibilities for this estate. Could we consider changing the law to protect homeowners and leaseholders from practices such as these and pursue those responsible.

**A15 – Sarah Morrisen** – “This is a question for Maria Miller.”

**Q16** - Was the EWS1 current at the time of construction, or has it been published since?

**A16 – Sarah Morrisen** – “No it’s a new thing that has come in since Grenfell.”

**Q17** - In the event of a government loan scheme being available, with a proposed £50pm repayment liability, presumably the debt and liability would follow the leaseholder, (i.e.: would change hands with the lease). Is this presumption correct?

**A17 – Sarah Morrisen** – “Yes, as far as we understand it is correct.”

**Q18 – (David Tulloch)** Can I ask what a fire stop is? Does that need to be installed within cavity walls or just on cladding panels? Thanks.

**A18 - Basil Jackson** – “The way that we design buildings where we have multi storey residential occupation is by what we call compartmentalisation. We put each individual flat into its own compartment: that means we surround it with fire-resistant material to ensure that not only fire but hot gases like smoke cannot find its way out of the box and into a compartment that is not in fire. This is a really important principle, and it is the principle on which the stay-put policy is built because residential properties are very different to an office - which might also be multi storey - but the difference with an office is that everybody there is awake. Nobody is sleeping in the office and when the alarm goes off everybody gets out of the building. In a residential building some people could be asleep day or night in their flat and what must not be able to happen is if I am in a flat below yours if my flat is on fire you should be able to be asleep in your flat and not have to evacuate your flat just because mine is on fire. That only works if my flat is completely surrounded by fire resisting material.

Concrete slab floors and fireboard-lined walls and fire doors for example are effective. But we can face difficulty with the external walls. If it is a cavity wall it effectively forms a chimney that becomes a conduit for flames and smoke. Smoke is incredibly dangerous because it can kill someone even before the flames do. Therefore what I need to do is to make sure that the inside of those cavity walls are stopped off so that we trap the smoke so it does not enter neighbouring flats.”

**A18 - Karl Manners** – “Audible Fire Alarms are indeed supposed to wake sleeping people. The standard installed fire alarm system in high rise residential buildings (bearing in mind that the overall strategy is for the residents to stay in their flats) is what we call a Part 6 system. Basically it will only have sounders at and alarms in the individual flats. The only time you would have an alarm in the communal areas is if there would be simultaneous evacuation in place such as in Cherry, Holly and Elm. The requirements differ depending the evacuation strategy.

Cherry, Holly and Elm have an evacuation policy for the two top floors effected by cladding hence why they have a linked fire system every other block has a stay in place and it has been deemed that Birch & Fir despite the non-compliant EWS1 form do not need an evacuation policy put in place.”

**Q19 – (Josh Drew and Judy Cant)** - What is the cost of the remedial work for Fir block?

**A19 - Sarah Morrisen** – “At the moment we are not in a position to say.”

**Basil Jackson – Summary.** “Birch and Fir carry lower risk than many blocks I have seen. But I do have concerns about parts of the building so I don’t want you to go away thinking that I believe that the risk is at an acceptable level. The top floor does not have vertical cavity barriers to stop smoke getting into the neighbouring flats. Then we have a rubber mansard material on the outside of the building which I know will produce copious amounts of smoke if a fire did start in one of those penthouse flats.”

**Karl Manners – Summary.** “I agree with Basil. We have carried out formal enforcement action on some blocks recently where the risk is so high that we feel uncomfortable with leaving that risk as it is. On the other hand there are high rise buildings that are safe because measures have been put in. So it is very difficult to identify the risk and actually the process is through the fire risk assessment and the emergency strategy for the building. We look at all the measures holistically so you cannot just say “in this type of building a domestic dwelling carries this amount of risk”, or “a low-rise block carries this amount of risk and a high-rise block carries that amount of risk”. You have to take what reasonable measures we would expect in a low-rise block, assess those measures and assess the understanding of the Responsible Person. Then we will make an assessment of the risk to life and if the answer is Yes it’s a satisfactory audit and we move on to our next building. If the answer is No then we need to make sure that the Responsible Person owns that risk and they have to take reasonable steps to understand and mitigate that risk. It is Basil’s role is within this project is to give you the understanding of the level of risk within that building.

As for the under-18 meter rule, the Government has to start somewhere and post-Grenfell the initial target was all focused around ACM clad buildings: ACM is the highest most flammable cladding - the same type that was found on Grenfell. When they reviewed the building risk review in terms of phase two they then extended that to high pressure laminate cladding and other types and also

increased the scope to consider that buildings below 11 meters with this type of cladding may still carry a significant risk. Specifically, regarding the audit that we have done on Birch and Fir, we have talked to you about that, we have looked at your fire risk assessment we have looked at your plans and strategies for managing risk and we are content that you have taken reasonable steps to reduce risk. As part of that we also look at what if a fire was to start in that building and as Basil mentioned earlier yes there are issues but ultimately would a risk of fire externally cause one or more people to become trapped or unable to escape? The answer is that is probably unlikely due to the fact it is only on the top storey of the building and there are other measures in place to mitigate. However, that's why things like the EWS1 are important because part of that survey will examine intrusively the compartmentation that Basil talked about and it will look at the risk in a way that the auditors cannot do. We have all got to work together to understand the risk, to manage that risk and to make sure that you as a company comply with the relevant legislation."