

# The Element, Newhaven, Owners Association Committee

Minutes of Meeting 22<sup>nd</sup> January, 2020

7.00pm at 33/9 Western Harbour View

**Present:** Rodney Matthews (RM—Chairman), Ken Webb (KW—Secretary), Jane Brook (JB), Evan Simpson (ES), Alastair Byres (AB), Martyna Adamowicz-Brice (MA)

**Apologies:** none

## 1. Minutes of last meeting

The minutes of the last meeting were passed as being an accurate record. However, we have been advised that the correct terminology for Item 2c should be Cladding and Fire Barriers. The text will be amended accordingly and that terminology applied to this issue from now on.

## 2. Matters arising (*not dealt with elsewhere*)

a) TEF report (2)

- 2.f) AB pointed out that 20 courtyard lamps are still not working.
- 2.g) NHBC claim: nothing about legal costs and timescales has been reported.

**ACTION:** AB to raise these points at meeting with TEF tomorrow

b) Complaint (3): KW and JB reported that the meeting with the complainant mentioned in last minutes had been constructive and helpful. RM agreed to send an appropriate written response to the complainant. Out of this has come the draft complaints procedure, the idea of having an internal communications protocol and giving certain committee members specific responsibilities to monitor specific issues that TEF are dealing with. The complainant also wanted us to remove appendix 3 of the constitution, or at least remove the last paragraph, since it could be interpreted as creating too close a relationship between the Factors and TENOA. All of these matters have been included in item 6 of the agenda.

## 3. Main Item: Cladding and Fire barriers

Vertex is unable or unwilling to do any remedial work required and to be responsible for underwriting their work. TEF have been actively searching for companies that are qualified to undertake a fresh assessment of the cladding and Fire barriers to meet the current requirements set by the Scottish Government. Unfortunately there are only a few for the whole of the U.K. To date only one company has been willing to come forward with a quote, CBRE Limited. The amount they have quoted for the commissioned works only amounts to £66,000 excluding VAT. Any any plant hire, removal of panels and re instatement will be an additional cost. The Committee spent time considering this proposal and felt that this was an unreasonable cost, particularly as there would be no guarantee that this work would meet the requirements of the newly issued guidelines. There are a number of questions they want to ask TEF relating to this at tomorrow's meeting with them. These will be dealt with in the appendix note of that meeting.

**4. Secretary's Update (KW):** There has been no change in membership to report since last meeting. Website management is still an issue.

## 5. TEF Update

- a) CRA 2016 report: JS ( of Baltic Solutions) had circulated an update on progress in dealing with urgent tasks that this report had highlighted. However AB pointed out that not all of them were mentioned. **ACTION:** AB to question TEF at tomorrow's meeting.
- b) TEF Jan 20 Finance report (previously circulated): An apparent mistake in one of the sheets was noted and will be pointed out to TEF at the meeting tomorrow. **ACTON:** AB
- c) TEF complaint against owner: Marc Myburgh had sent a complaint against an owner who had bought a property formerly managed by Ocean Apartments for the previous owner. The

new owner, who is not a member of TENOA and has already defaulted on his fees, had used offensive and abusive language against an employee of Ocean Apartments. The cause of his complaint had been a water leak from within his own apartment, which the owner, not TEF, are responsible for. MM asked the committee to take some action in response. Whilst the committee fully sympathise with the person who suffered this abuse, since this owner is not a member of TENOA, the committee are powerless to do anything about it. Defaulting of payment of fees, which is a statutory obligation under the title deeds, is a matter they can take up by legal action if necessary.

## 6. TENOA matters

- a) Complaints procedure: A draft complaints procedure, which had previously been circulated, was discussed. An amendment was suggested and agreed. The amended text will, in due course, be published on the website.
- b) Committee Internal Communications protocol: As a result of the meeting with the complainant mentioned above, JB had some suggestions of ways to improve internal communications within the committee. She will circulate the draft document and the committee agreed to deal with it at the next meeting.
- c) Portfolios for committee members: In order to make sure that the committee are doing their job so far as monitoring the work of our Factors is concerned, it was agreed that it would help if specific committee members take on the responsibility to monitor specific matters such as finance and Fire Safety. *ACTION: For the time being, AB agreed to keep an eye on both the TEF accounts and Critical Risk Issues, including Fire Safety.*
- d) Appendix 3 in the constitution: RM pointed out that we had been legally advised to include this by the solicitors who drew up the constitution for us. The committee accepted the fact that it does not have the right nor would recommend a change to the Appendix. Any member who wants to amend the constitution, including its appendices, can refer to the constitution as it stands, where the procedure is outlined. To pass, it would be necessary, according to the constitution, for 75% of voting members to be in favour of the change at an AGM or EGM.
- e) Increasing committee members: KW said finding and coopting people onto the committee is a priority if we are to be able to hand over responsibilities to others when the time comes for the current members of the committee to stand down. It is unwise to have too many standing down at once. We also need new members so that the work load can be spread evenly. And the next chairperson will have to be someone who already has experience of how the committee operates. *ACTION: all need to speak with others encouraging them to consider coming onto the committee. We will bring this to the attention of owners at the TEF Open Doors event in March. RM & KW*

**7. AOCB:** none raised

**8. Date of next meeting:** 25th March (*check it does not clash when TEF Open Doors*)

## Appendix: Note of follow up meeting with TEF on 23/10/2012

**Present:** Committee—RM, KW, AB & ES; TEF— Marc Myburgh & Jakub Swidzinski

### 1. Matters Arising TEF report (2)

- a) 2.f) Courtyard lamps and car park lights still not working. Water ingress into the carpark from garden courtyard is causing fuses to go regularly. So to remedy this TEF have to remedy the cause. The issue of water ingress into the car park was supposed to be covered by NHBC (about which more was said later). **Action:** Meanwhile TEF are waiting for Lamp Force to come back with suggestions as to where it might be possible to relocate lights in Car Park. Some courtyard lights can be repaired before the NHC claim is finalised.
- b) 2.g) NHBC claim: nothing about legal costs and timescales has been reported. TEF are waiting for the outcome of an appeal process, since the sum of money offered was only for the work that needed to be done to remedy water ingress into the car park and not for other

outstanding issues. In point of fact the sum of money offered to remedy water ingress into the basement car park was much less than it would cost to remedy, according to estimates that TEF have obtained. Hence the claim is still open, but TEF anticipate that the inspection of the final flats will be completed by end February. Whilst further delay over this longstanding issue is regrettable, the Committee members present agreed that it would not be appropriate to pursue a legal case against NHBC whilst the matter is still open.

## **2. Cladding and Fire barriers (3 above)**

- MM confirmed that Vertex are unwilling to do any remedial work required and to be responsible for underwriting that. This is because the government have changed their parameters as to who and what is required. The UK Government have recently issued a new UK wide form, ERS 1, with less stringent demands, that supersedes the BR 135. They have made the point that it is not the responsibility of the Factors to get any property tested and to fill in the ERS 1 form. It lies with the individual property owner to commission a qualified company to undertake the testing. But, given that our properties are all linked in the one development it makes sense for our Factors to do this on our behalf. TEF are thus doing far more than they are required to do. Indeed our development is far more advanced in dealing with this matter than others are.
- TEF have been informed about other companies that are qualified and prepared to do this work from referrals from Façade engineers, IQ fire and safety, and a Legal firm.
- TEF have contacted a number of companies. So far only one quote, that of CBRE Limited, has submitted. They believe the amount quoted for the work is excessive. TEF are chasing up Warrington Fire to get another quote.
- At the moment we understand that RICS and mortgage brokers/companies will accept the new ERS 1 form if the property passes the inspection.
- TEF have been in touch with the Property Managers Association Scotland to seek their advice/opinion on this issue, though they are not yet members. But they have had no further update. They are, however, meeting F3 surveyors tomorrow to discuss the option of the EWS1 form.
- TEF already making sure that everything is being done to satisfy the criteria the Insurance Company may have to renew the buildings insurance when the time comes in May 2020
- Member of the TENOA committee are satisfied that TEF are doing all they can to address this issue.

## **3. Update on actions to address issues in the F3 Critical Risk Assessment report of 2016**

JS went through the report he had presented. AB pointed out that not all of the 73 issues identified in the report as needing urgent attention were mentioned. JS pointed out that, prior to the Grenfell Tower fire, items were being dealt with in order of priority within the budgetary limits they were given by members at a previous AGM. But since the matter of cladding and fire barriers has become so important it has overtaken all of the other issues as a matter of priority. JS agreed to produce a report that took the list of urgent issues to be addressed in the original report and add a column with a brief note of progress to each one. Some matters are being dealt with on an as need basis, i.e. when something goes wrong you fix it, rather than doing everything at once.