



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

Case Reference : **MAN/00ET/LDC/2020/0001**

Property : **Lock 3, 4, 5, 6, 7, and 8, The Decks,
Mersey Road, Runcorn, Cheshire,
WA7 1GG**

Applicants : **Scanlans Property Management
LLP on behalf of Stevens
Scanlans The Deck Ltd**

Respondent : **Various Leaseholders, list provided**

Type of Application : **section 20ZA Landlord & Tenant Act
1985**

Tribunal Members : **(Judge) Mr Phillip Barber
Ms J Jacobs (MRICS)**

Date of Determination : **18 August 2020**

Date of Decision : **8 September 2020**

DECISION AND REASONS

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1. The Tribunal grants dispensation from the consultation requirements of section 20 of the Landlord and Tenant Act 1985 under section 20ZA of that Act.

The Application

2. On the 07 January 2020, the Applicant lodged an application under section 20ZA for dispensation from the consultation requirements under section 20 in relation to qualifying works necessary on the above property.
3. The Applicant indicated that the application could be dealt with on the papers and a Tribunal convened to make a decision on that application today.
4. The application is for dispensation from consultation in relation to the installation of an upgraded fire alarm system which would comply with fire safety requirements at the development.
5. The Applicant included a list of all leasehold owners of each flat and a separate list of all occupiers of those flats.
6. The application included a copy of 7 quotes received from 7 electrical contractors, together with a copy of a general building survey; a fire risk assessment and the enforcement notice and correspondence from Cheshire Fire & Rescue Service.

The Law

7. The Tribunal can grant dispensation under section 20ZA in relation to qualifying works if satisfied that it is reasonable to dispense with the consultation requirements set out in section 20 of the 1985 Act.

Background to the Application

8. The buildings in question are a large development in Runcorn comprising of some 288 or 289 apartments build around 2007 (the application states 288 apartments but the list extends to 289). As far as we can tell from the list of leaseholders and the list of occupiers, the vast majority of the apartments are let to short-term tenants.
9. The buildings comprising the development are clad in two distinct products, namely Trespa Meteon FR Panel and Trespa Standard Tipo Non-FR rainscreen cladding, mounted on combustible timber rails fitted to combustible plywood timber sheeting. Full details of the wall construction are contained in the report of Thomasons dated 17 December 2019, and in particular as set out in paragraph 3.1.
10. In paragraph 3.2 of that report, it is concluded that the “risk of fire spread over and within the walls of the Trespa FR and non-FR rainscreen cladding to all blocks is significant due to the combustibility of the materials used in the external wall construction and the lack of

cavity barriers is unlikely to achieve an adequate standard for compliance with the FSO.”

11. On the 12 November 2019, Cheshire Fire and Rescue Service served a Prohibition Notice under Article 31 of the Regulatory reform (Fire Safety) Order 2005 in relation to the risk of fire from parked cars adjacent to the development buildings and in relation to emergency fire escape and on the 13 November 2019, MAF Associates completed a fire risk assessment at the property with a number of failed items in relation to fire safety and 11 actions and on the 28 November 2019, Cheshire Fire and Rescue, following a meeting on the 25 November 2019 required a number of remedial steps to be taken in relation to the fire safety provisions at the development under the Regulatory Reform (Fire Safety) Order 2005, which included a “waking watch” until such time as a suitable alarm system could be installed.
12. On the 06 November 2019, a section 20 notice was served on the leaseholders (and a copy is in the papers) in which the proposed qualifying works (a waking watch and an upgraded fire detection system) were set out with a call for observations and nominations in accordance with that section.
13. The Applicant obtained several quotes for the installation of such an alarm system and they all roughly equate to a cost of between £200,000 to £250,000 plus VAT (although one quote is lower).
14. On the 13 January 2020, Cheshire Fire and Rescue Service served an Article 30, Regulatory Reform (Fire Safety) Order 2005 Enforcement Notice on the Applicants requiring a number of remedial steps to be taken in relation to fire safety at the development, including a deficiency under Article 13 – Fire Fighting and Fire Detection. The Enforcement Notice indicated that the existing fire warning system is inadequate due to the level of risk and that the “fire alarm arrangements should be improved to provide adequate warning in case of fire...The installation/extension for the fire alarm system is to be in accordance with BS 5839.”
15. Prior to the service of the Enforcement Notice, the Applicant had applied to the tribunal for dispensation on the 07 January 2020.

The Response of the Leaseholders

16. Some leaseholders responded to the application and for the most part agreed that the Tribunal should grant dispensation in relation to the fire alarm system, recognising that they can still challenge the reasonableness of the costs in a section 27A Landlord and Tenant Act 1985 application. One or two leaseholders objected to the application but did not set out their reasons for objecting, merely completing the reply form. A common theme through all of the responses, however, is the dissatisfaction many leaseholders had with the service charges at

the development, but of course, that is not the subject of this tribunal decision; all we are concerned with is whether it is reasonable to grant dispensation for the installation of an adequate fire alarm system as set out in the various quotes.

17. It follows that, whilst we considered and weighed in the balance the objections and observations of the various leaseholders who responded to the application, they did not detract from the fact that in our view the works are urgent and necessary to safeguard the lives of the very many tenants at the development and that dispensation should be granted.

Reasons for Granting Dispensation

18. The Tribunal can grant dispensation if dispensation from the requirements to consult is reasonable.
19. We are satisfied that it is reasonable to grant dispensation due to the urgent nature of the works and the serious and continuing risk to life as a result of the risk of fire at the development. Currently fire safety is carried out by way of a waking watch at a cost of £14,700 plus VAT per week which is a significant cost. It seems to us entirely reasonable to dispense with the consultation requirements given that the cost of the upgrade will amount to some £250,000 plus VAT, which is approximately 1/3 of the yearly cost of the waking watch.

Signed 

Phillip Barber (Tribunal Judge)

Date: 8 September 2020