



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

Case Reference : **LON/00BK/LDC/2020/0112**

Properties : **34 Ennismore Gardens London
SW7 1AE**

Applicant : **34 Ennismore Gardens Ltd**

Representative : **Darcy Property Management**

Respondents : **Nine leaseholders 34 Ennismore
Gardens**

Representative : **None**

Type of Application : **To dispense with the statutory
consultation requirements**

Tribunal Members : **Mr Duncan Jagger MRICS**

Covid-19 pandemic: description of hearing

Date and venue of Consideration

:

This has been a remote hearing on the papers which has been consented to by the parties. The form of remote hearing was :PAPER REMOTE. A face-to-face hearing was not held because no-one requested the same, or it was not practicable, and all issues could be determined on paper. The documents that I was referred to are in a bundle of 51 pages, the contents of which I have noted.

Date of Decision

:

8th September 2020

DECISION

The Tribunal grants the application for dispensation from further statutory consultation in respect of the subject works. For clarity the works are set out in a schedule attached to the application and a specification of works prepared by the applicants surveyor in February 2019.

REASONS

The Application

1. The Applicant seeks 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. This application is in relation to nine self contained converted flats which form part of 34 Ennismore Gardens London SW7 1AE which is described as a seven storey building plus lower ground floor (the subject property). The property appears to date from the 1870's and is Grade II Listed. The Applicant, 34 Ennismore Gardens Management Limited is the intermediate landlord and the freeholder of the property is The Wellcome Trust Ltd and the Respondents are the nine various leaseholders of the building.

3. The application, made by Darcy Property Management Ltd on behalf of the Applicant, was dated 22 July 2020. Directions were issued by the Tribunal on 4 August 2020. The Directions listed the matter for a paper determination for the week commencing 7 September 2020, unless any party made a request for a hearing. There was no request for a hearing.

4. The application and supporting statement seeks dispensation in respect of a schedule fire safety works required by the London Fire Brigade to be completed by the 6 September 2020, works include: upgrading internal doors and aperture fire stopping. Such doors comprise flat entrance doors, new door to lift motor room, upgrade communal doors, upgrade doors to storage areas. Further works include fire alarm upgrading, boiler room aperture fire stopping, new fire evacuation signage. The application stated a specification for the works was prepared by the applicant's surveyor in February 2019 forming part of the capital expenditure plan for the building

5. The applicant states that it intended to undertake a Section 20 consultation in Spring 2020, however, Covid 19 and the resultant lockdown delayed commencement of the statutory process. In between time, the London Fire Brigade undertook an inspection and produced the said schedule of works to be completed by 6 September 2020 for urgent fire safety reasons. A preliminary estimate for the works has been provided by contractors which is in the region of £25,000 inclusive of VAT and professional fees.

6. The Directions invited any Respondent leaseholders who opposed the application to submit a response form to the Tribunal and to make any statement of response to the Applicant by 26 August 2020. In an email dated 2 September 2020 Nazy Amini confirms there were no observations or objections from the nine leaseholders

Determination

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

“Where an application is made to a leasehold valuation 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.”

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

9. As mentioned above there has been no engagement from the nine Respondents. The schedule of works are of an urgent nature requested by London Fire Brigade for fire safety reasons. In all the circumstances the Tribunal grants the application for dispensation from statutory consultation in respect of the subject works, considering it reasonable to do so. For clarity the works are described in the application.

10. This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonable cost of the work.

Name: D Jagger MRICS

Date: 8 September 2020

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.