



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

Case Reference : **BIR/47UC/LDC/2019/0002**

Property : **Holly View House, 2 to 10 Holly View Drive,
Malvern, Worcestershire WR14 4AQ**

Applicant : **Guild Homes Limited**

Representative : **Taylor Clarke Limited**

Respondent : **The long leaseholders of Holly View House
as set out in the Schedule**

Type of Application : **Dispensation
Section 20ZA Landlord and Tenant Act 1985**

Members of Tribunal : **Judge D Jackson
Mr ID Humphries B.Sc. (Est. Man.) FRICS**

Date of Decision : **22 July 2019**

DECISION

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Background

1. By application dated 9th May 2019 the Applicant has applied for dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985.
2. The qualifying works are “replace rotten timber underneath verge ends on gables and then retile and repoint verge ends. Also to replace rotten timber on gable ends that look like hold timbers but are just timber-clad”.
3. As at the date of the application “work has been instructed but not yet started”. The Applicant was redecorating the exterior of the Property and scaffolding has been erected giving access to all areas. The qualifying works “need to take place whilst scaffolding is currently up and before the woodwork can be redecorated”.
4. On 15th May 2019 the Tribunal issued Directions.
5. By letter dated 16th May 2019 the Tribunal sent copies of the application and Directions to all Leaseholders.
6. The Tribunal has considered Statement of Case dated 31st May 2019 prepared by the Applicant.
7. None of the Leaseholders have submitted a Statement to the Tribunal in accordance with Directions. No objections to the application have been received by the Tribunal from any of the Leaseholders.
8. Neither party has requested an oral hearing.

Inspection

9. The Tribunal inspected the Property on the morning of 19th July 2019. The Leaseholders were notified of the inspection by letter dated 13th June 2019.
10. As at the date of inspection the work had been completed and scaffolding taken down.

Deliberation

11. The Tribunal has followed the approach to be adopted on an application under section 20ZA(1) to dispense with consultation requirements set out by Lord Neuberger in **Daejan Investments Limited v Benson and others** [2013] UKSC 14.
12. The Applicant has previously undertaken a section 20 consultation exercise in relation to the costs of painting and decorating the whole of the exterior of the Property. Scaffolding was erected in connection with that work.
13. However, once work started it became apparent that further urgent work was required to the timber and roof. In particular timber work was required under the gable ends and also work to the roof to include repointing the verge ends.
14. We find that the Applicant has acted reasonably in applying to dispense with consultation requirements to ensure that the further work identified could be carried out without the need for scaffolding hire over a longer period.
15. Prior to commencing the additional work, the Applicant wrote to all leaseholders. The Tribunal has seen a copy of a letter dated 30th April 2019 in which the Applicant clearly sets out the additional work required and its intention to apply for dispensation. None of the Leaseholders has objected.

16. In addition, the Applicant has also obtained an alternative quote from Stephen Hill which, inclusive of VAT, comes to a little over £11,000. The Applicant has therefore acted reasonably in deciding to proceed with the quote of £8,700 from Brian Handy who is not VAT registered.
17. In the absence of any objections from the Leaseholders we are satisfied that no prejudice will result to Leaseholders in granting this application.
18. The parties should note that the Tribunal has only been asked to determine the question of dispensation with the consultation requirements under section 20ZA of the 1985 Act. The Tribunal has not been asked to determine payability or reasonableness of the amount of service charges payable by any of the Leaseholders under section 27A of the 1985 Act.

Decision

19. The Tribunal is satisfied that it is reasonable to dispense with all of the consultation requirements in relation to qualifying works and accordingly grants dispensation under section 20(1)(b) and section 20ZA (1) of the Landlord and Tenant Act 1985.
20. The qualifying works are those set out in the undated “Specification inclusive of quotation” prepared by Brian Handy annexed to the Applicant’s Statement of Case.

D Jackson
Judge of the First-tier Tribunal

Either party may appeal this decision to the Upper Tribunal (Lands Chamber) but must first apply to the First-tier Tribunal for permission. Any application for permission must be in writing, stating grounds relied upon, and be received by the First-tier Tribunal no later than 28 days after the Tribunal sends this written Decision to the party seeking permission.

Schedule of Long Leaseholders

Jeffrey Guest (2, 3 and 5)
Jennifer Newey and Stephen Newey (4)
Peter Haywood and Sian Tjoe Ong (6)
Ian Henderson and Carol Henderson (7)
Rob Weston and Jane Weston (8)
Barry Kent and Elaine Kent (9)
Simon Foley and Sue Foley (10)