

## Draft Minutes of the Highgate New Town Leaseholders Association

### General Meeting April 12th 2023

Clare Lucraft chaired the meeting, commencing at 7.30pm. It finished at 9.30pm

Apologies: Written apologies had been received before the meeting from Tara Crème, Matt Devereaux, Ian McKay, Asila Elshami, Colin Jacobson, and David Thompson.

1 **Minutes** It was agreed that minutes from the Annual General Meeting of 18 01 2023, previously circulated by email, were accepted.

2 **Matters arising** None was raised.

3 **FOI request** This was rejected by Camden on the grounds that it would be too time-consuming for the council to gather the information requested. It was noted, however, that a previous FOI request about the repair call-outs on the estate had been granted that had asked for information over a longer time span than this current FOI request had. The refusal was put in the context of Camden stone-walling in response to other communications, such as the non-response to an invitation to Max Fordham, Gavin Haynes, and Meric Apak to a session with tenants and leaseholders to answer questions about the Max Fordham report. Members felt that the FOI refusal was more to do with the fact that we have a strong legal case in respect of the heating and hot water (H/HW) system's being substandard. A member asked whether or not the local councillors were being proactive at present. The members agreed we should write to the councillors and request a meeting. (Action: Sue Dawson and Chair of Whittington Estate Residents Association.)

4 **Max Fordham Report** It was clear from this report that the system needed a lot of repair/improvement to bring it up to standard.

It was agreed that this is an estate-wide problem, affecting tenants and leaseholders.

It appeared from the discussion that breakdowns occurred in 'hotspots': some residents had few problems, others had constant problems.

It appeared from the content of the report that Camden had not provided Max Fordham with all the information that would have been useful, such as drawings of the rising water main distribution on the site. The members noted that the report said that the heating and hot water system extended to 353 properties arranged in 10 low-rise blocks. A discussion followed about whether the authors of the report were aware that it included Dartmouth Park Hill (DPH), Doynton Street, and Colva Walk properties.

(Post-meeting comment: addresses on DPH, Doynton Street and Colva Walk are included in a recently circulated list of the properties in Highgate New Town where work is being done on their heat meters. This suggests that they are part of the same H/HW works as the properties on the Whittington Estate.) Some members stated that they had not received a copy of the Max Fordham report, which had been circulated to everyone on the list. The secretary agreed to re-send one to anyone who wrote to him and requested it.

5 **Legal Advice** HNTLA has received legal advice from BPP legal advice clinic. The advice concerned, among other things:

- The grounds and likely success of a case HNTLA might make at a First Tier Tribunal
- The alternative approach of arriving at a settlement agreement with Camden

- The position of those with unpaid invoices facing County Court action brought by Camden

BPP's advice letter stated that there is good evidence (from Camden and Max Fordham) that the system does not perform properly. Residents 'have a good arguable case for a reduction in the service charge paid for the installation of the heating system'.

Both those who have paid and those who have not paid the service charge are potentially eligible for a reduction in service charges under the terms of the Landlord and Tenant Act (1985). Such a reduction could, however, be claimed only by those who had paid the service charge themselves, not by those who had bought flats from vendors who previously paid the service charge.

Residents withholding payment 'may not be able to bring action under clause 4.2.3' of their leases, which sets out Camden's responsibility as the Landlord to maintain, repair, and renew the boilers.

Some members saw an inconsistency in the advice regarding eligibility for a refund of those withholding payments and the barrier to bringing action under the relevant term of the lease. The secretary offered to send a copy of the legal advice to anyone who requested one in order to check it for themselves.

For those who bring a claim for a reduction in their service charge to the First Tier Tribunal, the risk of having Camden's costs awarded against them even if they lost the case is 'low'. The situation is different for those facing County Court proceedings in which Camden is seeking to recover unpaid shares of the service charge allocated for the installation of the heat and hot water system. It is possible that they will be charged for Camden's costs.

BPP recommended that to bring a Tribunal case against Camden, HNTLA ought to commission its own expert report, and it also advised HNTLA that we would need to instruct a barrister to represent us at a final hearing. The meeting contemplated what those professional fees might amount to.

A limitation of a First Tier Tribunal is that it could not accept or police an undertaking from the Landlord, Camden. That means that a First Tier Tribunal's effective scope concerned the costs of the H/HW system, not Camden's responsibility to repair and maintain the system, which the AGM had agreed was a priority.

An alternative to a First Tier Tribunal case is to come to a settlement agreement with Camden, for which one possible forum would be the "Alternative Dispute Resolution" (ADR) process discussed at the January 2023 AGM. The possible scope of such a negotiated agreement is not limited in the way that the jurisdiction of a First Tier Tribunal is. However, Camden would have to agree voluntarily to enter ADR, whereas HNTLA alone could elect to bring a case at a First Tier Tribunal.

Advice from the Leasehold Advisory Service indicated that ADR could cost between £500 and £5,000.

The BPP advice covered a third alternative: for individuals to defend an action initiated by Camden at the County Court; or to apply to the Court to have the case transferred to a First Tier Tribunal. There was discussion about the merits and risks of whether or not to begin paying the H/HW charges in order to avoid Camden's taking court action. There was also discussion about individuals' choices about Camden's lawyers' communications about a Consent Order. Some members felt that it was the safest option to begin payment; others stated they would not pay until their system was working properly.

**Action** In line with the action agreed under Agenda Item 1, request a meeting with Max Fordham, Camden, Estate Manager and Gem. Invite councillors to use their good offices to try to facilitate such a meeting. Try to ensure that the right personnel are present, i.e., those who can take responsibility and agree action.

This meeting should be attended by representatives of tenants and leaseholders rather than an invite to all. As a focus for the meeting, HNTLA's Committee will draft an agenda including:

- What is the timescale for remedial works
- what is the benchmark
- when are repairs going to be finished
- who is going to do the work
- who is going to monitor and test the work
- who is paying for it
- has Camden accepted the Max Fordham report and its recommendations?

6 **Next Steps** Tribunals and ADR were discussed. It was decided to try and arrange a meeting first. (See Items 1 & 5, above.)

It was agreed to compile a guide to the relevant people in Camden and GEM as a resource. The meeting noted that there was currently a reorganisation going on at Camden so existing organisational charts were likely to be superseded.

It was decided that HNTLA would be guided by whatever decisions are made at the next general meeting, whether or not it is quorate.

7 **Service Charges /Heat meters** some heat meters have been activated, some not. Camden has stated that until a large majority of meters are activated individual charging cannot begin. Charges have gone up substantially. HNTLA, with the endorsement of the Camden Leaseholders Forum, has:

- Suggested that individualised charging could be based on a substantial part-year record of heat meter readings rather than requiring a full year of readings;
- Questioned why individualised apportionment of charges had to follow the activation of a large majority of heat meters on the estate;
- Written to Camden to ask them to reduce their management charge (10% of the total Service Charge) as massive increases in heating and insurance gmt.have resulted in "windfall" increases in the management fee.

**Action** Ask Camden how many heat meters have been activated. (Post-meeting comment: HNTLA has now received a spreadsheet, circulated with these minutes, showing which meters are being activated.)

8 **AOB** None was raised.

9 **Next meeting** Date to be decided following request to meet MF and Camden.