



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

**Case Reference** : **BIR/37UF/HIN/2024/0623**

**Property** : **St Crispins Court Stockwell Gate  
Mansfield, NG18 5GL**

**Applicant** : **RMB 102 Limited**

**Representative** : **Rebecca Ackerley instructed by E & J Estates**

**Respondent** : **Mansfield District Council**

**Representative** : **Henry Skudra instructed by Mansfield  
District Council**

**Type of Application** : **An appeal against an Improvement Notice  
under para 10(1) Schedule 1 of the Housing Act  
2004 (“the Act”).**

**Tribunal** : **Judge D Barlow  
Regional Surveyor V Ward FRICS  
Mr J Stead**

**Date of Decision** : **27 April 2026**

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**DECISION**

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**DECISION**

The Improvement Notice dated 31 October 2024 is confirmed.

## **REASONS**

### **Background**

1. On 19 November 2024 the Applicant applied to the Tribunal under paragraph 10(1) of Schedule 1 to the Housing Act 2004 ('the 2004 Act') to appeal against an improvement notice dated 31 October 2024 served by the Respondent under section 12 of the 2004 Act, in relation to Category 2 hazards at St Crispin's Court, Stockwell Gate, Mansfield, Nottinghamshire, NG18 5GL ('the Building').
2. The improvement notice identifies in Schedule 1, 7 deficiencies giving rise to a Category 2 fire hazard. Schedule 2 is a schedule of works necessary to remediate the 7 deficiencies.
3. Following an unsuccessful attempt to mediate, standard directions were issue for filing if statements and evidence and the case was listed for hearing on 13 and 14 January 2026. A Case Management Hearing was arranged for 26 September 2025 to determine outstanding applications for expert witness directions. The Tribunal also issued a reminder to parties of its powers on appeal, in particular the need to determine whether the local authority's decision was wrong at the time it was made, based on matters that had occurred and could have been take into account by the local authority at that date. It was clear that the Applicant was not disputing the need for most of the improvements. The dispute in respect of those items largely concerned events occurring after the notice was issued which delayed implementation of the works. These could have been better addressed by an application to vary the time limits in the notice.
4. Following this the parties agreed a sensible compromise on the time sensitive deficiencies so that by the morning of the hearing an agreed revised timetable reduced the issues before the Tribunal to consideration of just 2 of the required remediation works under Schedule 2.
5. A hybrid hearing took place on 13 January 2026 at Birmingham. Both parties were represented by counsel. Rebecca Ackerley on behalf of the Applicant and Henry Skudra on behalf of the Respondent. The Applicant's witness Rebecca Hallet gave oral evidence as did the Respondent's witness Kate Flanagan. The expert witness Davis Luke filed an expert report and gave oral evidence.

### **The disputed works**

6. The improvement notice requires all remedial actions to commence by 2 December 2024 and to have completed by 2 June 2025. The time limits were extended by agreement on all, but the remedial works specified in Schedule 2 paragraph 3(b) and paragraph 6, which the Tribunal is asked to determine. Those two items (in red script) are:

*Paragraph 3.*

*(a) Supply and fit a separately fused electrical connection to the sprinkler pump that is installed in such a way as to minimise the risk of electrical supply failure. The separate fuse must be taken after the meter and from the supply side of the domestic fuse box, using fire resisting cables. The power supply must comply with BS5839-6.*

*(b) Supply and install an additional pump to the suppression system that meets BS9251:2021 that allows for maintenance to the system whilst ensuring a fully functioning system at all times.*

*(c) Ensure the sprinkler system throughout the entire building is in full working order with no 'dry joints' and provide a copy of the completion certificate to the Council confirming the system is in full working order.*

7. Issues for the Tribunal on paragraph 3(b):

- Is a second pump required to meet the stated hazard?
- Is the requirement of an additional pump when viewed alongside the other remedial works a reasonable decision?
- Was the work impossible or so difficult to complete in the stipulated timescale as to render the requirement wholly unreasonable?

*Paragraph 6.*

*Arrange and instruct a competent person to conduct a survey on the existing lift in Block E. A gap analysis must be undertaken to establish how compliant the lift is with BSEN 81-72. Once established works should be commissioned to bring the lift in line with BSEN 81-72 as far as reasonably practicable to ensure the lift is capable of being used safely for firefighting in the event of fire.*

8. Issues for the Tribunal on paragraph 6:

- What is the height of Block E for the purposes of ADB5 para 15.2?
- If paragraph 15.2 is engaged, was the work impossible or so difficult to complete in the stipulated timescale as to render the requirement wholly unreasonable?

**Relevant Law**

9. There is no dispute that the items are Category 2 hazards or that under section 7(1) of the 2004 Act, the local authority has a power to take action by serving an improvement notice under section 12(2) of the Act requiring the Applicant to “take such remedial action in respect of the hazard concerned as is specified in the notice”. There is no dispute that the ‘remedial action’ specified comprise “action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard” as defined in section 11(8) of the Act.

10. An appeal against an improvement notice is by way of re-hearing and not a review but ‘may be determined having regard to matters of which the authority was unaware’ (paragraph 15(2), Part 3, Schedule 1 2004 Act).

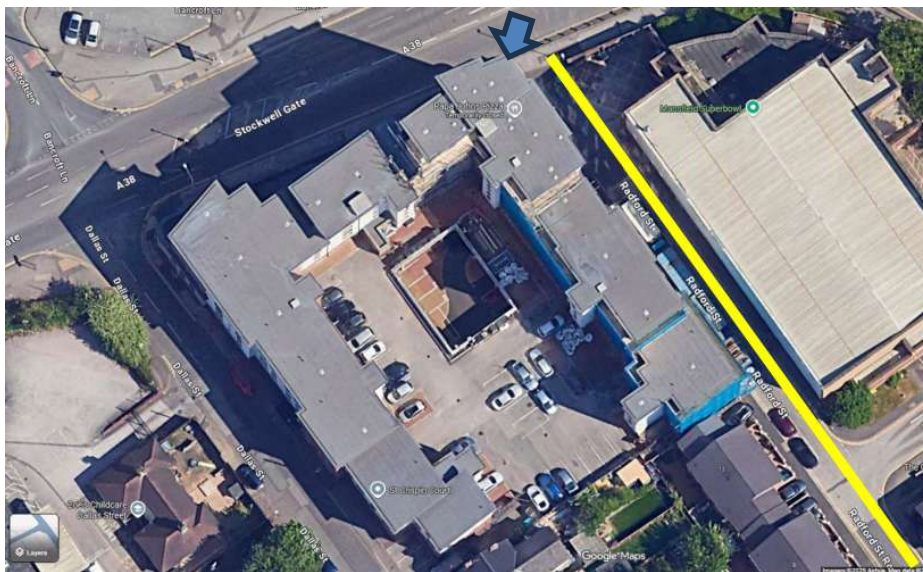
11. The Tribunal is ‘*required to consider whether the decision under appeal was wrong at the time when the decision was taken (and not at the date of the appeal)*’ ***London Borough of Waltham Forest v Hussain*** [2023] EWCA Civ 733 and re-affirmed in ***Manaque Company Ltd v London Borough of Lambeth*** [2025] UKUT 97 (LC) para 43.
12. Where the decision under appeal involves the exercise of discretion or judgment by a local authority the Tribunal should not interfere unless: “*having afforded it what is variously described in the authorities as “great respect” or “considerable weight”, it is satisfied that the decision is wrong. In making that evaluation the appellate tribunal must pay proper attention to the decision under challenge and the reasoning behind it. If the decision is based on the application of lawful policy it must ask itself whether the impugned decision, and any different decision it proposes to make, is in accordance with that policy. The burden lies on the party challenging the decision to satisfy the tribunal that it should take a different view from the primary decision maker.*” ***London Borough of Waltham Forest v Hussain*** para 77.
13. In making our decision we have therefore paid careful attention to the reasons why the Respondent reached its decision.
14. We may by our order confirm, quash or vary the IN (paragraph 15(3) to schedule 1 of the Act).

## **The Building**

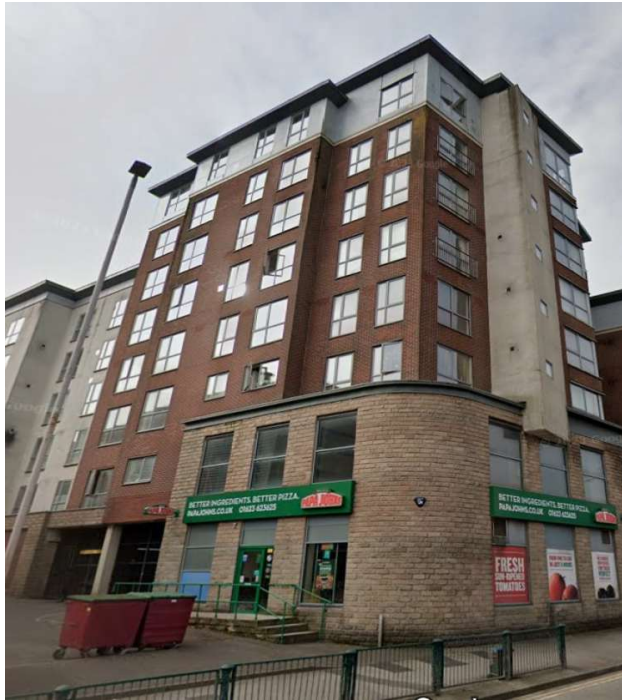
15. We inspected the Building on the second day of the hearing, 14 January 2026, in the presence of:
  - a. For the Applicant:
    - i. Steven Boon (E&J Estates)
    - ii. Rebecca Hallet (PPPM)
    - iii. David Luke (FRC)
  - b. For the Respondent:
    - i. Mr Skudra (counsel)
    - ii. Philip Lord (Mansfield District Council)
    - iii. Katrina Flanagan (EHO)
    - iv. Jonathan Holford (NFRS)
16. The Building is a U-shaped complex of 7 joined, single stair purpose-built blocks of flats (labelled A-G). It is constructed on a sloping site, with commercial units spanning part of the upper and lower ground levels of the residential blocks fronting Stockwell Gate. The residential blocks range from 3 to 6 storeys. The commercial units can only be accessed from Stockwell Gate. There is no internal access between the commercial units and the residential flats. In the centre of the U is a two-story concrete car park. The upper level is accessed from Dallas Street through an underpass that sits at the highest point of the slope. The lower

level is accessed through an underpass from Radford Street which sits at the lowest point of the slope.

17. The means of escape from each residential block is via the single staircase leading through an external fire door to the upper podium level of the central car park. *Figure 1* is a satellite view showing the three sides of the U which face out onto Dallas Street, Stockwell Court and Radford Street, and the central podium level carpark. The blue arrow shows the orientation of the photograph at *Figure 2*.
18. The paragraph 6 issue concerns Block E which comprises the northernmost corner block fronting Stockwell Gate and Radford Street. It sits on the lowest part of the slope. Access to the residential floors of Block E is through an external fire door on the rear upper carpark level into a central lobby giving access to an enclosed stairwell and lift. The stairwell and lift open onto similar lobbies on each floor, from which the flats are accessed. There are three flats on floors 1 to 3, and four flats on floors 4 to 6. *Figure 2* shows the external elevations of Block E facing Stockwell Gate and Radford Street, the access point from Radford Street.



*Figure 1*



*Figure 2*

19. The Building was constructed on the site of an old shoe factory. Conditional approval for redevelopment was granted in 2006 for 85 apartments, offices and carparking. The project did not run smoothly. In 2007 permission was requested for amendments to the scheme. The first developer ran into financial difficulties causing the development to stall for several years. There were issues with lack of building control and enforcement of the standards relevant at that time. This led to a redesign in 2010 using a fire engineers 'work around' to compensate for non-compliance issues. The project eventually went ahead without dry risers, smoke ventilation, a fire fighting shaft, or lobby protection to the stairs, on the basis that the Building would be fully sprinklered, and the fire detection, alarm and call out systems upgraded to compensate for fundamental flaws in the fire safety design.
20. The development was completed in about 2013 as 86 residential flats and two storeys of commercial units, with carparking on two levels. The Respondent appointed Premier Property Management and Maintenance Limited (PPPM) as managing agents in 2019 working with E&J Estates (who were appointed by the Respondent to oversee the remediation works). In 2022 the Respondent commissioned a fire safety report from FR Consultants Limited (FRC) in response to the Ministry of Housing, Communities and Local Government (MHCLG) Building Safety Programme which identified internal fire safety issues. At the same time a Fire Risk Assessment & External Wall survey (FRAEW) was carried which identified issues with the external wall systems.
21. The Respondent applied successfully to the Building Safety Fund (BSF) for funding to cover the cost of remediating the external wall systems. A contract was awarded for the works in March 2023. Unfortunately, the contract was

terminated mid-2024, before the works were completed, due to the contractor's insolvency. There have been issues with funding the shortfall caused by the first contractor's insolvency which has led to serious delays in progressing the remediation works.

22. On 18 September 2024, the Respondent formally inspected the Building with Nottinghamshire Fire and Rescue Service (NFRS) pursuant to its duty under Section 10 of the Act, to consult where a fire safety hazard exists in a building with common parts containing one or more flats. The inspection identified fire hazards which were assessed under the HHSRS system as a category 2 hazard. The Respondent determined that an improvement notice was the most appropriate enforcement action for the reasons set out in the notice.
23. It should be mentioned here that in the weeks leading up to the inspection the Respondent had informally threatened to issue a prohibition order on Block E due to serious fire safety issues. These concerns were discussed at a 'Gold' enforcement meeting on 6 September 2024, with NFRS, MHCLG, BSF, Homes England, the Department for Levelling Up, Housing and Communities (DULUC), the Joint Inspections Team and the Respondent's agent PPPM. Following this, on 9 September 2024, the Respondent procured a further fire risk strategy report from FRC to address the specific hazards relevant to the threatened prohibition order. The report (referred to by the parties as "the bespoke report" and discussed below) went further and covered other areas of concern raised at the 'Gold' meeting on which NFRS wanted additional information.
24. The Respondent considered the bespoke report and decided to postpone any decision on prohibition until after its inspection on 18 September 2024. Following this an improvement notice was determined as being the most appropriate enforcement option. Most of the remedial works specified in the improvement notice reflect the short, medium and long-term actions recommended in the bespoke report.
25. The Respondent recognised that most grounds of appeal concerned the timeframe for completion of the works and was prepared to treat those parts of the appeal as a request for a variation if sufficient information was provided to enable it to assess the Applicant's revised timescales. The Applicant provided updated contract and other information in respect of cladding, compartmentation, dry risers, and AOVs, which appears to have been sufficient for the Respondent to have agreed a revised timetable for all remedial actions other than the two issues before the Tribunal.

### **Paragraph 3(b) Issues**

26. The issues are (1) is a second pump required to meet the stated hazard? (2) is the requirement for an additional pump when viewed alongside the other remedial works a reasonable decision? (3) Was the work impossible or so difficult to complete in the stipulated timescale as to render the requirement wholly unreasonable?

## Evidence

27. The first issue is whether a second pump is required to meet the stated hazard. That has not been seriously challenged by the Applicant who recognises that the bespoke report and later reports identify a serious risk of harm due to inherent defects in the fire safety design of the Building, should the sprinkler pump not be operational.
28. The Applicant's appeal predominantly relates to the second issue. The Applicant filed a statement of case and two supplemental statements in which it questions the need for additional pump when viewed alongside the other remedial works. It argues that on completion of the cladding and compartmentation works, the installation of dry risers and AOVs, the required upgrade to the electrical supply and general overhaul of the fire safety systems, the sprinkler system will no longer operate as a compensatory measure, designed to compensate for deficiencies in the fire safety design of the Building. The deficiencies will have been designed out, and the sprinkler system will operate as an additional fire safety measure rather than a compensatory system.
29. The Applicant also argues that the time limit imposed is unreasonable but does not provide any reasons. In its supplemental statement of case dated 23 May 2025, the Applicant states that the work could be carried out by March 2026 if required. In its statement of 15 October 2025, the Applicant states that Midland Fire Sprinklers had been asked to provide a survey report. That report had not however been obtained by the date of the hearing.
30. The Respondent's case is set out in its statements of case dated 13 February 2025 and 23 May 2025, and in a witness statement of Ms Katrina Flannagan dated 16 October 2025, in which she argues that the sprinkler system was installed as an essential compensatory feature but was not installed to the correct standard. A back-up pump was strongly recommended in the 2022 FRC report and in the 2024 bespoke report. A Fire Risk Assessment (FRA) carried out by Cardinus in 2023 finds that travel distances within some flats are outside those recommended in Approved Document B (ADB) but mitigated by the compensatory sprinkler system. A later FRA carried out by RJH Fire & Security in January 2025 also comments on travel distances in open plan flats exceeding the permitted distance and confirms that is intended to be compensated for by the sprinkler system.
31. Ms Flannagan states that installation of a second pump was an action agreed by the Applicant as part of its 'long term' action plan. That agreement was formalised by the Respondent in the improvement notice. It is a necessary measure to ensure a fully functioning system is always operational, including periods of maintenance. It should be installed to current standards which meet BS9251:2021, as an additional measure to ensure resilience and reliability of the system.

## *Expert evidence*

32. For the Applicant Mr David James Luke MIFireE, MIFPO, MIFSM, ACABE of FRC gave expert evidence having provided a report on 20 November 2025, in which he was asked to comment on two issues. The requirements of paragraph 3(b) and paragraph 6, as detailed in Ms Flannagan's witness statement of 16 October 2025.
33. He is a retired operational fire officer who for the last 10 years has been a specialist consultant on high rise buildings for FRC. His first involvement with this site was in 2021 when he was commissioned by the Applicant to provide the 2022 fire safety report and the July 2022 FRAEW. Following the 'Gold' enforcement meeting in September 2024 he was also commissioned to provide the 2024 bespoke report, to address the threatened prohibition order.
34. David Luke's expert report recites the history of the development and comments on the lack of effective building control. He questions the correctness of using Building Regulations 2010 and the associated ADB (2019 edition) and states that in his opinion the building was built to BS7974 standards and not BS9991 or ADB standards. His report is highly critical of local authority for allowing this to happen, apparently based on a fire engineers report provided by Collins Stone and Associates in 2010, which he believes was commissioned to retrospectively justify shortfalls in the in the design. He does not explain the practical significance of the Respondent using what he believes to be incorrect versions of building regulations.
35. His report confirms that to be an acceptable compensatory feature the sprinkler system should be installed to life safety standards. In his opinion, building regulations were not followed when the Building was constructed and the sprinkler system, as installed, is not to life safety standards and therefore inadequate as a compensatory feature.
36. In relation to paragraph 3(b) the expert report does not deviate from the findings of David Luke's 2022 report or his 2024 bespoke report. David Luke re-iterates his opinion that the sprinkler is an inadequate compensatory measure to justify the omission of critical fire safety systems including dry risers, AOVs and smoke seals on fire doors and internal lobbies. A decision which he states, "*placed an excessive and inappropriate reliance on the performance of the sprinkler system.*"
37. His report states at paragraph 3.2.13: -
- "It is my professional opinion that the risk to life in this building to residents is low assuming the fire suppression system and fire alarm system are in perfect working order, well maintained, the passive fire separation is in good order and the residents are familiar with the building and are physically and mentally able to be compliant with the evacuation strategy."*
- and at paragraph 3.3.14: -

*“However, should the sprinkler system or fire alarm system become defective or be offline for maintenance the building would be extremely unsafe.”*

38. The report goes on to state that the system does not have dual pumps or back-up power supplies to allow safe occupation of the Building during maintenance or power interruption. The Building is therefore vulnerable to fire and places the firefighter at increased risk.
39. The report addresses the post remediation position stating that after the remediation works have been completed reliance on the sprinkler system as a primary life-safety measure will be significantly reduced and its role will transition from that of crucial compensatory feature to an additional beneficial system. At that point *“the requirement for it to be enhanced with a dual power supply and secondary pump will be obviated”*.
40. In answer to the Applicant’s question to the expert: *“When the FTT reaches its determination in January 2026, is your view that the sprinkler system will still be a “life-system” because the necessary works will not have been completed by that date to reduce it to being a “beneficial” system?”* David Luke’s response dated 18 December 2025, was yes, but he recognised that if the remediation works were completed by April-June 2026 the difficulty and expense of upgrading the system should be weighed against the benefit of the paragraph 3(b) requirements to assess whether proportionate to the risks.
41. I mention here that in oral evidence the Respondent’s witness Rebecca Hallet introduced a new line of argument concerning the cost and likely disruption of installing a second pump. She stated that a larger pump would require a larger tank for which there was no room. She confirmed that no quotes had been obtained but estimated a new pump would cost about £25-30K. If a tank upgrade was required that might increase to £50-£60K. Cost and practical difficulties had not formed any part of the Respondent’s case prior to the hearing; the figures appear to have been plucked from the air and the issue concerning space did not accord with the Tribunal’s inspection which identified a large almost empty room adjacent to the tank room which could be utilised if necessary. Consequently, the Tribunal was not able to attach any weight to this late, unsupported testimony.

#### *Discussion and decision on paragraph 3(b)*

42. The matters before the Respondent on 31 October 2024 when it made the improvement notice decision were:
- a. The FRC fire engineers report of 17 January 2022.
  - b. The Fire Risk Assessment carried out by Cardinus in 2023.
  - c. The documents and information provided and discussed at the ‘Gold’ enforcement meeting on 6 September 2024.
  - d. The FRC ‘bespoke report’ dated 9 October 2024.
  - e. The outcome of its inspection on 18 September 2024 including the HHSRS hazard scoring assessment.

- f. Its general knowledge of the history of the Building including the external wall systems remediation programme following the 2022 FRAEW report and the historic reasons for the compensatory sprinkler system.
43. The documents that comment specifically on the sprinkler system all identify that it is a critical life safety measure required to compensate for deficiencies in the original fire safety design. David Luke's three reports in 2022, 2024 and 2025 all state that as a life-safety measure it is inadequate without the installation of a back-up pump.
44. This is not really challenged by the Applicant. The thrust of the Applicant's argument is that post remediation of all other improvement notice works a second pump becomes unnecessary. The expert report confirms that is probably correct and speculates on proportionality if the other remedial works were to be completed by April-June 2026. The problem with this argument is the lack of any evidence the remediation works will complete within a short space of time. In fact, the opposite appears more likely. The cladding and compartmentation work stalled in 2024 and have barely progressed since. The Applicant is still trying to overcome funding issues and delays with BSR approval for the dry risers and AOVs, which the Applicant intends rolling into other roof works. The revised timetable agreed with the Respondent estimates April 2027 for completion of the cladding and compartmentation work (which will include the roof and AOVs). The other sprinkler system works are now to be completed by 31 July 2026.
45. The Respondent's decision to impose the requirement for installation of a second pump was in our view reasonable and necessary to ensure that the hazard identified in the HHSRS assessment is adequately addressed by bringing the compensatory sprinkler system up to an acceptable safety standard. The later expert report is relevant in as much as it confirms the decision was in principle correct when made. The improvement notice followed serious fire safety concerns that were raised and discussed in the context of a possible prohibition order. Whether the Respondent considered the post-remediation status of the sprinkler system when making its decision is unclear, but as any significant delay would present an unacceptable risk of serious harm to the occupiers it was not wrong for the Respondent to opt for the certainty of requiring a back-up pump.
46. We do not find that the time limit for completion of the work was an irrational or wrong decision. The Applicant had 7 months from the date of the improvement notice to procure the work. In its second supplemental statement the Applicant estimated the work could be completed in 10 months. The difference is not insignificant but, the Applicant has provided no evidence in support of its suggestion that the works were impossible or so difficult to complete, that the time limit specified in the notice is a wholly unreasonable timeframe.

#### Paragraph 6 Issues

47. The paragraph 6 issues are: (1) What is the height of Block E for the purposes of ADB5 para 15.2? (2) If paragraph 15.2 is engaged, was the work impossible or so

difficult to complete in the stipulated timescale as to render the requirement wholly unreasonable?

48. We will first consider the height of Block E and then consider the timing issue.

*The height of Block E*

49. Under the Building Regulations 2010 (2019 Edition) ADB paragraph 15.2(a) states that a building with a storey more than 18m above the fire and rescue service access level should have one or more firefighting shafts each containing a firefighting lift. This is not in dispute.
50. The Applicant's initial argument was that the height of the building to the finished floor level of floor 6 was 17.925m as per the as-built drawings, which meant ADB5 15.2 did not apply. In its supplemental statement dated 23 May 2025, a drawing from a drone survey was inserted along with an annotated photograph which it asserts also confirm the height as being under 18m. No copy of the survey was provided, and the measurements are not verified. In neither statement does the Applicant identify the location of the fire and rescue service vehicle access level from which the base measurement should be taken. Neither does the Applicant comment on the two FRC reports it commissioned in 2022 and 2024 (the bespoke report) both of which found that for the purposes of ADB5 15.2 the height of Block E exceeded 18m.
51. In Rebecca Hallet's witness statement of 18 November 2025, she doesn't specifically comment on the height of Block E but does confirm that NFRS has carried out extensive training exercises at St Crispin's Court. Their vehicles park on Dallas Street and Stockwell Gate. The high-level platform is, she believes, the only vehicle that parks on Radford Street. She states that the fire service uses the Dallas Street entrance to access Block E because the entrance to the stairwell and lift is through the rear upper podium level entrance door. Block A can be accessed from the lower ground access on Radford Street but as there is no connecting access between Block A and Block E, it would be necessary to lift the hose up to the podium level from the lower car park or take it up the Block A stairs and out onto the podium level. On training exercises NFRS run the hose across the podium from the vehicle parked on Dallas Street to the Block E entrance door.
52. In oral evidence she confirmed that the fire engines used Radford Street because it the best place to access the tallest building and agreed that a dynamic response to fire requires any or all access points to be available.
53. The Respondent relies on its statements of case, and the witness statement of Ms Flanagan dated 16 October 2025 in relation to the following:
- a. The BSF funding was approved on the basis that the finished floor level of floor 6 of Block E, exceeded 18m in height.
  - b. The FRC 2020 report states at paragraph 6.1.3 that the Fire Service Access level is Stockwell Gate and that the height of Block E was approximately

26.335m above that level with a habitable top floor of 22.735m. It also states that ADB 2006 was the relevant guidance when the Building was constructed, which states that buildings over 18m should have fire fighting shafts, dry risers and smoke control vents. The report also notes the restricted height on the undercroft access from Dallas Street (1.3 m) to the podium level courtyard, which has insufficient loadbearing for a fire service vehicle meaning that a hose would need to travel more than 45 meters to the entrance door. The report speculates on the omission of a firefighting shaft being another variation intended to be compensated by Collins Stone & Associates 2010 fire engineers' solution.

- c. The 2024 bespoke report confirms at paragraph 11.2.3 that due to *“the height of the building at (more than 18m to top occupied floor when measured from fire service access level to the finished floor level of the top storey) firefighting shafts are required”*; and at 12.5.8 that *“The fire fighting lift does not have dual power supplies, this should be upgraded.”*.
- d. NFRS prepared a Level 3 Site Specific Risk Information (“SSRI”) to be used as operational guidance for responding to call outs to St Crispin’s Court “the NFRS Operational Response”. The SSRI was prepared in line with the DHCLG Fire and Rescue Service Operational Guidance 2012. Level 3 sites present medium to high levels of risk. (There are 5 levels of site-specific risk, Level 1 offers very low or no risk, Level 5 present high-level risks requiring a multi-agency plan).

The Operational Response predetermines the level of attendance required taking account of un-remediated cladding and the absence of fire-fighting facilities on site. The standard response for the site would have been 3 pumping appliances. However, the current response requires 5 appliances. The current plan identifies Dallas Street as the best site access but notes that appliances will also be required to attend at Stockwell Gate and Radford Street to secure water supplies and monitor external spread. The Operational Response explains that the actual response is a dynamic risk assessment, based on the information provided at the time of the call with the staff having to flex the plan according to the location of the fire on site.

The Operational Response states: *“In flexing the approach access to St Crispin’s Court may be required at any point around the entire curtilage of the site which includes Dallas Street, Stockwell Gate, Peacock Street and Radford Street”*.

- e. In her witness statement of 16 October 2025 Ms Flanagan commented that the fire and rescue service vehicle access for Block E is at ground floor level on Radford Street and the closest hydrant serving the vehicle access level is Stockwell Gate (*Figure 3*).



*Figure 3 showing position of fire hydrant*

54. In oral evidence Ms Flanagan confirmed that; the improvement notice was issued in consultation with NFRS; the closest parking for fire service vehicles is Stockwell Gate outside PapaJohns (beneath Block E) and on Radford Street; In all the Respondent's work with NFRS, Stockwell Gate has been stated as the vehicle access point for Block E; The hose can be run through the Radford Street site access and lifted onto the podium level via decking; She had not witnessed the NFRS training exercises but from conversations with NFRS she understood that in an emergency situation the site would be flooded with fire service appliances allocated to different parts of the site to meet dynamic evolving events; The biggest issue is the height of Block E and NFRS main focus would be to access the nearest hydrant, which is the one on Stockwell Gate; Training exercises are not real events, Dallas Street is the entrance used for non-emergencies. In an emergency, 5 vehicles would be sent, and the main trunk roads would be closed, this doesn't happen on training events.

#### *Expert evidence*

55. In his expert report of 20 November 2025 David Luke addresses the height issue. He takes issue with Ms Flanagan's measurements in her witness statement of 16 October 2025, stating that she had fundamentally misinterpreted the regulations by ignoring a later updating report which found the height measurement was under 18m once it became clear the height measurement should be taken from fire service vehicle access level (paragraph 2.1.4). He does not identify which later report confirms this and there is no updating report in the parties' evidence which confirms this. The 2022 FRC report identifies Stockwell Gate as the fire service access level, the 2024 FRC bespoke report confirms the height of Block E as being over 18m from the fire service access level.

56. David Luke states this critical error was consequent on Ms Flanagan conflating the basis of the height measurement for the purposes ADB diagram 6 (which gives a height measurement of 22.73m) with the specific provisions of paragraph 15.2 which requires the measurement to be taken from fire service vehicle access

level. This ignores the fact that her statement was based on David Luke's two earlier reports in 2022 and 2024.

57. In his expert report David Luke contradicts his earlier two reports, without explaining why, and finds that Dallas Street, the highest part of the site, is in fact the fire service vehicle access level. He states at paragraph 2.3.6 that the service vehicle access level is the point where the service vehicles park and access the building, which he believes is the Dallas Street entrance to the upper podium level carpark.
58. He states at paragraph 2.3.8 that measured from the podium, the top floor level of Block E is less than 18m and the mandatory requirement for a firefighting lift under ADB 15.2 does not apply. He states at 2.4 that the central argument for the installation of the firefighting lift is invalid, but at 2.4.2 rather confusingly recommends that the primary focus should be the re-measurement of the height of the building from the correct datum point i.e. the fire and rescue service vehicle access level. This recommendation is repeated in paragraph 4.2 – Recommended Points for Discussion.
59. The Respondent raised formal questions on expert report, with reference to identifying Dallas Street as the fire service vehicle access point. In reply to which, on 3 December 2025, David Luke expanded on his report as follows:
  - a. In answer to his change of mind from Stockwell Gate, he states that the 2022 report was a desktop report based on plans and other information. Once he became aware of the correct service vehicle access point that report was superseded (he does not say how he became aware Dallas Street was the correct access point, or what superseded the 2022 report.)
  - b. His reasons for saying it is Dallas Street not Stockwell Gate, are; that the original plans did not include the height restricting first floor flat above the Dallas Street entrance or contemplate inadequate load bearing of the podium level; there is no direct access to the Block E flats from Stockwell Gate, a standard fire ladder would not reach the flats because they are set back from the façade of the commercial units; access from the first-floor plinth would need specialist equipment a standard fire truck would not carry. The fire service would therefore access the flats from the entrance door at the rear.
  - c. The fact that the larger hydrants are all situated on Stockwell Gate is not, he states, relevant. While acknowledging higher pressure hydrants are useful in high reach appliances, he states that dry risers will be fitted to Block E, the fire service vehicle carries sufficient water to get started on firefighting and there are hydrants within 90m of the building entrance, which complies with ADB 14.9.
  - d. He appears to disagree that identifying the service vehicle access point is a matter for NFRS, but as his reasons only refer to the location of the hydrants in relation to building regulations, he appears not have

understood that (f) and (g) of the Respondent's formal questions refer to the vehicle access point, not the hydrants.

60. David Luke doesn't explain why his 2024 bespoke report fails to clarify what he is now saying about the service vehicle access level or the height of the building for the purposes of ADB 15.2. The 2024 bespoke report does not mention Dallas Street other than as the fire assembly point on evacuation.
61. There is no analysis in any of David Luke's reports of how the fire service vehicle access level is identified on a sloping site of mixed-use units of varying heights with multiple service vehicle access routes and site entrances at the lowest and highest level, neither of which comply with ADB 13.1 due to height restrictions.
62. In oral testimony David Luke expanded on his evidence.
63. He fairly acknowledged there had been insufficient scrutiny of the elevation drawings in his first report which he now thinks was wrong in identifying Stockwell Gate as the fire service vehicle access level. He accepted there was no real dispute about the measured height of Block E, the point of issue was where the base level was measured from, which under ADB 15.2 was the fire service vehicle access level.
64. I will note here two further points on the evidence. First, the RJH FRA of 26 January 2025 comments on the improvement notice requirements and the report's author states at paragraph 24.1: "*I have been made aware that a fire-fighting lift isn't required in Block E*" under current regulations because Dallas Street is the fire vehicle access level. He then confusingly states that the height of Block E is under 18m based on the distance between the fire fighters access floor and the floor level of floor 6. The author of the report does not state how he became aware of this, or why Dallas Street is the fire service vehicle access level.
65. Secondly it was put to Ms Flanagan that the HHSRS scoring did not allocate a risk of harm in respect of the absence of a firefighting lift, and that the absence of a second pump was scored 1, a low risk (pages 1451 and 1453 of the bundle).
66. However, the scoring code key states that: 0 = satisfactory; 1 = not satisfactory; 2 = defective; 3 = seriously defective. The absence of a second pump was therefore scored as a 'not satisfactory' 1, which does not equate to 'low risk'. The HHSRS scoring refers to the absence of a test certificate for the firefighting lift (if present). It was scored 0 because there is no firefighting lift. The issue for the Respondent was, should there be a firefighting lift, not whether there is a current test certificate. The HHSRS sheet does not include a line for the absence of a lift.

#### *Discussion and findings on the height of Block E*

67. It is common ground that for the purposes of ADB 15.2 the base measurement must be taken from the fire service vehicle access level. If that is Stockwell Gate or Radford Street, there is no dispute that the height of Block E exceeds 18m. If it is Dallas Street the height may not exceed 18m. Dallas Street rises

considerably from its junction with Stockwell Gate. There are no height measurements at the various hydrant locations on Dallas Street. If the access level is opposite the site entrance, at the highest point of the site, it will likely not exceed 18m.

68. There is nothing in the regulations that defines what is meant by the fire and safety service vehicle access level. For dwelling houses and simple flats developments there will generally be one obvious access route from the nearest street. Section 13 of ADB5 provides guidance on suitable route specifications which recognises that fire appliances are not standard and building control may liaise with their local FRS. The service vehicle access level is generally taken to mean the point at which the firefighters can directly access the building and its internal firefighting systems from the fire engine, which will ensure the best connection for its water supply and equipment deployment. Essentially it is the point of interface between the vehicle and the buildings internal fire fighting systems, such as any onsite rising mains, dry risers, stairwells and firefighting lifts.
69. NFRS have produced an SSRI and Operational Response which clearly identifies four service vehicle access points from the adjoining streets which may need to be used depending on the point of origin and spread of the fire. It identifies Dallas Street but also states that Stockwell Gate and Radford Street locations are important for securing water supplies, which is consistent with the need for a high-pressure hydrant where water may need to be pumped to the higher levels of Block E.
70. David Luke's 2022 report recognises this. His 2024 bespoke report while not specifically referencing Stockwell Gate, continues to state that the top floor level in Block E is over 18m from the fire service vehicle access level, which is inconsistent with any later determination that Dallas Street is the correct location.
71. His expert report is unclear as to when and why he subsequently identified Dallas Street as the only or main service vehicle access level and his conclusions at paragraphs 2.4 and 4.2 suggest that measurement from that level remains to be determined.
72. His replies to Respondent's questions on the expert report avoid any specific explanation for this and his oral evidence focussed more on the unsatisfactory history of site regulation and dubious developer practices, than explaining why the Dallas Street entrance level should be used and not the two locations immediately adjacent to Block E. There are issues with running a hose from whichever location is used, so this does not appear to be a determining factor. We found David Luke's evidence failed to sufficiently recognise that a dynamic response to risk assessment requires flexible deployment of the vehicles and apparatus to whichever parts of the site are affected.
73. If a rapidly spreading fire broke out in the commercial units beneath the Block E flats, it is highly unlikely the service vehicle attending would park at the top end of Dallas Street. That is the furthest point from the fires point of origin and

there is no access to the commercial units from the rear podium. A complicated sloping site with lack of internal access between the commercial and residential areas needs a bespoke response, as recognised by the SSRI which includes Stockwell Gate and Radford Street as access points. They are the closest points to Block E with access to the larger, high-pressure hydrants. The Operational Response states that 5 vehicles will be dispatched. This is not a site with a single service vehicle access level. The Dallas Street entrance may be used but the response might also require vehicles to park at Stockwell Gate and Radford Street depending on the point of origin and spread. It makes no sense for the base measurement for the purpose of paragraph 15.2 to be taken from the access point that is furthest from Block E rather than the two access levels immediately adjacent to it.

74. We give some weight to the expert report but there too many inconsistencies and poorly explained conclusions for us to find it conclusive. We therefore find it more likely that the fire service vehicle access level for a fire with a point of origin in or near to Block E will be Stockwell Gate and/or Radford Street notwithstanding additional vehicles may be deployed to Dallas Street. It follows that the height measurement for the purpose of ADB5 paragraph 15.2 will be over 18m.
75. In any event, the only height information relevant to ADB 15.2 and Block E that was before the council when the improvement notice decision was made, was that contained in the FRC reports of 2022 and 2024, which both confirm it as being over 18m.

*Was the time limit wholly unreasonable?*

76. Paragraph 6 contains an absolute requirement to procure a specialist report and a conditional requirement to then commission any recommended works so far as reasonably practicable.
77. The Applicant obtained a firefighting compliance survey of the lift from Avante Elevators Limited on 22 May 2025. It appears to have been procured by Taylor Lifts Limited; there are no details of the date on which either were instructed by the Applicant. The primary objective is stated as being to evaluate the lifts general condition and provide specific recommendation regarding compliance with relevant firefighting requirements. In the report under 'References', BS EN 81-72:2003 (Firefighters Lifts) is mentioned.
78. Section 5 of the report deals very briefly with firefighting compliance. It incorrectly states the threshold for engaging ADB5 15.2, stating that the building is just short of the 18m threshold.
79. The report finds numerous building deficiencies, a shared lobby area, a single power source, non-fire-retardant materials, risk of water ingress during firefighting.

80. The recommendations are a list of 11 comments under the heading ‘Lift Compliance to BS EN 81-72:2003’. The comments indicate failings, without specific reference to the relevant standards.
81. The 2003 standard was withdrawn and replaced by newer standards in 2020. The report is therefore inadequate to meet the requirement to “*instruct a competent person to conduct a survey on the existing lift in Block E. A gap analysis must be undertaken to establish how compliant the lift is with BSEN 81-72.*” The report is not a gap analysis which identifies compliance (or non-compliance) with the current BS standards for firefighting lifts.
82. That said it is evident from the report that the fabric of the Building surrounding the lift is not suitable to accommodate some of the required standards, not least the absence of any space to install a self-contained lobby. That accords with our inspection. It is likely that a competent gap-analysis would find that even if possible without substantially rebuilding part of Block E, the likely cost and disruption to the occupiers of implementing remedial works to bring the lift in line with BS EN 81-72, would outweigh the risks, particularly once the other remedial fire safety works have been completed.
83. However, we must determine the appeal based on the information before the Respondent when the decision was made. We have already found that ADB5 15.2 was engaged. It was not therefore wrong for the Respondent to seek a report on the capability of the lift to operate as a firefighting lift in line with BS EN 81-72. Paragraph 6 only requires the Applicant to commission works identified in the gap analysis in so far as reasonably practicable. Had the Applicant got on with procuring an inspection survey and report from an engineer competent to advise on the required standard, it would have been able to seek confirmation that any works that were not reasonably practicable did not have to be implemented.
84. We do not find that the period of 7 months from the date of the improvement notice to 2 June 2025 was an irrational or unreasonable time limit in which to obtain a gap report from a competent person. That is something that could and should have happened well within the time limit. Whether the time limit remained reasonable in the light of commissioning any identified works is impossible to ascertain until a gap analysis is obtained. If it had been obtained then depending on its findings, the Applicant could within the stipulated time, have sought a variation to extend the time, or sought confirmation that the remedial works were impossible or impracticable to implement. Lack of certainty about the possible need for further works consequent on procuring the required report does not render the time limit wholly unreasonable, particularly as paragraph 16(4) of the regulations allows the time limit to be varied by agreement.

## **Conclusion**

85. For the above reasons we confirm paragraphs 3(b) and paragraph 6 of the improvement notice. The terms of the remaining paragraphs are as agreed between the parties in January 2026.

**D Barlow**  
**Deputy Regional Judge**

Rights of appeal

- By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.
- If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.
- The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.
- If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.
- The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.
- If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).