

**SOUTHERN RENT ASSESSMENT PANEL**  
**LEASEHOLD VALUATION TRIBUNAL**

**Landlord & Tenant Act 1985 : Sections 27A and 20C (As Amended)**

**Tribunal**

P R Boardman MA LLB  
J B Tarling MCMI  
R A Potter FRICS

**Hearing**

3 and 4 August 2004  
Bourne Hall, Ewell, Surrey

**Case No. CHI/43UC/LSC/2003/0005 and Case No. CHI/43UC/NSP/2002/0004**

**Property :** Blocks of Flats at The Longmead Estate, Epsom, Surrey:

1-8 Teddington Close  
9-17 Teddington Close,  
18-25 Teddington Close,  
26-33 Teddington Close  
55-69 Nimbus Road  
1-12 Donovan Close  
117-139 Hollymoor Lane

("the Premises")

**BETWEEN**

**ROSEBERY HOUSING ASSOCIATION**

("the Applicant/Landlord")

and

**Mr R. RAPSON and others**

("the Respondent/Leaseholders")

**Appearances**

Applicant/Landlord : Mr J Manning, Counsel

Respondent/Leaseholders : Mr R Bhose, Counsel

**Introduction**

1. This is a consolidated application, namely :
  - a. a first application dated the 31 October 2002 ("the first application") under Section 19(2B) of the Landlord & Tenant Act 1985 as amended ("the 1985 Act") by the Applicant/Landlord, Rosebery Housing Association, for the Tribunal to determine the reasonableness of the standards and specification of works and the amount payable before costs are incurred, for the purposes of taking those costs into account in determining the amount of service charges payable by the Respondent/Leaseholders
  - b. a second application dated the 9 December 2003 ("the second application") under section 27A of the 1985 Act by the Applicant/Landlord for the tribunal to decide :
    - i. whether the proposed replacement of the current flat roofs to the Premises with new pitched roofs, constitutes a repair within the meaning of paragraph 2 of part I of the Seventh Schedule to the leases

- ii further or alternatively, whether such works would be recoverable under paragraph 2(a)(ii) of the Sixth Schedule to the leases
2. The proposed works relate to 9 blocks ("the Blocks") of 3-storey flats. 2 of the Blocks, namely Middleton Road and Eleanor Avenue, are not occupied by leasehold owners, and are accordingly not the subject of this application
3. The Leaseholders are the owners of the 25 flats ("the Flats") listed at Appendix A to the first application
4. On the 22 April 2003 and the 25 March 2004 the Tribunal held pre-trial review hearings.
5. The substantive hearing of the application took place on the 3 and 4 August 2004. In accordance with directions given at the end of that hearing, the Applicant/ Landlord submitted a tabular analysis of the various costings with comments by the Respondent/Leaseholders. A copy of that analysis is attached to these reasons.
6. The definition of "service charge" for the purposes of the 1985 Act has been extended by paragraph 7 of Schedule 9 to the Commonhold and Leasehold Reform Act 2002 ("CLARA 2002") to mean an amount payable not only for services, repairs, maintenance, or insurance or the landlord's costs of management, but also now for improvements. In relation to costs not yet incurred, the Tribunal has jurisdiction to consider improvements as elements of a service charge where the relevant lease so allows, even in relation to applications made before the 30 September 2003 by virtue of Article 2 (c) and paragraph 2 of Schedule 2 to the CLARA 2002 (Commencement No. 2 and Savings) (England) Order 2003

#### **Inspection**

7. For the purposes of this application the parties agreed that the roofs in all the Blocks required repair, and that it was unnecessary for the Tribunal to inspect any of the Blocks or the Flats. The Tribunal has not carried out an inspection accordingly.

#### **The Issues**

8. The parties agree that the Flats are held on leases in similar terms to the lease at pages 40 to 66 of the trial bundle, except in the case of Flat 31 Teddington Close, and except that some of the Blocks ("T-type") contain 8 Flats, and others ("H-type") 12 Flats, so that the service charge percentages within the Sixth Schedule differ among the Flats as set out later in these reasons; that the leases were originally granted by The Council of the Borough of Epsom and Ewell; and that they were all originally "right-to-buy" leases.
9. The parties also agree that in relation to 12 and 31 Teddington Close, the Applicant/Landlord's ability to recover service charges is limited by the notices served under section 125 of the Housing Act 1985 at pages 71 to 78 of the trial bundle.
10. For the purposes of the Application the material parts of the leases, other than the lease for Flat 31 Teddington Close, are as follows :

#### ***"2. The Lessee HEREBY COVENANTS with the Council as follows :-***

- (a) *to pay the Service Charge as defined in and in the manner and at the times more particularly referred to in the Sixth Schedule hereto*

#### ***3. The Council HEREBY COVENANTS with the lessee as follows :-***

- (a) *to perform and observe the covenants set out in Column [sic] 1 of the Seventh Schedule hereto subject*
- (b) *to the payment by the Lessee of the Service Charge*

**Second Schedule : the Property**

*The Building together with its gardens and grounds and other appurtenances situate at and known as [the relevant Block]*

**Third Schedule : the Flat**

- (2) *The Flat includes the following.*
- (a) *The joists below the floors of the Flat comprised therein and the ceiling above such Flat but not the joists above the same (and it also includes the surface of the balcony)*
  - (b) *The walls, party walls and services so used by the Flat*

**Fourth Schedule**

**Part II : Rights Excepted and Reserved**

- (4)(a) *the right to build and erect new buildings of any nature or rebuild or alter or extend any existing building on the Estate or on any existing building on the Estate or on any adjacent or neighbouring land in any manner whatsoever and to let the same for any purpose or otherwise deal therewith notwithstanding the light or air to the Flat is in any such case thereby diminished or any other liberty, easement right or advantage belonging to the Lessee is thereby diminished or prejudicially affected*

**Sixth Schedule Part I : the Service Charge**

- (1) *The lessee shall pay or contribute [the relevant percentage] of the Council's expenses set out in Part I of the Seventh Schedule hereto and of the Council's expenses set out in part II of the said Seventh Schedule...*
- (2) (a) *The lessee shall further pay or contribute a reasonable proportion of the expenses of the following :*
- (i)....
  - (ii) *the provision of any service for the benefit of the Flat and the other flats or of any installation of any other thing for the benefit of the Property or the undertaking of any matter which in the reasonable opinion of the Council is necessary or desirable for the proper repair maintenance management or administration of the Property*
- (b)....
- (c)*for the avoidance of doubt it is agreed and declared that the Council shall be entitled to employ any architect, surveyor, solicitor, accountant, contractor, builder, gardener and any other person, firm or company to carry out or undertake any matters provided for in this Lease to be done or which may be done by the Council and that the cost of so doing shall be part of the expense thereof*
- (d) *The amount of the reasonable proportion aforesaid shall be determined by the proper officer of the Council or its Managing Agents*

**Seventh Schedule : Landlord's Obligations**

**Part I**

**The Property**

## 2 : Repair

(a) *The Council will keep the following parts of the Property in repair :-*

*(i) the structure and exterior of the Flat and of the Property (including drains, gutters and external pipes) and or make good any defect affecting that structure and in particular (but without limiting the generality of the foregoing) the Council will repair the roof (including the joists above the top floor) the foundations and all load bearing walls (excluding the exterior faces covering or lining thereof) of the Property*

6 *The Council shall be entitled to*

*(a) employ competent and reputable managing agents for the purposes of managing and conducting the management of the property*

*(b) delegate all or any of their obligations hereunder to any person, firm or company whose business it is to undertake such obligations and the Council shall be entitled to do the things referred to in this paragraph*

*(c) for the avoidance of doubt it is agreed and declared that the council shall be entitled to employ any architect, surveyor, solicitor, accountant, contractor, builder, gardener and any other person, firm or company to carry out or undertake any matters provided for by this Lease to be done or which may be done by the Council and that the cost of so doing shall be part of the expense thereof"*

11. The Parties agree that the specified percentage of the contribution referred to in the Sixth Schedule paragraph (1) varies between the Flats : 139 Hollymoor Lane contributes 25%; 2, 3 & 11 Donovan Close and 125 Hollymoor Lane contribute 8.33%; and the rest of the Flats contribute 12.5%
12. The parties agree that the existing roofs are flat roofs covered with (in general) felt membrane roof "systems", and that all the existing roof coverings need repair, except in the case of Middleton Road, which had its roof replaced some 10 years ago, but which, despite references to it in the trial bundle before the Tribunal, is not part of the Premises which are the subject of this application.
13. The parties agree that, in principle, works of repair fall within the provisions of the Seventh Schedule to the leases, whereas works of improvement do not.
14. The parties agree that if patch repairs were to be undertaken to the existing flat roofs, or if liquid seal coatings were applied to the roof coverings, or if the flat roofs were to be replaced with new flat roof coverings then such repairs or replacement would, in principle, and if required to remedy existing defects, fall within the Seventh Schedule to the leases.
15. However, the works proposed by the Landlord are to replace the roof covering on each Block with a pitched roof.
16. The Applicant/Landlord submits that the works proposed are necessary, and are works of repair, and fall within the provisions of the Seventh Schedule, or, alternatively, within the provisions of the Sixth Schedule, to the leases.
17. The Respondent/Leaseholders submit that there is no evidence that any of the roofs need replacement, even with new flat roofs, and that, in any event, even if any of the roofs do need replacement, the proposed works, being replacement not with flat roofs but with pitched roofs, are works of improvement, and do not fall within the provisions of either the Seventh or the Sixth Schedule.

## Evidence

18. The evidence of Michael Mahoney on behalf of the Applicant/Landlord comprises his Statements dated the 16 April 2004 and 26 July 2004, and his oral evidence before the Tribunal.
19. The evidence of Richard Nimse on behalf of the Respondent/Leaseholders comprises his Statement dated the 14 July 2004, and his oral evidence before the Tribunal.
20. Mr Mahoney's evidence is that he is the Applicant/Landlord's Property Services Manager; that the report of John Soper, the Applicant/Landlord's former in-house surveyor, is at pages 79 to 87 of the trial bundle; that all the roofs of the Premises were installed about 20 years ago; that they have all exceeded their design life of 10 to 15 years; that

patch repairs have been undertaken for some time due to complaints of leaks, but have failed to stop the continued failures of the roofs' surfaces, causing penetrating dampness into the building; that Mr Soper's report stated that the life of a new pitched roof could be expected to be about 60 years, whereas the life of a new flat roof would be about 20 years, so that within the life of one pitched roof a new flat roof would need to be replaced twice more; that the cost of pitched roofs would be about £187,526 more expensive initially, but that savings over the projected 60-year lives of the pitched roofs would be about £500,000; that, even over a much shorter time of 25-30 years, flat roofs for each Block would require replacement in about 20 years time, and would require higher levels of maintenance in the meantime than a pitched roof; that it is likely that the installation of new flat roofs would require replacement of the internal downpipes, whereas with pitched roofs new rainwater guttering would be fitted externally to the roof edges; that pitched roofs would therefore entail less disruption to tenants and leaseholders; that pitched roofs would have higher thermal values; that pitched roofs would involve higher initial costs to the leaseholders under the service charge, but that in the longer term the costs would be considerably lower and cheaper; and that the estimated cost of installing pitched roofs, according to the letter from Welling Partnership dated the 15 May 2004 at pages 140 to 144 of the trial bundle, would be between £627,239 (if each Block were carried out as a separate contract) and £501,239 (if all Blocks were carried out in one contract, and if other stated savings were made).

21. Mr Nimse's evidence is that he is the Secretary of the Longmead Leaseholders Association, which represents all of the Respondent/leaseholders, except the leaseholders of 31 Teddington Close; that the Applicant/Landlord has not undertaken any regular or systematic programme of inspection or maintenance of the roofs, other than to carry out minor running repairs in response to complaints of water ingress; that that inaction has shortened the life spans of the roofs; that the existing flat roofs have lasted 30 years or more so far; that it might be possible to apply some form of coating, membrane, or felt to the existing roofs, rather than fully replacing them with new flat roofs or pitched roofs; that on the 19 May 2004 workmen on the roof of 9 Donovan Close had been applying felt to the whole roof of number 9 only (about 25% of the whole roof of that Block), and had said that to cover the whole roof in that manner would cost "less than £10,000", and that to replace the entire roof with a new roof would be less than £20,000; that the Respondent/Leaseholders do not accept that a new flat roof would have a prospective life-span of as little as 10-20 years; that the Applicant/Landlord's estimate at page 190 of the trial bundle of about £88.80 a sq m for the cost of a new flat roof is very high; that a company called Topseal is offering figures on the internet of between £40 -£60 a sq m for building new flat roofs with a life span of between 40-50 years, with a guarantee of 20 years; that a long established roofing company have estimated £10 a sq m for recovering the existing flat roof with new felt, £32 a sq m for stripping off the existing felt, replacing any part of the decking which may be found to be rotten and recovering with new felt, and £52 a sq m for replacing the flat roof in its entirety; that the section 125 notice dated the 2 February 1998 relating to 7 Teddington Close informed the then tenant that the estimated cost of "recovering flat roofs" would be £17,000 plus VAT; that the section 125 notice dated the 7 May 1999 relating to 12 Teddington Close informed the then tenant that the estimated cost of "recovering felt roof" would be £14,687.52; that the Applicant/Landlord has not carried out any investigations to confirm the suggestion that the existing roof drainage pipes may be blocked or damaged or need replacement; that the Respondent/Leaseholders ask for orders under section 20C of the 1985 Act, and that, in particular, the first application, which must represent the bulk of costs incurred, was bound to fail as it was made before the Tribunal had jurisdiction to hear a case involving improvements
22. The comparative costings in the tabular analysis attached to these reasons indicate the following figures :

#### **New Pitched Roof**

Mr Soper's report	£138.21 sq m
Roof Tech 2000	£127.62 sq m
Apollo London	£208.78 sq m
Wellings option 1	£282.35/£282.82 sq m
Wellings option 2	£214.30 sq m

#### **New Flat Roof**

Mr Soper's report	£88.80 sq m
Esha	£58.71 sq m

#### **New Flat Covering (excluding new decking)**

Epsom Slate option 1	£15.00 sq m
Epsom Slate option 2	£35.00 sq m
Homecare	£10.00 sq m

#### **New Flat Covering (including repair of existing decking)**

Homecare	£32.00 sq m
----------	-------------

#### **New Flat Covering (including new decking)**

Epsom Slate	£65.00 sq m
Homecare	£52.00 sq m

#### **New Tor Coating to Existing Roof Covering**

Academy	£52.06 sq m
Fairfield option 1	£24.75 sq m
Fairfield option 2	£27.75 sq m
Fairfield option 3	£30.75 sq m
Fairfield option 4	£33.75 sq m

The tabular analysis shows which figures allow for fees, contingencies, scaffolding/safety, and VAT, and notes the position about guarantees and insurance in each case.

### **Submissions**

### **Repairs/Improvements**

23. The parties agree that the following guidance and tests from decided cases are helpful in approaching the question whether works come within a repairing covenant :
  - a. “the correct approach is to look at the particular building, to look at the state it is in *at the date of the lease*, to look at the precise terms of the lease, and then come to a conclusion as to whether on a fair interpretation of those terms in relation to that state, the requisite work can fairly be termed repair. However large the covenant it must not be looked at *in vacuo*” (per Sachs LJ in **Brew Brothers v Snax** [1970] 1 QB 612, CA)
  - b. whether the alterations go to the whole or substantially the whole of the structure or only to a subsidiary part; whether the effect of the alterations is to produce a building of a wholly different character from that which has been let; and what is the cost of the works in relation to the previous value of the building and what is their effect on the value and lifespan of the building (**McDougall v Easington DC** [1989] 1 EGLR 93, CA)
  - c. it is a question of degree whether work carried out to a building was a repair or work that so changed the character of the building as to give back to the landlord a wholly different building from that demised (per Forbes J in **Ravenseft Properties v Davstone (Holdings) Ltd** [1980] 1 QB 12)
  - d. “...the exercise involves considering the context in which the word “repair” appears in a particular lease and also the defect and remedial works proposed. Accordingly, the circumstances to be taken into account in a particular case under one or other of these heads will include some or all of the following : the nature of the building; the terms of the lease; the state of the building at the date of the lease; the nature and extent of the defect sought to be remedied; the nature, extent and cost of the remedial works; at whose expense the proposed remedial works are to be done; the value of the building and its expected lifespan; the effect of the works on such value and lifespan; current building practice; the likelihood of a recurrence if one remedy rather than another is adopted; and the comparative cost of alternative remedial works and their impact on the use and enjoyment of the building by the occupants. The weight to be attached to these circumstances

will vary from case to case” (per Nicholls LJ in **Holding and Management Ltd v Property Holding and Investment Trust plc** [1990] 1 All ER 938

24. The Applicant/Landlord cites a number of decided cases in which these tests have been applied, including :
- a. **R v Hackney LBC** (1989) 88 LGR 96, CA, in which the Court of Appeal held that the replacement of flat roofs with pitched roofs, and of windows and doors, could amount to maintenance, provided such replacement were necessary
  - b. **New England Properties v Portsmouth** [1993] 1 EGLR 84, ChD, in which the court held that the production of a new roof structure by the fitting of new roof trusses with a 30 degree pitch, more substantial timbers, and a proper system of lateral and horizontal restraints, constituted works of repair, and that the choice of an option with better wind and rain resistance and a higher pitch did not mean that the landlord was provided with a building that was materially changed or altered
  - c. **Wandsworth LBC v Griffin** [2000] 2 EGLR 105, LT, in which the Lands Tribunal held that the landlord was entitled to use a cost-in-use analysis, and that replacement of flat roofs with pitched roofs and the replacement of metal framed windows with UPVC double glazed units did not go beyond works of repair because they were cheaper taking into account both initial and future costs
25. The Respondent/Leaseholders submit that :
- a. the mere fact that the subject matter of a covenant is near the end of its useful life will not require its replacement (**Fluor Daniels Properties v Shortlands Investments** [2001] 2 EGLR 103 – where the covenant related to an air-conditioning plant)
  - b. a covenant to keep a roof in repair includes an obligation to replace it, where that is the only practicable way of performing the covenant (**Murray v Birmingham CC** [1987] 2 EGLR 53)
26. The Respondent/Leaseholders also cite **Mullaney v Maybourne Grange (Croydon) Management Co** [1986] 1 EGLR 70 as an example of a case where the replacement of leaking framed windows with maintenance-free double glazed units was held to go beyond repair
27. The Applicant/Landlord submits that the proposed works are works of repair because :
- a. the roofs have exceeded their design life
  - b. the current roofing material requires complete replacement
  - c. continuing to carry out patch repairs is no longer a viable response to complaints of leaks
  - d. all the roofs require complete replacement
  - e. it is not sensible to replace with new flat roofs because although pitched roofs would initially cost about £187,526 more, pitched roofs would last about 3 times as long, and would be cheaper over that life span by about £500,000, and, even over a shorter period of, say 25 years, would be considerably cheaper because a flat roof would require replacement after about 20 years
  - f. disruption to the Respondent /Leaseholders and tenants would also be reduced over the life of the pitched roofs because of lower levels of repair and maintenance
  - g. internal drain downpipes would require replacement if new flat roofs were installed, but not if pitched roofs were installed
  - h. pitched roofs would not change the character of the Blocks or give back to the Applicant/Landlord a wholly different building; the alterations go not to the whole of the structure but only to a subsidiary part; and the cost of the works in relation to the previous value of the Blocks is not known precisely, but is only of the order of £500,000, whereas the effect of the works is to increase the lifespan of the Blocks by approximately 60 years
28. The Respondent/Leaseholders submit that :
- i. if the existing roof coverings were so badly in need of repair that the only means of complying with the Applicant/Landlord’s repairing covenant in the Seventh Schedule was to replace the existing flat roofs with new flat roofs, then that would fall within the ambit of that covenant
  - ii. however, there is insufficient evidence that the existing roof coverings are so badly in need of

repair that even a new flat roof is needed, let alone a pitched roof

- iii. in any event, the replacement of the flat roofs with pitched roofs would constitute an improvement, not a repair, and would be outside the ambit of the Landlord's repairing covenant
- iv. none of the leases give the Landlord the right to carry out works of improvement or to recover through the service charges the cost of any works of improvement
- v. this is despite the fact that the statutory provisions relating to right-to-buy leases have never precluded a landlord from including in right-to-buy leases the right to carry out works of improvement or to recover through the service charges the cost of any works of improvement
- vi. on the contrary, Parliament has expressly acknowledged the inclusion of such rights in right-to-buy leases, by providing a degree of statutory regulation of the operation of those rights during the "initial period" of right-to-buy leases (section 125B and paragraph 16C to Schedule 6 of the Housing Act 1985, as amended by the Housing and Planning Act 1986)
- vii. the report to the Board of the Applicant/Landlord recognized that it would be difficult to justify the recovery of some of the additional costs of the recovery of these works even though the desirability of the flats is likely to be increased; did not suggest that new flat roofs would not be possible; but recommended pitched roofs as being better value for money in the long term, better aesthetically, and better in terms of reduction of thermal loss and in improvement of the SAP rating to the top floor flats
- viii. in any event, there is no warrant for saying that a pitched roof would provide better value than a flat roof replacement, in that the evidence, including the figures in the tabular analysis, shows that the costs put forward by Mr Soper for a flat roof replacement were at the very highest end of what the works might cost; that Mr Soper's life-cycle periods were pessimistic for flat roofs, and optimistic for pitched roofs; that Mr Soper made no allowance for maintenance costs in the 60-year period for pitched roofs; and that the pitched roof option was in fact more expensive

#### **Paragraph (2)(a)(ii) of the Sixth Schedule to the leases**

29. The Applicant/Landlord submits that the proposed works fall within the ambit of paragraph (2)(a)(ii) of the Sixth Schedule to the leases in that the replacement of the roof of a Block is the provision of an "installation" or "thing" for the benefit of the Block ((2)(a)(ii) second limb), and it is also the undertaking of a matter which is necessary for the proper repair, maintenance, management or administration of the property ((2)(a)(ii) third limb)
30. (2)(a)(ii) second limb: provision of installation or other thing. The Applicant/Landlord submits that
- i. replacement of the flat roof with a pitched roof can be aptly described as the provision of an "installation" or of "any other thing for the benefit of the property"
  - ii. matters relating to repairs and maintenance appear in this and other paragraphs of the Sixth Schedule, and are not exclusively in the Seventh Schedule
  - iii. replacement of the flat roof with a pitched roof is for the benefit of each Block
31. (2)(a)(ii) third limb : undertaking of another matter. The Applicant/Landlord submits that
- i. if the Tribunal is satisfied that as a matter of construction the proposed works are capable of being "the undertaking of any matter which in the reasonable opinion of the Council is necessary or desirable for the proper repair, maintenance, management or administration of the Property", and that the Applicant/Landlord did form that opinion, and that that opinion was reasonable, then a reasonable proportion of the cost of the works is recoverable from the Respondent/Leaseholders
  - ii. installing new roofs is plainly within the meaning of "undertaking of any matter", and the proposed works are "for the proper repair, maintenance, management or administration" of the Blocks
  - iii. the Applicant/Landlord has formed the opinion that the undertaking of the new roofs is necessary
  - iv. The opinion of the Applicant/Landlord is reasonable
32. The Applicant/Landlord further submits that :



- i. If the proposed works constitute repairs then the Respondent/Leaseholders are liable to contribute their service charge proportions of the cost under paragraph 1 of the Sixth Schedule
  - ii. If the works fall within the second and/or third limbs of paragraph (2)(a)(ii) of the Sixth Schedule then the Respondent/Leaseholders are liable to contribute a reasonable proportion of the expense of doing so from the Leaseholders under paragraph (2)(a) of the Sixth Schedule
33. The Respondent/Leaseholders submit that :
- i. paragraph 2 of the Seventh Schedule to the leases makes express and detailed provision in relation to the Landlord's duty to repair, and paragraph 6 gives the landlord powers for performing that duty; but it does not give the landlord power to carry out works of improvement
  - ii. paragraph (2) (a) (ii) of the Sixth Schedule to the leases enables the landlord to recover through the service charge expenditure on the provision of any service or of any installation or the undertaking of any matter which in the reasonable opinion of the Council is necessary or desirable for the proper repair maintenance management or administration of the Property
  - iii. "the undertaking of any matter" should be interpreted in the context of the whole paragraph, namely as something similar to "service" or "installation"; the replacement of existing flat roofs with pitched roofs is not similar to either
  - iv. paragraph (2) (a) (ii) is a "sweeping-up clause", and should be interpreted narrowly against the Landlord; however, the landlord's suggested interpretation is extremely wide, and makes a number of other clauses in the leases redundant
  - v. in the case of **Mullaney v Maybourne Grange (Croydon) Management Co Ltd** [1986] 277 EG 1350 the replacement of wooden windows in a block with maintenance-free double-glazed windows was held not to fall within a lessee's covenant to contribute to the cost of providing "additional services or amenities"
  - vi. it is not appropriate as a matter of ordinary language to describe building works involving the replacement of existing flat roofs with pitched roofs as "the undertaking of any matter which in the reasonable opinion of the Council is necessary or desirable for the proper repair maintenance management or administration of the Property"
  - vii. any ambiguity in the leases should be resolved against the Applicant/Landlord in the Respondent/Leaseholders' favour

### **The Tribunal's findings**

34. Before setting out the Tribunal's findings the Tribunal would like to remind all parties that the Tribunal is not a Court of Law, but an Expert Tribunal. It is not expected to make detailed decisions on complex legal issues, but to exercise its combined experience in reaching a fair and equitable decision. In doing so the Tribunal members have used their general expertise in making decisions on matters concerning service charges and the liability to pay them. The three members of the Tribunal all sit regularly on cases involving service charges and the liability to pay them and have considerable experience in making such decisions. The Tribunal's findings reflect this wider experienced view rather than a narrow legal view which the Courts traditionally adopt in making their strictly Judicial Decisions.
35. The Tribunal accepts the Respondent/Leaseholders' submission that there is no evidence that any of the roofs need total replacement, even with new flat roofs, and that, in any event, even if any of the roofs do need total replacement, the proposed works, being replacement not with flat roofs but with pitched roofs, are works of improvement, and do not fall within the provisions of either the Seventh or the Sixth Schedule of the leases.
36. The Tribunal finds that the only evidence about the condition of the roofs is in :
- a. Mr Soper's "summary of condition survey" at pages 15 to 24 of the trial bundle, and the photographs at pages 26 to 39, which the Tribunal find relate to the condition of the coverings of the roofs, and not their underlying structure, or "substrate"

- b. Mr Soper's reference to failure of the roof coverings and the life expectancy for modern flat roof membranes of 10 to 15 years in his report at pages 79, 183, and 184 of the trial bundle
  - c. the evidence of leaks, contained in Mr Soper's report at pages 3 and 4 of the trial bundle
  - d. the references to "re-covering flat roofs" and "recovering felt roof" in the section 125 notices relating to 7 and 12 Teddington Close at pages 69 and 72 of the trial bundle
  - e. Mr Mahoney's evidence in his Statement at page 179 of the trial bundle that all the relevant roofs were built approximately 20 years ago, and have exceeded their design life of 10 to 15 years, and that patch repairs have not stopped continuing failures of the roof surface and consequent damp penetration into the Blocks
  - f. The roofs maintenance records at pages 205 to 207, and 304 to 310 of the trial bundle
  - g. The reference to water ingress in the letters and documents from leaseholders at pages 156 to 177 of the trial bundle, and in Mr Nimse's statement at page 214 of the trial bundle
37. The Tribunal finds that that evidence does not contain any adverse comment on the substrate of any of the roofs, and that the evidence before the Tribunal falls well short of proving, on a balance of probabilities, that any of the roofs require total replacement.
38. The Tribunal uses the expression "total replacement" to mean complete stripping, recovering and redecking. At the request of the parties the Tribunal has not inspected the premises. However, the Tribunal has seen the photographic evidence at pages 25 to 39 of the trial bundle, which shows significant patch repairs, and, from the Tribunal's own knowledge and experience of flat roofs, the Tribunal recognizes the fact that flat roofs of this age are likely to require complete stripping and recovering and that some replacement of decking may prove necessary when exposed.
39. However, when Mr Mahoney was asked in cross-examination what evidence there was to support the Applicant/Landlord's contention that the roofs needed total replacement, Mr Mahoney replied, as he did on a number of occasions throughout the hearing, that he and the Applicant/Landlord relied on Mr Soper's report.
40. However, the Tribunal finds Mr Soper's report generally unpersuasive. In particular, the Tribunal notes that :
- i. Mr Soper makes no mention of having inspected the substrate of any of the roofs, and indeed refers to Middleton Road as having a "concrete roof deck" (page 184 of the trial bundle), whereas the letter to him from Apollo London dated the 18 December 2002, at page 301 of the trial bundle, stated that they had taken core samples from the roofs at Eleanor Avenue and Middleton Road which identified a "plywood deck"
  - ii. Mr Soper's measurement of the roof areas was 395 sq m and 455 sq m, according to the quotation from Esha (UK) Ltd dated the 10 June 2002 at page 272 of the trial bundle, whereas the Tribunal accepts the evidence of Mr Nimse that his measurement of the roof of his Block was 268 sq m, as confirmed by figures of 266 sq m and 267 sq m contained in the estimates from Welling Partnership at pages 143 and 142 of the trial bundle
  - iii. Mr Soper's report states that the roofs are beyond the life expectancy of modern built-up roofing systems and that the fact that the coverings are now failing more frequently indicates that the coverings have reached the end of their life and need to be replaced (page 184 of the trial bundle), but makes no mention of having considered the possibility of replacing the felt covering, without having to replace the underlying decking, nor of covering the existing covering with a liquid seal coating.
  - iv. Mr Soper's report states that it must be assumed that the internal downpipes are of similar age and accordingly are likely to leak and also require repair or replacement (page 184 of the trial bundle), but the Tribunal finds that there is no evidence to support that assumption

- v. Mr Soper's "total life cycle cost analysis" on pages 82, 85, 86, and 87 of the trial bundle estimates the cost of new flat roofs at a rate of £88.80 a sq m (page 85), but the Tribunal finds, first, that the only evidence before the Tribunal of a contractor's quotation on which Mr Soper relied in asserting that figure is the one quotation from Esha (UK) Ltd dated the 10 June 2002 at page 272 of the trial bundle; secondly, that that quotation is for £22,515 for each 395 sq m Block, and £25,935 for each 455 sq m Block, which the Tribunal finds to equate to £57 a sq m in each case, all the figures being exclusive of VAT (pages 272 and 85 of the trial bundle); and, thirdly, that if, as the Tribunal finds, the correct area of each roof is in fact only 268 sq m, rather than 395 or 455 sq m, the figures in the Esha quotation of £22,515 and £25,935 would reduce, pro rata, from £57 a sq m to either £38.67 or £30.86 sq m respectively. The Tribunal notes that Mr Soper's figure of £88.80 sq m includes a figure of £24,288 (£7,968 plus £16,320 on page 85) (8%) for contingencies and £83,490 (referred to on page 85 as "edge protection and safe access" £27,390 plus £56,100) for scaffolding, but that Esha's figure of £57 sq m does not allow for contingencies, and that there is no evidence whether it includes any sum for scaffolding. The Tribunal finds that Mr Soper's figure for scaffolding equates to £34.61 sq m (£83,490 ÷ 2412 sq m (9 blocks x 268 sq m)). If that figure is added to the figures of £38.67 or £30.86 sq m, the total is either £73.28 or £65.47. If a figure of 8% of each sum (£5.86 and £5.24) is added for contingencies, the Tribunal finds that the comparative figures for new flat roofs, according to the Esha quotation, should more properly be £79.14 or £70.71 sq m respectively, rather than Mr Soper's figure of £88.80 sq m. In making those findings, the Tribunal has noted that Mr Soper's figures for scaffolding on page 85 are the same for his flat roof option as for his pitched roof option. The Tribunal would have expected scaffolding for a flat roof to be less expensive than for a pitched roof, and that the comparative figure for the flat roof option would have been lower accordingly.
- vi. Mr Soper's "total life cycle cost analysis" gives a total estimated figure for pitched roofs for all 9 Blocks of £524,522.20 (page 85 of the trial bundle). The Tribunal finds that this figure corresponds with the estimate from Welling Partnership (at pages 140 to 144 of the trial bundle) of between £627,239 (if each Block were carried out as a separate contract) and £501,239 (if all 9 Blocks were carried out in one contract, and if other stated savings were made), and that the Welling Partnership figures are based on the correct roof areas, and include a figure of 5% for contingencies, and £87,650 for scaffolding. However, the Tribunal finds, first, that Mr Soper's analysis converts his figure of £524,522.20 to a rate of £138.21 a sq m (page 87 of the trial bundle), which equates to a total area for the 9 Blocks of 3795 sq m (£524,522.20 ÷ £138.21), and which the Tribunal notes is the total of Mr Soper's figures in Esha's quotation (page 272 of the trial bundle) of 395 sq m for 5 Blocks (1975 sq m), plus 455 sq m for 4 Blocks (1820 sq m); and, secondly, that if, as the Tribunal finds, the correct area of each roof is in fact only 268 sq m, rather than 395 or 455 sq m, then the total area of the roofs of the 9 Blocks is in fact about 2412 sq m (9 x 268 sq m), so that the correct conversion of Mr Soper's figure of £524,522.20 in his analysis would increase, pro rata, from £138.21 sq m to £217.46 sq m (£524,522.20 ÷ 2412 sq m), which corresponds to the Wellings option 2 figure of £214.30 sq m
- vii. the Tribunal therefore finds that if the correct figures for the roof areas are applied to the costings in Mr Soper's "total life cycle cost analysis", the comparative rates are in fact either £79.14 or £70.71 sq m a sq m for a flat roof, compared with £217.46 a sq m for a pitched roof, instead of Mr Soper's suggested rates of £88.80 a sq m for a flat roof, compared with £138.21 a sq m for a pitched roof
- viii. other quotations before the Tribunal give estimated rates for a complete new flat roof of £65 a sq m (Epsom Slate and Tile Company, trial bundle page 148), and £52 a sq m (Homecare (Philip Lyeach), trial bundle page 150), which are themselves well short of Mr Soper's figure of £88.80 a sq m, although the Tribunal notes that neither allows for contingencies or scaffolding.
- ix. the Tribunal calculates that the figures of £17,000 and £14,687.52 for "re-covering flat roofs" and "recovering felt roof" respectively in the section 125 notices relating to 7 and 12 Teddington Close at pages 69 and 72 of the trial bundle, equate, on the assumption that each of those figures is for one Block, and that the roof area of that Block is 268 sq m, to a rate of £63.43 a sq m and £54.80 a sq m respectively, which, again, are themselves well short of Mr Soper's figure of £88.80 a sq m, although the Tribunal notes that it is not clear whether either figure allowed for contingencies or scaffolding.
- x. Mr Soper's "total life cycle cost analysis" assumes a life expectancy of a flat roof to be 20

years, compared with 60 years for a pitched roof (page 85 of the trial bundle). Indeed, Mr Soper states (at page 81 of the trial bundle) in relation to the proposed pitched roof construction that “whilst the stated life cycle of these materials and structures is 40 years plus, this is a very conservative figure and it would be expected, given the mild exposure conditions of this location, that a more realistic figure would be 60 years plus”. However, the Tribunal finds, first, that the only independent evidence before the Tribunal in this respect is the estimate from Roof Tech dated the 10 June 2002 which states that the galvanized frame should have a life expectancy of 40/50 years, and that the concrete tiles would have a life expectancy of 50/60 years (page 289 of the trial bundle); secondly, that Mr Soper gives no reason for his hope that in fact “a more realistic figure would be 60 years plus”, other than his reference to “the mild exposure conditions of this location”; and, thirdly, Mr Soper gives no reason why “the mild exposure conditions of this location” should not equally give rise to a hope that his estimate of the normal 20 year life expectancy of a flat roof in this location should not be exceeded for the same reason.

- xi. Mr Soper’s “total life cycle cost analysis” does not attempt to include figures for the maintenance of the proposed pitched roofs over its suggested 60 year life cycle, nor, for example, to include figures for any scaffolding which might be needed for any such maintenance
  - xii. the Tribunal does not have any direct evidence from Mr Soper, whether by way of written statement or oral evidence, and has not had the benefit of hearing his evidence tested in cross-examination, or by answering questions from the Tribunal, as he did not attend the hearing.
  - xiii. the Tribunal does not have the benefit of any other expert evidence on behalf of the Applicant/Landlord. The Tribunal has noted in this respect Mr Mahoney’s comment that Mr Soper’s conclusions have not been challenged by any expert evidence provided by the Respondent/Leaseholders (page 197 of the trial bundle), but the Tribunal finds that it is for the Applicant/Landlord to prove its case, not for the Respondent/Leaseholders to disprove it
41. The Tribunal accordingly finds that there is insufficient evidence before the Tribunal to persuade the Tribunal that any of the roofs need total replacement, as previously defined in these reasons
  42. In any event, even if, contrary to the Tribunal’s findings, the evidence suggests that any of the roofs do need total replacement in order to repair them, the Tribunal finds that the proposed works of replacing the existing flat roofs with pitched roofs amount to improvements, not repairs, and do not fall within the provisions of either the Seventh or the Sixth Schedule of the leases.
  43. In making that finding, the Tribunal has considered all the evidence and the authorities in the round, but in particular the Tribunal finds that:
    - i. although the roof of each Block can be described as a subsidiary part of the structure as a whole, it is nevertheless such a substantial part, and with such a substantially different appearance, that the effect of replacing the existing flat roof with a new pitched roof would be to produce a building of a wholly different character from that which had been originally let
    - ii. the replacement of each existing flat roof with a pitched roof would involve works of a wholly different degree from replacement with a new flat roof, as is evidenced by the difference between the respective initial costs
    - iii. each Block would be improved both in financial value and in aesthetic appearance if it had a pitched roof rather than a flat roof. Indeed, the Tribunal finds that this was one of the factors which influenced the Applicant/Landlord and Mr Soper in their choice of pitched roofs as their preferred option, in that they noted that the proposed works were intended to improve the environment in which the leaseholders and tenants live by ensuring the Blocks blend better into the surrounding community (trial bundle page 5); that a pitched roof would be more aesthetically pleasing, would blend in with surrounding properties, and would be likely to result in the Flats being viewed as more desirable by tenants and purchasers (page 81); would be an environmental improvement (page 83); would reduce the thermal loss through the roof and hence an improvement of the SAP rating to the flats on the top floors by approximately 5 points (page 185); would be likely to increase the desirability of the flats (page 186); and would add value to the properties

(page 267).

- iv. the Tribunal is not persuaded, on the authorities, that the Applicant/Landlord is entitled in this case to seek to justify its characterisation of its proposed works as repairs, rather than improvements, by the use of Mr Soper's "total life cycle cost analysis" to compare not only initial costs, but also future costs, even if the landlord in **Wandsworth LBC v Griffin** was entitled to use the cost-in-use exercise produced in that case. The Tribunal notes a number of distinguishing features about the **Wandsworth LBC v Griffin** case. In the first place, the tenants in that case were represented before the Lands Tribunal by one of the tenants in person, whereas the landlords were represented by counsel. In the second place, the admission of the cost-in-use analysis as a relevant tool in the decision making process in that case was agreed by the tenants. In the third place, the decision, as reported, does not contain an analysis of the decided cases dealing with the difference between repairs and improvements, and does not cite any authority for the admission of the cost-in-use analysis as a relevant tool in the decision making process in that case. In this present case, Mr Bhose on behalf of the Respondent/Leaseholders does not agree to the use of Mr Soper's "total life cycle cost analysis" as a relevant tool in the decision making process, and submits that there is no other authority for its admission.
  - v. in any event, even if, contrary to the Tribunal's findings, the Applicant/Landlord is entitled in principle to compare initial costs with future costs, the Tribunal finds that Mr Soper's "total life cycle cost analysis" on pages 82, 85, 86, and 87 of the trial bundle is an unpersuasive analysis, and falls far short of the standard of the cost-in-use exercise used in **Wandsworth LBC v Griffin**. In the first place, the Tribunal finds that the figures used by Mr Soper to compare the difference in rates per sq m for new flat roofs compared with pitched roofs are flawed and that the differences are understated, as set out in paragraphs 40 v to 40 ix of these reasons. In the second place, the Tribunal finds that the figures used by Mr Soper to compare the respective life spans of flat roofs with pitched roofs are at best speculative, and that the differences are overstated, as set out in paragraph 40 x of these reasons. In the third place, the Tribunal finds that the Esha quotation is the only flat roof estimate produced in evidence by the Applicant/landlord as contributing to Mr Soper's analysis, whereas the cost-in-use analysis in **Wandsworth LBC v Griffin** was based on six tenders, each tendering on the basis of various options, including flat roof and pitched roof. In the fourth place, the Tribunal finds that Mr Soper's analysis is incomplete, in that it does not attempt to include figures for the maintenance of the proposed pitched roofs over its suggested 60 year life cycle, nor, for example, to include figures for any scaffolding which might be needed for any such maintenance
44. The Tribunal accordingly finds that the proposed works do not fall within the provisions of the Seventh Schedule of the leases
45. The Tribunal also finds that the proposed works do not fall within the provisions of the Sixth Schedule to the leases either. The Tribunal finds :
- i. that the Applicant/Landlord's primary repairing obligations are contained in the Seventh Schedule, and that paragraph (2) of the Sixth Schedule contains "sweeping up" provisions, rather than supplemental primary repairing obligations
  - ii. in any event, that the words "any installation of any other thing for the benefit of the property" and the words "or the undertaking of any matter which in the reasonable opinion of the Council is necessary or desirable for the proper repair maintenance management or administration of the Property" in the Sixth Schedule are each part of a paragraph which starts with the words "the provision of any service for the benefit of the Flat and the other flats", and are to be construed in that context, and are not to be construed as imposing primary repairing obligations supplementary to those already contained in the Seventh Schedule, let alone as imposing extra obligations on, or powers for, the Applicant/Landlord to carry out major works of conversion from flat roofs to pitched roofs
  - iii. that the words "installation of any other thing" should be construed, as a matter of the ordinary use of language, as including such items as Mr Bhose suggests in his Skeleton Argument, namely the installation of a door entry system, a fire alarm system, additional lighting, or a waste disposal system, and are wholly inappropriate to include major works of conversion from flat roofs to pitched roofs

- iv. that the words “the undertaking of any matter” are to be construed, again, as a matter of ordinary language, as empowering the Applicant/Landlord to carry out other matters *for the purposes mentioned*, namely “for the proper repair maintenance management or administration of the Property”, and that the fact that the purposes mentioned include the words “repair” and “maintenance” does not mean that the words “the undertaking of any matter” give the Applicant/Landlord the power to carry out major works of conversion from flat roofs to pitched roofs

46. In making these findings the Tribunal acknowledges that the replacement of the existing flat roofs with pitched roofs may be more desirable for a variety of reasons, but the Tribunal finds that the Applicant/Landlord cannot recover the cost of so doing from the Respondent/Leaseholders in this case; but the Tribunal also finds that this does not prevent the Applicant/Landlord from carrying out the work and meeting the additional expenditure at the Applicant/Landlord’s own expense, with the aid of any government or other grants which may be available

#### **Recovery of Applicant/Landlord’s costs**

47. The Respondent/Leaseholders:

- i. submit that there is no contractual provision under the lease which would enable the Applicant/Landlord to recover the legal costs of the application from the Respondent/Leaseholders
- ii. in the alternative, make applications under section 20C of the 1985 Act to preclude recovery of those costs

48. However, at the conclusion of the hearing Mr Manning confirmed on behalf of the Applicant/Landlord that the Applicant/Landlord would not in fact be seeking to recover any of the Applicant/Landlord’s legal costs of the application from the Respondent/Leaseholders.

#### **Summary**

49. The Tribunal accordingly finds that the Applicant/Landlord’s proposed works do not constitute repairs, and that they do not fall within either the Seventh or Sixth Schedules to the leases
50. Relying on the assurance by the Applicant/Landlord that the Applicant/Landlord would not be charging any costs or expenses relating to this application through the service charge provisions in the leases, the Tribunal makes no order in respect of the Applicant/Landlord’s legal costs

Dated the 10 December 2004



Peter Boardman  
(Chairman)

A Member of the Southern Leasehold Valuation Tribunal  
appointed by the Lord Chancellor

LONGMEAD ESTATE EPSOM

TABLE OF COSTINGS

(1) TYPE OF WORK	(2) Source of information	COSTINGS						
		(3) Works Costs (no of m <sup>2</sup> ) £ +VAT	(4) Fees £ +VAT	(5) Contingency £ + VAT	(6) Scaffolding/ Safety £ + VAT	(7) Guarantees/ Insurance	(8) Cost m <sup>2</sup> £ + VAT (incl of col 3 items)	(9) Total block cost @ 267 m <sup>2</sup> £ + VAT (incl of col 3 items)
BUDGET COSTINGS NEW PITCHED ROOF SUBJECT TO AGREED SPECIFICAT ION	Soper Report <u>07.02</u>  (bundle p 183/192)	9 Blocks 3795 m2 £524,522.20 (incl items at cols 4, 5 and 6, preliminaries and insulation)	In House + £4,000.	8% £38,557:00  <u>£38,557.20</u>	£83,490:00	Life cycle quoted at 60 years +  <i>But records that "stated life cycle of such materials and structures is 40 years plus..."</i>	£138:21	£36,902.00  <i>Agreed - but only assuming that the costs on Soper's incorrect measurements can be applied pro-rata</i>
	Roof Tech 2000 " <u>Budget estimate</u> " <u>10.06.02</u> (bundle p 287/289)	8 blocks 3350 m2 £427,500:00 (incl. col 6, preliminaries, and insulation)	Not allowed for	Not allowed for	£72,500:00	Life cycle quoted between 40 & 60 years  <i>In fact quotes Galvanised frame 40-50 years; tiles 50-60 yrs</i>	£127:62	£34,074:54  <i>Ditto re above assumption</i>
WELLINGS COSTINGS 2004/2005								



COSTINGS								
(1) TYPE OF WORK	(2) Source of information	(3) Works Costs (no of m <sup>2</sup> ) £ +VAT	(4) Fees £ +VAT	(5) Contingency £ + VAT	(6) Scaffolding/ Safety £ + VAT	(7) Guarantees/ Insurance	(8) Cost m <sup>2</sup> £ + VAT (incl of col 3 items)	(9) Total block cost @ 267 m <sup>2</sup> £ + VAT (incl of col 3 items)
	Apollo London <i>Budget cost</i> <i>18.12.02</i> (bundle p 301/302)	2 Blocks 531 m2 £110,859.00 (incl col 6, preliminaries and insulation.)	Not allowed for	Not allowed for	£16,020.00	Not stated	£208.78	£55,744.26
	Wellings <i>Budget cost</i> <i>estimates</i> <i>15.05.04</i> option 1 (bundle p 140/144)	9 Blocks 2399 m2 £678,479.00 (incl cols 4, 5 and 6, preliminaries, and insulation)	6.5% £51,240.00  <i>6.5% figure</i> <i>not</i> <i>understood</i>	5% £30,000.00	£87,650.00	Not stated	£282.35  <i>£282.82</i>	£75,387.45  <i>£75,512.94</i>
	Wellings option 2 (bundle p 140/144)  <i>ie. excluding</i> <i>fire breaks,</i> <i>roofspace</i> <i>lighting and</i> <i>access,</i> <i>lightning</i> <i>protection</i>	9 Blocks 2399 m2 £501,239.00 (incl cols 4, 5 and 6, preliminaries, and insulation)	6.5% £33,837.28  <i>The budget</i> <i>costing does</i> <i>not state how</i> <i>savings would</i> <i>be made from</i> <i>fees etc if the</i> <i>3 items</i> <i>omitted</i>	5% £25,062.00	£87,650.00	Not stated	£214.30	£57,218.00.



COSTINGS								
(1) TYPE OF WORK	(2) Source of information	(3) Works Costs (no of m <sup>2</sup> ) £ + VAT	(4) Fees £ + VAT	(5) Contingency £ + VAT	(6) Scaffolding/ Safety £ + VAT	(7) Guarantees/ Insurance	(8) Cost m <sup>2</sup> £ + VAT (incl of col 3 items)	(9) Total block cost @ 267 m <sup>2</sup> £ + VAT (incl of col 3 items)
NEW FLAT ROOF (including new laid to falls insulation excluding new decking)	Soper Report 07.02  (bundle p 183/192)	9 Blocks 3795 m2 £336,996:00 (incl cols 4, 5, 6 and 7, preliminaries, and insulation)	In House	8% £24,288:00	£83,490:00	10 + 10 £9108:00	£88.80	£23,709:60
	Esha quotation 10.06.02 (bundle p 272)	9 Blocks 3795 m2 £222,804:45 (incl preliminaries and insulation)  £216,315.00	Not allowed for	Not allowed for	Not allowed for  <i>No evidence – true position unknown</i>	10+10 insurance £6489:45  (10 yr guarantee at 2% of cost; 10 + 10 available at 3% of cost)	£58:71  <i>Agreed as the figure which includes the 20 year guarantee</i>	£15,675:57
NEW FLAT COVERING (excluding new decking)	Epsom Slate 15.07.04  (bundle p 148)	9 Blocks 3795 m2 (not incl cols 4-7 preliminaries or insulation)	Not allowed for	Not allowed for	Not allowed for	Not stated	Op 1 £15:00 Op 2 £35:00	£4005:00 £9345:00  <i>Agreed. Quote not expressed as subject to VAT</i>

COSTINGS								
(1) TYPE OF WORK	(2) Source of information	(3) Works Costs (no of m <sup>2</sup> ) £ + VAT	(4) Fees £ + VAT	(5) Contingency £ + VAT	(6) Scaffolding/ Safety £ + VAT	(7) Guarantees/ Insurance	(8) Cost m <sup>2</sup> £ + VAT (incl of col 3 items)	(9) Total block cost @ 267 m <sup>2</sup> £ + VAT (incl of col 3 items)
	Homecare <u>12.07.04</u> (bundle p 149)	Not specified	Not allowed for	Not allowed for	Not allowed for	Not stated	£10	£2670:00  <i>Agreed. Quote not expressed as subject to VAT</i>
NEW FLAT COVERING including repair of existing decking	Homecare <u>12.07.04</u> (bundle p 149)	Not specified	Not allowed for	Not allowed for	Not allowed for	Not stated	£32:00	£8544:00  <i>Agreed. Quote not expressed as subject to VAT</i>
NEW FLAT COVERING including new decking								
	Epsom Slate <u>15.07.04</u> (bundle p148)	9 Blocks 3795 m2 (not incl cols 4-7, preliminaries or insulation)	Not allowed for	Not allowed for	Not allowed for  <i>Nimre states Mr Wright estimates £6,000 per block</i>	Not Stated  <i>Nimre states materials guarantee from Andersons</i>	£65:00	£17,355: 00  <i>Agreed. Quote not expressed as subject to VAT</i>
	Homecare <u>12.07.04</u> (bundle p 149)	Not specified	Not allowed for	Not allowed for	Not allowed for	Materials only 20 years	£52:00	£13,884:00  <i>Agreed. Quote not expressed as subject to VAT</i>

COSTINGS								
(1) TYPE OF WORK	(2) Source of information	(3) Works Costs (no of m <sup>2</sup> ) £ +VAT	(4) Fees £ +VAT	(5) Contingency £ + VAT	(6) Scaffolding/ Safety £ + VAT	(7) Guarantees/ Insurance	(8) Cost m <sup>2</sup> £ + VAT (incl of col 3 items)	(9) Total block cost @ 267 m <sup>2</sup> £ + VAT (incl of col 3 items)
<b>NEW TOR ROOF COATING TO EXISTING ROOF COVERING</b>	Academy Roofing <u>23.07.04</u>  (bundle p 265)	9 Blocks 3795 m2 £197,550:00 (incl col 7; not incl cols 4-6, preliminaries or insulation)	Not allowed for	Not allowed for	Inclusive	Not Stated, but Nimse states 15 year <u>TOR</u> <u>own</u> materials <u>guarantee</u> and 10 yr labour insurance backed guarantee (additional 5 yr labour guarantee at additional cost	£52:06	£13,900:02



COSTINGS								
(1) TYPE OF WORK	(2) Source of information	(3) Works Costs (no of m <sup>2</sup> ) £ + VAT	(4) Fees £ + VAT	(5) Contingency £ + VAT	(6) Scaffolding/ Safety £ + VAT	(7) Guarantees/ Insurance	(8) Cost m <sup>2</sup> £ + VAT (incl of col 3 items)	(9) Total block cost @ 267 m <sup>2</sup> £ + VAT (incl of col 3 items)
	Fairfield contract <u>20.07.04</u>  (bundle p 147)	9 Blocks 3795 m2  (incl col 7; not incl cols 4-6, preliminaries or insulation)	Not allowed for	Not Allowed for	Not allowed for	Materials only TOR own guarantee	Op 1 £24.75  Op 2 £27.75  Op 3 £30.75  Op 4 £33.75	£6,608.25  £7409.25  £8210.25  £9011.25
					Nurse states told "would need 'A frame" and tower only - £1500.00 per block	Nurse states 10 yr latent defect guarantee (Gretz Suisse budeval available from contractor at additional 2.5% of costs. Also states that after 12 years, will apply 1 additional cut for 1/3 of current cost. Further 10 year guarantee		

COSTINGS								
(1) TYPE OF WORK	(2) Source of information	(3) Works Costs (no of m <sup>2</sup> ) £ + VAT	(4) Fees £ + VAT	(5) Contingency £ + VAT	(6) Scaffolding/ Safety £ + VAT	(7) Guarantees/ Insurance	(8) Cost m <sup>2</sup> £ + VAT (incl of col 3 items)	(9) Total block cost @ 267 m <sup>2</sup> £ + VAT (incl of col 3 items)