



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **LON/00BK/BSA/2024/0602**

Property : **5 Praed Street, Paddington, London W2
1NJ**

Applicants : **Westminster City Council**

Representative : **Mr Mark Hickinbotham**
Principal Officer, Building Safety Programme
(Ref: WES-551939000662H)

Respondent : **Behbehani Middle East Trading
Company (incorporated in Kuwait)**

Representative : **Mr Rajendra Jani** (authorised agent)
Mr Chandru Bhojwani (Building Manager)
Ms Harsha Thawani (Solicitor, acting in
capacity as litigation friend and not through
her firm)

Type of application : **For a remediation order under section
123 of the Building Safety Act 2022**

Tribunal : **Judge N Carr**
Mr A Morrison (Building Safety Expert)

Date of Hearing : **10 December 2024**

Date of Order : **12 December 2024**

REMEDIATION ORDER

UPON considering the City of Westminster's ('the Applicant') application for a remediation order under section 123 of the Building Safety Act 2022 ('BSA22')

AND UPON hearing from Mr Mark Hickinbotham, Principal Officer, Building Safety Programme, for the Applicant, and Mr Rajendra Jani, authorised agent for Behbehani Middle East Trading Company (Incorporated in Kuwait) ('the Respondent')

AND UPON Mr Jani confirming his express authority

AND UPON the Respondent admitting that it is the relevant landlord, that the Building is a relevant building, that the identified defects are relevant defects that were caused or in consequence of relevant works, and that the Applicant is a relevant person within the meaning of the BSA22

AND UPON the parties agreeing to a remediation order in light of the evidence on both sides, including:

- (a) Cluttons Scope of Works 20 Feb 2018;
- (b) Tetra Fire Risk Assessment 9 April 2018;
- (c) Sandberg LLP report on ACM 4 April 2018;
- (d) Marshall Fire, 27 January 2023 Fire Strategy;
- (e) Marshall Fire FRAEW 2 February 2023 using PAS9980 methodology;
- (f) the Atelier Red Limited Scope of Works dated 3 May 2024.

AND UPON considering the parties' submissions

AND UPON considering the schedule of works ('the Works') accompanying this order will remediate the relevant defects in 5 Praed Street, Paddington, London W2 1NJ ('the Building') specified in the application

AND UPON the Respondent undertaking to complete a full intrusive investigation before and/or during the course of the works, and that any further defects that come to light will be addressed appropriately in the course of the works

IT IS ORDERED:

1. The Respondent shall remedy the relevant defects at the Building summarised in the attached Schedule of Defects ('the Schedule of Defects') by the time specified in paragraph 2 below.
2. The Respondent shall comply with paragraph 1 above by completing the works by no later than 31 October 2026.
3. The parties have permission to apply in relation to paragraphs 1 and 2 and the Schedule of Defects. In particular, the Respondent has permission to apply:
 - (a) To be permitted to undertake different Works to those specified by this Order, if it is revealed by investigation and analysis by a suitably qualified consultant that reasonable alternative works will remedy the relevant defects; and
 - (b) To extend time for compliance with this Order.

4. Any such application must be made using the Tribunal's form Order1. The application must be supported by detailed evidence explaining the reason for the application, and a proposed draft order setting out the variation sought. Permission is given hereby (without the need to apply further) for the parties to rely on relevant expert evidence in support of their respective positions in the application. The application must also identify a realistic time estimate for the hearing of the application.
5. The Respondent must:
 - (a) notify the Tribunal and the Applicant that it has complied with this Order,
 - (b) provide a copy of
 - (i) the completion certificate obtained in accordance with paragraph 6 below, and
 - (ii) the FRAEW and EWS1 obtained in accordance with paragraph 7 below

within one month of the certified date of practical completion of the Works.

6. The Respondent must obtain a completion certificate issued under Regulation 44 of the Builder (Higher-risk Buildings Procedures) (England) Regulations 2023 (or such other Building Control approval as is appropriate at the time of completion of the Works)
7. The Respondent must carry out the Works and remedy the specified Relevant Defects in compliance with the Building Regulations applicable at the time the remedial work is carried out, so that the Relevant Defects no longer exist and such that a post-Works Fire Risk Appraisal of External Walls (FRAEW) pursuant to PAS9980:2022 should not prevent a satisfactory Form EWS1:External Wall Fire Review (EWS1) from being issued. The Respondent shall obtain a FRAEW and EWS1 which meet these requirements.
8. By section 123(7) of the BSA22, this Order is enforceable with the permission of the County Court in the same way as if it were an Order of that Court.

Tribunal Judge: Nikki Carr

Date: 12 December 2024

Schedule of Defects

1	Combustible cladding and/or insulation (including External Category 3 ACM)
2	Missing and/or defective cavity barriers (including around door/window openings)
3	Firestopping (including around ventilation ductwork penetrations and the internal apartment walls and floors)
4	Fire doors (including fire resistance, seals and strips)
5	Fire detection systems (including AOV)
6	Non fire-resisting glazing around external escape
7	Absence of dry riser
8	No wayfinding signage
9	No secure premises information box

Schedule of Works

1	Undertake intrusive survey within the apartments and common parts including in particular in respect of ductwork, penetrations/fire-stopping and compartmentation
2	Undertake a FRAEW using PAS9980 methodology in respect of all wall types at the Building
3	Undertake a fire door survey for apartment and common area doors, to include both fire resistance and stopping
4	Instruct competent person(s) to carry out works of remediation to resolve: (a) the defects identified in the Schedule of Defects, and (b) any further defects identified in the surveys/reports identified in 1, 2 and 3 above
5	The Respondent must carry out the Works and remedy the Defects in compliance with the Building Regulations applicable at the time the remedial work is carried out, so that the relevant defects no longer exist.
6	Make good any damage to the Building caused by or as a result of the Works