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

Case Reference : CHI/19UJ/LDC/2013/0053
CHI/19UJ/LDC/2013/0054

Property : Gloucester Lodge, 85 The Esplanade, Weymouth,
Dorset DT4 7AU

Applicant : Gloucester Lodge Limited

Representative : J Turner FRICS, Turner Associates

Respondents : Mr & Mrs Launder & Others, all the leaseholders of
Flats 1 to 20, Gloucester Lodge

Representative : In person

Type of Application : Section 20ZA Landlord and Tenant Act 1985
Dispensation with Consultation Procedure

Tribunal Members : Judge MJ Greenleaves
A Mellery-Pratt FRICS

**Date and venue of
Hearing** : 11 November 2013
Weymouth Magistrates Court

Date of Decision : 18 November 2013

DECISION

Decision

- 1) The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (the Act) from compliance with the consultation requirements of Section 20 of the Act in respect of work to be carried out at Gloucester Lodge, 85 the Esplanade, Weymouth, Dorset (the Property) to the following extent only:
 - a) the erection of additional scaffolding along the whole front elevation of the Property;
 - b) costs associated with investigation to ascertain precisely the work required to all areas, including the roof, as to:
 - i) damage to the stonework and corbels;
 - ii) water penetration;
 - iii) re-pointing;
 - c) carrying out any emergency work necessary to make safe any dangerous areas related to the above.
- 2) The above dispensation is made on condition that the Applicant shall:
 - a) forthwith inform every lessee in writing of this decision;
 - b) send copies of this decision and reasons to each lessee;
 - c) send copies of all reports, quotations, estimates and other relevant documents concerning exploratory work immediately upon receipt to each of the lessees;
 - d) at all times inform all lessees in writing of up-to-date developments concerning the above work.

Reasons

Introduction

- 3) These were two applications made by the Applicant, both dated 21st October 2013:
 - a) to carry out urgent repairs to stone work and corbels on the front elevation including erection of scaffolding to the entire front elevation;
 - b) to carry out necessary pointing to the front elevation and roof repairs to prevent water penetration and erect scaffolding.

Inspection

- 4) The Tribunal inspected the Property in the presence of Ms Claire Zimmerman (Oracle Group), Mr Turner, Mrs Holding (Flat 7 and a director of the Applicant) and others.

- 5) The Property is a Grade 2 star listed building and was built in two stages, the older right hand section in the 1780's and the newer extension to the left hand side in about 1850. It is laid out on 5 floors: the basement level including Moby Dicks, a public house and restaurant with external seating area between the front elevation and the highway, Ground, First and Second floors and a further floor within the roof space. The stone features in the front elevation are substantially weathered in places and one corbel is missing. Substantial repointing to brickwork and repair is also required. Inspection of Flat 7, which is presently unoccupied, showed some evidence of damp in the front elevation.

Hearing

- 6) The hearing was attended by those referred to above and Mr T Darch and Mrs R Cosford (Flat 2), Mr K Launder (Flat 1), Mr I Turnbull (Moby Dick) Mr Koscikiewicz (Flat 20, a Director), Mr Welstead and Mrs Holding (a Director) (Flat 7)
- 7) Evidence.
 - a) Apart from the deterioration of stonework at high level on the front elevation, one corbel had fallen off on 22 September 2013, landing on one of the tables of Moby Dick (of which a photograph was produced) and that whole area is now cordoned off and is affecting Mr Turnbull's income. In respect of that, dispensation was sought to erect scaffolding and carry out emergency work to make the front elevation safe.
 - b) To the right-hand side of the main entrance, there had been significant water penetration to Flat 7 and that it was fairly obvious that the pointing and brickwork was porous and it was thought that the cavities may be blocked and possibly a problem with the lead cloaking. Emergency work had being carried out in mid-September but the local authority had served notice that the manner of carrying out their work had been unauthorized, specifying particular requirements in view of the Property being listed. In respect of this aspect, the Applicant sought dispensation to carry out exploratory work and carry out necessary works on the roof as well if necessary.
 - c) The erection of scaffolding would catch any further falling masonry/corbels.
 - d) A consultation procedure initial notice had been served on 5 November 2013 in respect of "re-pointing works to the front elevation of the building including wall ties, structural repairs and roof works." The Tribunal is satisfied that this includes all the works described above.
- 8) There had been no written objections to the carrying out of necessary works and none of those present objected to the applications

Consideration and determination

- 9) The Tribunal considered all the case papers, the submissions and evidence received at the hearing and the situation noted on its inspection.
- 10) While the Tribunal found that the Applicant could have commenced formal consultation procedures earlier, the Tribunal was satisfied that the condition of the property as described above was such that emergency work must be carried out

urgently and accordingly, to that extent, the consultation procedures should be dispensed with. It made its decisions accordingly.

- 11) In respect of that emergency work which will therefore not be the subject of further formal consultation procedure, it is nevertheless important that all lessees be fully informed at all stages of costs, reports, estimates and for that reason the Tribunal imposed the conditions for the making of the dispensation in relation to the work referred to in the decision.
- 12) The normal consultation procedures in relation to work beyond that specified in the decision continue to apply. The Tribunal also makes it clear that this application does not seek approval of any costs and the Tribunal has not made any decisions in that respect. They could be the subject of a further application to the Tribunal if necessary.

Appeals

- 13) A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
- 14) The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
- 15) If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
- 16) The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

MJ Greenleaves
Judge