

Written evidence submitted by Richmond House residents [BSB 143]

1. Who we are

- 1.1 A year ago, 60 residents of Richmond House, including 17 children, lost their homes in the Worcester Park fire. Despite the arrival of firefighters within just 9 minutes of the first 999 call, and the eventual arrival of 125 firefighters, our block of 23 flats was completely destroyed by fire on 9 September 2019. The fire spread with such speed that it was impossible to contain. We lost our homes and all of our possessions in the fire and today we are in temporary accommodation, uncertain of how to rebuild our lives.
- 1.2 Berkley Homes constructed the block in 2011 and the residents, mainly key workers including nurses, teachers, social workers and postal workers, were happy to be starting on the property ladder. Today it is clear that hidden beneath an attractive façade there were major construction failures that allowed the fire to take hold with ferocious speed, such that the building could not be saved. We are here to say that concerns about building safety are not dry academic issues. Our experience underlines the importance and desperate need for reform in building safety and construction.
- 1.3 We believe our experiences demonstrate there are significant problems with the UK building safety system, and show that the draft bill does not go far enough to protect residents of unsafe buildings - like our own building until it burnt down.

1.4 We hope our evidence will encourage the committee to share our concerns and to ask the government to address those concerns before they place the bill before parliament.

2. Summary of Evidence

2.1 The developer, Berkeley Homes (“Berkeley”) and the building owner, Metropolitan Thames Valley Housing Association (“MTVH”) breached the most basic fire safety building regulations. Missing or inadequate cavity barriers meant fire and hot gases could spread so rapidly that our lives were placed at risk and the entire building was lost.

2.2 Building safety is a serious issue for buildings under 18 meters like ours. Lives were not lost at Richmond House, but this was not because the building was less than 18m tall. It was because we had seen the fire at Grenfell Tower so we fled the building immediately, even before the fire brigade arrived. Fire does not respect the height of a building. Higher risk buildings should be identified by multiple factors, including density of occupation, not merely the height of the building.

2.3 When our building was constructed in 2011, a system of regulation and inspection was in place. It clearly did not work and defects were simply covered over, beneath an attractive façade. The draft bill fails to tackle the fundamental need to hold to account the construction companies and property owners who are responsible for the construction and safety failures. Not only that, it continues to allow developers to pass costs to

innocent leaseholders - who play no part in designing, constructing, signing off or regulating buildings.

2.4 The excluded costs for limiting building safety charges are far too narrow. In a building like ours, even if it were acknowledged as 'higher risk' (which is not currently proposed), leaseholders would have to pay unaffordable amounts to remove the risks to their lives caused by the safety failings of Berkeley and MTVH.

2.5 Residents would have to start court proceedings themselves to limit such unfair building safety charges. Court proceedings would be unaffordable and out of reach for most residents, and legal aid would not be available.

2.6 We welcome the intentions of the draft bill but regret it:

- does not hold the construction industry accountable for the existing defects that make many current buildings unsafe;
- does not protect leaseholders from the costs of fixing safety defects that have been caused by the deliberate and systematic failings of the construction and property development industry;
- does not do enough to protect future new builds because of the limited scope of 'high risk' buildings, such that lives will continue to be at risk.

3. Evidence

3.1 Fire at Richmond House

- 3.1.1 When fire broke out in our building in the middle of the night on 9 September 2019, most of us were in bed, many of us were asleep. The initial cause of the fire remains unknown. What is clear is that the fire spread with incredibly ferocity. Within minutes every floor of the building was engulfed by a fire which could not be extinguished, despite a very large number of firefighters arriving within minutes of the fire's discovery.
- 3.1.2 We had to run for our lives in the middle of the night, in many cases carrying babies and young children, and wearing only our nightclothes. Residents opened their curtains to see a wall of flame. We all escaped the flames by moments and were lucky to come out with our lives.
- 3.1.3 By luck, the fire took hold on the opposite side of the building from the single escape staircase. Residents were sadly aware of the warning of Grenfell Tower 2 years earlier and knew that to stay put would put our lives at risk so we fled the building. We were lucky that no one had mobility issues that required professional support to evacuate. We did not have time to wait for the fire brigade to arrive, we had to help our neighbours to get out.
- 3.1.4 If it had not been for a combination of luck, quick thinking, and looking out for each other, many of us could have died. Although Richmond House was under 18m high and not clad in ACM as at Grenfell, there was a

chilling echo of construction failures and Building Regulation breaches hidden beneath an attractive cladding façade.

3.1.5 Despite arriving within less than 10 minutes, the London Fire Brigade were unable to save the building from being destroyed because the fire spread so quickly.

3.1.6 Many of us, including children, are deeply traumatized and continue to suffer from serious psychiatric and psychological illnesses caused by our experiences of the fire and by seeing our homes and possessions destroyed.

3.2 Safety defects

3.2.1 The fire was able to spread rapidly because of basic breaches of Building Regulations and Approved Document B ('ADB'). An inspection report reveals that hidden beneath the under cladding were poorly fitted or missing cavity barriers.

3.2.2 An independent report by Probyn Miers into the causes of fire spread, commissioned by MTVH, found that:

- 'once fire entered (the void behind the façade) it was able to spread very rapidly around the outside of the building as the battens, being natural timber, burned easily';¹

¹ Probyn Miers: 'Initial report on causes of fire spread' para 3.4

- The spread of the fire behind the cladding should have been slowed very substantially by cavity barriers;²
- Cavity barriers were 'defective', allowing fire to spread 'almost unhindered, both horizontally and vertically', or they were 'entirely missing' at Richmond House.³

3.2.3 Cavity barriers do not completely prevent the spread of fire, but they slow the spread enough so that firefighters can tackle it within a limited area. We were denied this protection and our homes were destroyed as a result.

3.2.4 The failure to install effective cavity barriers is a breach of the functional requirement of Part B3 of the Building Regulations and ADB s9. At the roof there were no cavity barriers at all. This meant that fire and hot gases could spread unhindered behind the façade causing very rapid fire spread.

3.2.5 The use of materials such as ACM within cladding systems has rightly attracted a lot of attention since Grenfell. It is now clear that there is a much wider failure by construction companies. Absent and poorly fitted cavity barriers has been identified as a problem at Grenfell⁴. One of the UK's largest house builders, Persimmon, was also found to have

² Para 3.5 report

³ Para 3.6 refers to defective cavity barriers; Para 4.2 that they were entirely missing around the eaves

⁴ Evidence within Phase 2 of the Grenfell Tower Inquiry from Studio E and Rydon witnesses

systematically failed to fit cavity barriers. The failure to install correct cavity barriers has been identified as a ‘systematic nationwide problem.’⁵

3.2.6 The absence of cavity barriers to the roof at Richmond House meant that once the fire had climbed the building (which it did within minutes) it was unhindered and could spread rapidly around the building. Although the cladding system at Grenfell was of entirely different material the crown/roof at Grenfell was similarly not protected and acted like a fuse carrying fire around the building. In an echo of this problem, Richmond House also failed to have the protection of cavity barriers between the compartments and the roof which meant the fire could spread unhindered.

3.2.7 Berkley were able to conceal the missing or inadequate cavity barriers despite a system of regulation and inspection. By their nature, such problems remain hidden until there is a fire.

3.3 Response to the safety defects

3.3.1 Despite their clear responsibility, neither Berkeley nor the building owner, MTVH, have accepted responsibility for lack of fire safety in the building. They have not provided anything close to adequate compensation or any adequate redress for residents. One year on, we are still in temporary accommodation and unclear of what our future will be.

⁵ <https://www.housingtoday.co.uk/news/report-persimmon-in-systemic-nationwide-fire-safety-failure/5103358.article>

- 3.3.2 MTVH are rebuilding the block through their insurance. They have again contracted Berkeley for the rebuild despite their disastrous original construction of the building and against the express wishes of residents.
- 3.3.3 A year after the fire, we remain in temporary accommodation without homes and possessions of our own, and many of us continue to suffer serious psychological and psychiatric injuries from the fire.
- 3.3.4 Berkeley and MTVH are well aware of our circumstances. They are nevertheless refusing to pay compensation and have instructed commercial professional dispute lawyers to deny any liability.
- 3.3.5 Berkeley and MTVH have therefore obliged us to become involved, against our will, in a protracted legal dispute that we cannot afford, either financially or emotionally, just to put us back to the position we would have been in but for being victims of their unsafe house building and management. The continuing legal dispute is causing yet more distress to residents.
- 3.3.6 Berkeley and MTVH are using their financial weight to try to avoid accountability for their failings, and to bully us into accepting paltry settlements at a time when we are trying to rebuild our lives and do not know where we will end up and how we will recover.

3.3.7 It is hard for us to find words to express the level of our anger and disgust at Berkeley's life-threatening practices and their arrogant and uncaring behavior.

3.4 **Effect of the draft Bill on the safety system failings identified in our evidence**

3.4.1 The types of buildings that will be considered 'higher-risk' buildings are unknown. Our building was not a high-rise building. It was not over 18 metres high, or over 11 metres high. However, we know that fire does not respect the height of a building. The fire at Worcester Park shows lower but high density occupied buildings can also pose significant risk. 60 people, including 17 children, almost died. Risk should not rest simply with building height but be linked to numbers in occupation and other factors.

3.4.2 The proposed safety regime provides for an 'accountable person' who in our case would initially have been someone at Berkeley, followed by someone at MTVH. In our case, these are the people who failed to take their accountability seriously or comply with the basic obligations to install cavity barriers and are now seeking to avoid liability. It is not enough to label the same individuals as an 'accountable person'; the system must include robust consequences in order for anything to change.

3.4.3 The fundamental driver for change would be to ensure developers cannot escape the financial consequences of their conduct. Unless developers

remain financially liable for problems, they will seek to evade or pass responsibility to individual leaseholders. The proposed New Housing Ombudsman would not have sufficient power to enforce sanctions and would be very unlikely to bring about effective change.

- 3.4.4 Our homes were death traps because Berkeley and MTVH breached fundamental building safety requirements. The requirement for cavity barriers is not new, complex or unknown. It does not arise because of modern cladding materials but is a basic fire safety requirement identified within the existing building safety regime.
- 3.4.5 The nature of construction is that failures can remain hidden for years and are only revealed, as with our case, when there is a fire. By this time construction companies have often moved on and seek to avoid or deny liability.
- 3.4.6 It is important to note that regulation and inspection (both proposed in the draft Bill) were in place in 2011 when Berkeley built the property and yet these failed to prevent or identify the cavity barrier problems. The draft Bill places too much reliance on third parties to validate building safety or responsible bodies to prove fire safety - an approach we know has not worked in the past - rather than focusing on fixing liability with the party who is responsible for the original defects.

- 3.4.7 The draft Bill does not place direct responsibility on developers. It remains possible for developers to build, sell leases, and then cease trading and reincarnate as new companies to prevent liability arising for future defects. Liability should remain with the original developer regardless of time. Buildings have lives of 30 plus years, and liability limits of 10 years are inadequate.
- 3.4.8 Leaseholders do not have any involvement in the actual building and are the least able to check and ensure compliance and yet the draft bill continues to pass on costs to leaseholders rather than target the companies that profit from poor construction, in our case Berkley. The property developers would enjoy all the rewards but none of the risks.
- 3.4.9 The draft bill does not hold construction companies and building owners accountable for the financial costs of their historic safety failings. Leaseholders are unfairly required to pay for the failings of the construction and property management industries. They would live in fear of unpredictable costs, required to be paid at very short notice, and would therefore live in fear of losing their homes through no fault of their own.
- 3.4.10 The excluded costs for limiting building safety charges, as currently drafted in the proposed new paragraph 170 of the Landlord and Tenant Act 185 (at section 89 of the draft bill), offer limited and inadequate

protection for leaseholders. However, in our case it would NOT apply as the building is less than 11 metres high.

- 3.4.11 Assuming the protection extended to our building, leaseholders would have to pay unaffordable amounts to remove the risks to their lives caused by the safety failings of Berkeley and MTVH. They would only be able to limit those charges if they were 'incurred by reason of any negligence, breach of contract or unlawful act on the part of an accountable person' AND that is only if it is viewed as a high-risk building. Innocent leaseholders such as us are not covered by the clause.
- 3.4.12 Our experience has shown that developers and building owners like Berkeley and MTVH will do everything they can to avoid their responsibilities. Residents would have to start court proceedings themselves to limit the charges. The construction company and current building owner would deny the breaches, and seek to pass any liability on to each other, as well as any other intervening 'accountable person', such as a former freehold owner.
- 3.4.13 Court proceedings would be unaffordable for most residents, and legal aid would not be available. Residents' resources for litigation and dispute resolution are grossly outmatched by the resources available to construction and property management companies.

3.4.14 The original developer should be liable and this should be backed with adequate funds or insurance to ensure remediation steps can be taken. Subsequent ‘accountable persons’ and innocent leaseholders should not have to bring difficult, lengthy, and expensive court cases to try to avoid charges that are being made unfairly against them because of the unlawful failures of construction companies.

3.4.15 The central problem with the limited protection of s170 is that it applies most to ‘higher-risk’ buildings, which currently does not appear to apply to our building. The Worcester Park fire demonstrates there was a high risk in a building below 18m and therefore this clause needs both an increase in scope to cover all innocent leasehold victims, and the backing of real financial consequences that cover the costs of remediation.

3.4.16 Funding the new Building Safety Regulator should also be the responsibility of the developers. Leaseholders should not pay.

3.4.17 We welcome the intention behind the bill and many of the measures, but the bill:

- does not hold the construction industry accountable for the existing defects that make many current buildings unsafe and a risk to the lives of residents (like our building until it burnt down);

- does not protect leaseholders from the costs of fixing historic safety defects that have been caused by the disastrous and dangerous practices of the construction and property development industry;
- does not extend the ‘protection’ of s17 Landlord and Tenant Act 1985 to benefit victims in buildings such as ours, given the limited scope to ‘higher-risk’ buildings.

3.4.18 The fire at Richmond House was devastating and showed we were at high risk of death. We hope that the lessons can be learned from our fire to ensure that innocent leaseholders like us would be protected.

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