



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

Case reference : **P/LON/00AF/LDC/2020/0092**

Property : **De Le Mare House, 57 Albemarle Road,
Beckenham, Kent BR3 5FH**

Applicant : **McCarthy and Stone Retirement
Lifestyles Ltd.**

Representative : **McCarthy and Stone Management
Services**

Respondent : **The leaseholders of flat 1-12 and 14-17,
as per the application**

Representative : **None**

Type of application : **For dispensation from statutory
consultation**

**Tribunal
member(s)** : **Judge Dickie**

**Date of
determination** : **5 February 2021**

DECISION

Decisions of the tribunal

The tribunal grants the application for dispensation from statutory consultation in respect of the subject works.

The application

1. The premises are a purpose-built block of flats in an age-restricted community for the over sixties. The applicant landlord has made an application for a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“The Act”) dispensing with statutory consultation in respect of major works.
2. The Applicant has served a copy of the application and the tribunal's directions of 9 November 2020 on each of the leaseholders and arranged for its display in the common parts of the block. Those directions explained how any leaseholder might object to the application, and that they could request an oral hearing. No party has exercised their right to request an oral hearing of the application. The tribunal has therefore proceeded to reach a decision on the documents and without a hearing, having given notice of its intention to do so.
3. The Applicant explains that the foul water pumps were both found to be inoperative and required replacement. The pump station had no operating pumps and water levels would therefore have continued to rise and overflow until a new pump was installed. It is the landlord's case therefore that the work needed to be completed as soon as possible in order to prevent water levels from rising. A quotation, in evidence before the tribunal, was obtained for the works in the sum of £5797.00 plus VAT and the works were carried out in March 2020. An inspection of the premises by the tribunal was not necessary.

Decision and Reasons

4. Section 20ZA(1) of the Act provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

5. The tribunal has taken into account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14.

6. It appears that no consultation with the leaseholders was carried out. However, the tribunal has taken note of the fact that no leaseholder has taken the opportunity to object to the application. There is therefore no evidence before the tribunal opposing the application which could suggest that the work was not necessary and/or ought to have been the subject of full statutory consultation. No evidence has been put forward of prejudice to the tenants or other grounds on which the tribunal ought to consider refusing the application or granting it on terms.
7. The tribunal finds there is therefore sufficient uncontested evidence of the necessity to carry out the work urgently. In all the circumstances, and in light of the absence of objection, the tribunal considers it reasonable to grant the application for dispensation from statutory consultation in respect of the works. No conditions on the grant of dispensation are appropriate and none are made.
8. This decision does not affect the tribunal's jurisdiction upon an application to make a determination under section 27A of the Act in respect of the reasonable and payable cost of the work, should this be disputed by any leaseholder.

Name: Judge F Dickie

Date: 5 February 2021

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).