

Criteria for making decisions on leaseholder's applications to buy additional land and carry out alterations

Reason for criteria:

- To provide guidance for Partners to make recommendations to LBI Clienting Team
- To provide guidance for LBI Home Ownership and Property Services Teams;
- To provide guidance to residents
- To ensure consistency of decision making.

When guidance should be used

- When leaseholders apply to buy additional Council space/land;
- When leaseholders apply for permission to carry out alterations to their own demise;
- When leaseholders ask for retrospective approval for alterations.

General guidance

- Each case must be judged on its own merits;
- If alterations are requested to communal areas other residents must be consulted.
- Decisions should be made within 30 working days from the date full details are provided;
- There is no appeal system for cases that are refused. Complaints can be made through the complaints process.
- Landlord Consent is not dependent on Planning or other consents.
- All costs required for consents (planning, building control, etc.) and required specialist reports are at the leaseholder's cost.
- Where significant structural alterations are proposed a structural engineers report will be required and use of the Council's Building Control Team, via the Full Applications route, will be mandatory.

Permission would not normally be granted where the alteration or sale:

- Would have a negative impact on the future management of the property or surrounding property;
- Is likely to cause structural problems to the building;
- Would incur extra or potentially extra management and maintenance costs to LBI/Partners which cannot be passed to the leaseholder via a Deed of Variation or change in the apportionment of repairs charges.;
- Would adversely affect other residents;
- Is refused planning permission or building control consent.

Permission would normally be granted where:

- Alterations are required for disabled access reasons and they have been agreed by planning and building regulations and will not adversely affect other residents

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Area	Permission would not normally be granted:	Risks and further factors to be considered before granting permission	Permission may be granted:
Gardens (sales)	<ul style="list-style-type: none"> • Where it is a communal garden whether at the front or back; • Where it is part of a tenants' tenancy (even if they do not want it); • Where the use is for non-recreational purposes such as parking. 	<ul style="list-style-type: none"> • Communal gardens are an amenity for all residents, current and future. • Existing leases are likely to include rights of access and use of a shared garden. • The tenancy agreement does not allow use for commercial or business purposes. 	Not normally given
Excavation of gardens to create	<ul style="list-style-type: none"> • Where there has been no thought to the method of excavation, solutions to future damp issues, ventilation or 	<ul style="list-style-type: none"> • Risk of future damp problems and drainage issues of creating habitable area where previously non-habitable, 	<ul style="list-style-type: none"> • If solutions for the excavation can be provided taking in to

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underground rooms	<p>whether the excavation works will negatively impact on the enjoyment of other residents or neighbours.</p> <ul style="list-style-type: none"> • If the excavation exceeds the depth of current/historic foundation of the building. • Approval may not be granted if the Council's Building Control are not engaged via the Full Applications route, and a structural engineers report is not provided by a qualified structural engineer. 	<p>and where the council is potentially liable for repairing structural failures.</p> <ul style="list-style-type: none"> • Solutions for damp in underground/basement areas needs to be considered, as well as ventilation. • LH to demonstrate how the excavation is to be conducted – by hand or machinery via a Method Statement. • Consideration is to be given to the other residents and neighbouring residents so that works do not impact on their enjoyment of their properties. • The council's Building Control Team must be engaged for building regulations approval via the Full Plans application route. • A full structural engineers report must be provided including drawings, calculations and method of excavation by a qualified structural engineer. 	<p>account minimising damage to the property and enjoyment of other residents.</p> <ul style="list-style-type: none"> • If responsibility for repairs including for tanking and keeping watertight are transferred to the leaseholder as set out in a DOV. • The excavation must not exceed the depth of current/historic foundation of the building. • Approval may only be granted if the Council's Building Control are engaged via the Full Applications route, and a structural engineers report is

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Area	Permission would not normally be granted:	Risks and further factors to be considered before granting permission	Permission may be granted:
			provided by a qualified structural engineer.
Conservatories (alterations)	<ul style="list-style-type: none"> • If there would be access for future maintenance issues to the block, for example where the conservatory would span the full width of the back wall; • If above height of leaseholders flat. 	<ul style="list-style-type: none"> • Scaffolding problems to carry out works to rest of building; • Access to underground drainage issues • Rainwater run off issues; • Any new opening in back wall may incur extra liabilities to landlord; • Other residents could pick up extra costs; • The structure would encroach on other resident's property. 	Costs of all repairs to the conservatory including any new opening to the council structure should be transferred to the leaseholder in a Deed of Variation. This should also include any potential additional costs of scaffolding etc. needed for the council to carry out its responsibilities to the rest of the building.
Back or side addition (alterations)	<ul style="list-style-type: none"> • If drainage issues; • If above height of leaseholders flat. • If side alley is communal access to back of property 	<ul style="list-style-type: none"> • Access to underground drainage; • Overload of existing drainage • The structure would encroach on other residents' property. • If side alley is developed it may be difficult for the maintenance to be carried out at the back of the property 	<ul style="list-style-type: none"> • If there are no drainage or other issues. • Responsibility for • The altered area becomes part of the council's structure. The council retains

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		<ul style="list-style-type: none"> The council's Building Control Team must be engaged for building regulations approval via the Full Plans application route. A full structural engineers report must be provided including drawings, calculations and method of excavation by a qualified structural engineer. 	responsibility for repairs to the altered area and the costs to this area are charged 100% to the leaseholder as detailed in a Deed of Variation. This should also include any potential additional costs of scaffolding etc. needed for the council to carry out its responsibilities to the rest of the building
Vaults/coal cellars (sales and alterations)	<ul style="list-style-type: none"> If communal access, and amenity for others; If landlord liabilities increased. 	<ul style="list-style-type: none"> Usually communal area and gives access to other areas such as refuse bins and storage for other residents; Could increase landlord's repairs liability including potential damp or structural issues (such as retaining walls in front gardens) if these liabilities could not be passed to leaseholder. 	Not permitted

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Area	Permission would not normally be granted:	Risks and further factors to be considered before granting permission	Permission may be granted:
Lofts (sales)	<ul style="list-style-type: none"> • If communal services in use e.g. water tanks; • If there is communal access. 	<ul style="list-style-type: none"> • Area used for communal services which could not be moved or would be costly to move; • Area is an amenity for other residents; • Other leaseholders may have access rights. 	If no services and sole access.
Lofts (alterations)		<ul style="list-style-type: none"> • All applications to be visited by a surveyor to check individual circumstances • Health and Safety risks of working at a high level need to be covered by proposals • Condition surveys are required of the whole building and other internal flats to ensure works don't cause damage e.g. cracking to walls or ceiling, or brickwork damage • Responsibility for any damage is covered in the Licence to Alter / Deed of Variation • Scaffolding licence required • Leaseholders need to come to agreements with neighbours for access for scaffolding etc. 	<ul style="list-style-type: none"> • If the council retains responsibility for repairs to the altered area and the costs to this area are charged 100% to the leaseholder as detailed in a Deed of Variation. Incl velux windows • For dormer window extensions repairs will be charged 100% for this area and apportioned for all flats for the rest of the roof

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Area	Permission would not normally be granted:	Risks and further factors to be considered before granting permission	Permission may be granted:
		<ul style="list-style-type: none"> Asbestos surveys required The council's Building Control Team must be engaged for building regulations approval via the Full Plans application route. A full structural engineers report must be provided including drawings, calculations and method of construction by a qualified structural engineer, if appropriate. 	<ul style="list-style-type: none"> For Mansard roofs the whole of the roof would be altered and all roof repairs would be recharged to the leaseholder the council would still own the roof structure Approval may only be granted if the Council's Building Control are engaged via the Full Applications route, and a structural engineers report is provided by a qualified structural engineer.
Flat roof areas / roof terraces (sales)	<ul style="list-style-type: none"> If located above another resident's flat; If there is communal access. 	<ul style="list-style-type: none"> Potential noise problems and leaks to floors below; Still a risk to other residents on floors further down the property. Potential leaks and overloading (causing cracks 	<ul style="list-style-type: none"> If the leaseholder owned the space beneath the roof area but the affect on residents on lower

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		in back addition) may affect all residents below not just immediately beneath.	floors should be considered.
Flat roof / roof terraces (alterations)	<ul style="list-style-type: none"> • If located above another resident's flat; • If communal access; 	<ul style="list-style-type: none"> • Potential noise problems and leaks to floors below; • Problems with splitting repair responsibilities for surface and structure. • If there are structural problems, there could be access issues due to the leaseholder having to take up the terrace • The council's Building Control Team must be engaged for building regulations approval via the Full Plans application route. • A full structural engineers report must be provided including drawings, calculations and method of construction by a qualified structural engineer, if appropriate. 	<ul style="list-style-type: none"> • If the leaseholder owned the space beneath the roof area • If the council retains responsibility for repairs to the altered area and the costs to this area are charged 100% to the leaseholder as detailed in a Deed of Variation. excluding decking but including asphalt • Approval may only be granted if the Council's Building Control are engaged via the Full Applications route, and a structural

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Area	Permission would not normally be granted:	Risks and further factors to be considered before granting permission	Permission may be granted:
			engineers report is provided by a qualified structural engineer.
Cellars (sales)	<ul style="list-style-type: none"> • If communal services in use; • If communal access. 	<ul style="list-style-type: none"> • Area used for communal services which could not be moved or would be costly to move; • Area is an amenity for other residents and if there are other leaseholders they will probably have access rights. 	If no services or communal access.
Cellars (alterations)	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Interference with the foundations potentially causing structural instability, insurance issues if subsidence as a result • Risk of future damp problems and drainage issues of creating habitable area where previously non-habitable and costs would come back to Council as part of the structure. • The council's Building Control Team must be engaged for building 	<ul style="list-style-type: none"> • If responsibility for repairs including for tanking and keeping watertight are transferred to the leaseholder as set out in a DOV.

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		<p>regulations approval via the Full Plans application route.</p> <ul style="list-style-type: none"> • A full structural engineers report must be provided including drawings, calculations and method of construction by a qualified structural engineer. 	
Creation of basements by excavating	<ul style="list-style-type: none"> • Where there has been no thought to the method of excavation, solutions to future damp issues, ventilation or whether the excavation works will negatively impact on the enjoyment of other residents or neighbours. • If the depth of excavation is more 400mm and requires heavy machinery to remove debris/rubble. • Where the excavation exceeds beyond the footprint of the property. • If the excavation exceeds the depth of current/historic foundation of the building at all locations. See Appendix A for further guidance. 	<ul style="list-style-type: none"> • Risk of future damp problems and drainage issues of creating habitable area where previously non-habitable, and where the council is potentially liable for repairing structural failures. • Solutions for damp in basement areas needs to be considered, as well as ventilation. • LH to demonstrate how the excavation is to be conducted – by hand or machinery via a Method Statement. • Consideration is to be given to the other residents and neighbouring residents so that works do not impact on their enjoyment of their properties. 	<ul style="list-style-type: none"> • If solutions for the excavation can be provided taking in to account minimising damage to the property and enjoyment of other residents. • If responsibility for repairs including for tanking and keeping watertight are transferred to the leaseholder as set out in a DOV.

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	<ul style="list-style-type: none"> • Approval may not be granted if the Council's Building Control are not engaged via the Full Applications route, and a structural engineers report is not provided by a qualified structural engineer. 	<ul style="list-style-type: none"> • The council's Building Control Team must be engaged for building regulations approval via the Full Plans application route. • A full structural engineers report must be provided including drawings, calculations and method of excavation by a qualified structural engineer. 	<ul style="list-style-type: none"> • Approval may be granted where the depth of excavation is minimal and does not require heavy machinery to remove debris/rubble. The excavation must be minimal and within the footprint of the property. The excavation must not exceed the depth of current/historic foundation of the building at all locations. • Approval may only be granted if the Council's Building Control are engaged via the Full Applications route, and a structural engineers report is

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Area	Permission would not normally be granted:	Risks and further factors to be considered before granting permission	Permission may be granted:
			provided by a qualified structural engineer.
Individual balcony	<ul style="list-style-type: none"> No permission is given to enclose an open balcony 	<ul style="list-style-type: none"> 	
Any communal areas – internal and external e.g. landings, balconies, hallways, light wells, meter cupboards, understairs areas, bin sheds	<ul style="list-style-type: none"> If communal access 	<ul style="list-style-type: none"> Not generally granted unless it could not normally be let to anyone else and it could be incorporated into the existing demise and the Council could not develop themselves; If other residents agreed to alteration still may have to change other leases rights of access; May be window and light issues or other amenity issues for other residents; May be aesthetic issues for symmetry of building; May be health and safety issues e.g. fire safety/access requirements 	<ul style="list-style-type: none"> Some communal areas do not have access issues and are not an amenity for others and could be sold and altered e.g. stair well to top flat.

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Additional storey/room to property	<ul style="list-style-type: none"> • If above another residents flat (not their own) 	<ul style="list-style-type: none"> • See lofts and roof terraces • If this is a discreet separate entity from the main building e.g. ground floor back addition, see back additions • The load bearing capacity of the foundations need to be able to support the extension. Structural engineer's calculations would be necessary to support any alterations. • The council's Building Control Team must be engaged for building regulations approval via the Full Plans application route. • 	<ul style="list-style-type: none"> • If this is extending onto a flat roof or main roof and is extending the council's structural envelope the council would retain responsibility for repairs and recharge the leaseholder 100% of the costs to this area as well as any additional costs of scaffolding etc. for access if necessary as detailed in a DOV. • Structural engineer's reports would be necessary.
Additional dwelling to be created e.g. basement flat	<ul style="list-style-type: none"> • No permission 	<ul style="list-style-type: none"> • Not allowed to sublet part of property; • Problems with relationship between leaseholder and their tenant and LBI; • Council may want to develop themselves. 	

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Area	Permission would not normally be granted:	Risks and further factors to be considered before granting permission	Permission may be granted:
Internal areas within the leaseholder's demise			
New openings in walls		<ul style="list-style-type: none"> Generally allowed subject to building control requirements 	<ul style="list-style-type: none"> If structural engineers report and building control approval. (planning approval if listed)
Remove chimney breast	<ul style="list-style-type: none"> If active flue If building control do not allow 	<ul style="list-style-type: none"> Proposals to provide adequate support for any remaining chimney in building. Agreement needed with others in building. 	Subject to building control requirements
Open up fireplaces	<ul style="list-style-type: none"> Fireplaces as a decorative feature with no fire or use of flue - acceptable as long as there no structural issues with chimney breast and fire compartmentation is not compromised Fireplaces with a fire that needs to use the flue for combustion gases would not normally be allowed. 	<ul style="list-style-type: none"> Additional repair liabilities to landlord 	<ul style="list-style-type: none"> If for decorative purposes not used as a fire or use of flue and no structural issues with chimney breast and fire compartmentation is not compromised. Where want to use flue it could be

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			<p>agreed where flue only runs through leaseholders flat and leaseholder takes on responsibility of survey, lining and maintenance of flue. IC retains responsibility for chimney stack. Chimney not capped and report on condition is satisfactory.</p>
Changing layout	<ul style="list-style-type: none"> • If living areas, bathrooms or kitchens over bedrooms in other residents property 	<ul style="list-style-type: none"> • Noise and disturbance issues. • Leaseholder to get fire risk Assessment; and asbestos survey 	
Windows	<ul style="list-style-type: none"> • If new openings • If don't match existing 	<ul style="list-style-type: none"> • Additional maintenance issues. 	<ul style="list-style-type: none"> • If responsibilities for repair are transferred to leaseholder under a DOV. • For existing windows to be replaced by French doors in an

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Area	Permission would not normally be granted:	Risks and further factors to be considered before granting permission	Permission may be granted:
			approved style if licence to alter and DOV transferring repair responsibilities to LH is entered into.
Communal front doors	<ul style="list-style-type: none"> No permission given as authority is responsible for provision and security for all residents in block. Non-standard doors can increase maintenance costs which would not be transferred to leaseholders. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> No permission

This list is not exhaustive. Decisions will be based on each alteration on a case by case basis.

Appendix A – Guidance on Excavations

The existing foundation of the building must not be undermined. Excavations, adjacent to existing foundations of a building, can only be at a depth where they are not lower than the bottom of the existing foundation (This could be less than 400mm below existing ground level).

and;

The excavation must not exceed 400mm below existing ground level.

The above conditions are final and must be adhered to.

