



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

Case reference : **LON/00BK/LDC/2019/0071**

Property : **Melcombe Court Dorset square
London NW1 3AR**

Applicant : **Melcombe Court Management
(Marylebone) Ltd**

Representative : **Bridgeford & Co**

**Respondent
leaseholders** : **Various leaseholders as per the
application**

Representative : **-**

Type of application : **To dispense with the consultation
requirements under S.20 Landlord
and Tenant Act 1985**

Tribunal member(s) : **Mrs E Flint FRICS**

**Date and venue of
determination** : **24 June 2019
10 Alfred Place London WC1E 7LR**

DECISION

Decision of the tribunal

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to the works required to deal with work to the chimney stack, plus brickwork and timber repairs.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by the managing agents, Bridgeford & Co, on behalf of the Applicants on 1 May 2019.
2. Following consultation in respect of external repairs and decoration scaffolding was erected at the building. It became evident that the extent of the repairs was greater than originally envisaged. The increased cost was £73,399.00. If full consultation was undertaken the additional cost would increase to £91,321.20 because the scaffolding would have to be left in situ and it would be necessary to re-apply for consent to carry out the works as the building is in Dorset Square Marylebone.
3. Directions were issued on 13 May 2019 requiring the applicant to prepare bundles by 7 June 2019 to include statements
 - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies, a copy of the lease and copies of any replies from the tenants;
 - (ii) The Leaseholders were asked to confirm by 29 May 2019 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. No responses were received from the leaseholders.
5. The lessees were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Evidence

6. The property comprises a corner terrace property on basement to fifth floors built circa 1900 of traditional brick construction giving adequate fire compartmentation throughout. The property comprises twenty-nine flats arranged over two blocks, each with its own entrance.
7. Scaffolding had been erected and works were underway to the external elevations of the building. A closer inspection from the scaffolding indicated that the extent of the repairs required was greater than originally planned. It would be cost effective to carry out the additional work as part of the same scheme of work.
8. The managing agents have confirmed that in accordance with the Directions copies of the Dispensation Application had been sent to all Respondents and a further copy was hung in the communal area.
9. Only one lessee responded to the Tribunal in support of the application for dispensation. No response was received from any other respondent.

The Decision

10. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
11. The Tribunal determines from the evidence before it that the works were necessary, that it was economic to carry out the works while the scaffolding was in and that no prejudice to the lessees has been demonstrated or asserted.
12. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

Name: Evelyn Flint

Date: 24 June 2019

ANNEX - RIGHTS OF APPEAL

- i. 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.

- ii. 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.
- iii. 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.
- iv. 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.