



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

Case Reference : **MAN/00EX/LDC/2023/0025**

Property : **Alder Bank, Blackburn BB2 1UG**

Applicant : **Places for People Homes Limited**

Representative : **Residential Management Group Limited**

Respondents : **Various Long Residential Leaseholders -
See Annex A**

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

Tribunal Member : **Judge L Bennett**

Date of determination : **19 September 2023**

Date of Decision : **19 September 2023**

DECISION

Application

1. Places for People Homes Limited applies to the Tribunal under Section 20ZA of the Landlord and Tenant Act 1985 (the Act) for dispensation from the consultation requirements of Section 20 of the Act and the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect of Qualifying Works at the property. The qualifying works concern a Communicall Vi Warden Call System (CVWCS).
2. The Respondents are the Long Residential Leaseholders at the Properties and listed at Annex A to this decision.

Grounds and Submissions

3. The application to the Tribunal was received on 30 March 2023.
4. The Applicant is the freeholder and landlord of the property. The Residential Management Group Ltd (RMG) are the managing agent, acting on behalf of the Applicant.
5. The Tribunal did not carry out an inspection but understands that Alder Bank is a self-contained estate of bungalows constructed within the last 30 years. The buildings are arranged as semi-detached bungalows, in total there are 11 blocks, each containing 2 bungalows. They are constructed with pitched, tiled roofs and main walls of cavity type brickwork. Fenestration consists of uPVC frame double glazed casement windows and half glazed entrance doors set within a single storey porch. The properties are served by tarmacadam car park spaces approached via a brick paviour driveway and concrete block paved pathways.
6. On 13 July 2023, a Tribunal Legal Officer made directions requiring the service of documents by the Applicant upon each of the Respondents. The directions provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions.
7. The Applicant has provided a statement of case explaining why the application was made to the Tribunal together with supporting documents. It is summarised below.
8. On 22 December 2022, the Applicant was notified of the failures of the Social Alarm System (SAS). Upon the notification, the Applicant appointed a contractor, Tunstall, to investigate and provide their findings for a new updated system. Tunstall confirmed that the current system in use was obsolete as it no longer communicates using an old protocol.
9. On 26 January 2023, Tunstall provided its findings of a new system. Tunstall offered to supply and install a Communicall Vi Warden Call System. The cost of such installation and equipment being £12,174. As part

of the quotation, Tunstall allows for two MyAmie pendants per dwelling.

10. Places for People are members of the Northern Housing Consortium (“NHC”), a not-for-profit procurement organisation. Its membership is primarily composed of managers of social housing. NHC procure collaborative framework agreements, which sees a competitive process and an end outcome of a number of contractors becoming approved Supply Partners.

The NHC has completed a tender exercise, which resulted in a Framework Agreement with a number of supply partners for technology enabled care services. Contractors had to bid for a number of services, such as installation works and an ongoing services that were grouped into ‘Lots’. Acceptance was based on a quality and price evaluations of contractor submissions.

Places for People selected Lot 1 and 2 package of works and services, for which there was a shortlist of contractors. Tunstall were consistently rated highly across the rankings.

A named document Assisted Living Framework Agreement. Such document illustrate the key features and benefits of the Assisted Living Framework Agreement, explains the procurement process has been followed to establish the Framework Agreement and explains the NHCs process for contracting.

Places for People have subsequently entered into an agreement with Tunstall. The Agreement illustrate the degree of costs, supply of products and services.

11. A Notice of Intention letter was issued to the leaseholders on 30 January 2023. The letter was adapted to demonstrate the proposed works. Leaseholders were also advised how their statutory rights would be compromised and that an application for dispensation may be made to the Tribunal. No observations were received.
12. In consideration of the mentioned particulars, the Applicant has intended to act within a reasonable spectrum. The Applicant’s conduct demonstrated a degree of avoidance of financial burden to the leaseholders. The Applicant tested the market and is confident that the pricing of such works by Tunstall is reasonable. For the reasons set out above, it is averred that the leaseholders have not been prejudiced by the lack of the consultation process and that it is reasonable to dispense with the Consultation Requirements.
13. The Tribunal did not receive any submissions from Respondent leaseholders. Neither the Applicant nor a Respondent requested a hearing.
14. The Tribunal therefore convened without the parties to make its determination on 19 September 2023.

Law

15. Section 18 of the Act defines “service charge” and “relevant costs”.
16. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
17. Section 20 of the Act states:-
“Limitation of service charges: consultation requirements
Where this Section applies to any qualifying works..... the relevant contributions of tenants are limited..... Unless the consultation requirements have either:-
 - a. complied with in relation to the works or
 - b. dispensed with in relation to the works by a tribunal.This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.
18. “The appropriate amount” is defined by regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) as “..... an amount which results in the relevant contribution of any tenant being more than £250.00.”
19. Section 20ZA(1) of the Act states:-
"Where an application is made to a Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements."

Tribunal’s Conclusions with Reasons

20. I have determined this matter following a consideration of the Applicant’s case but without holding a hearing. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties give their consent (or do not object when a paper determination is proposed). In this case, the Applicant has given its consent and the Tribunal has not heard from a Respondent in response to the application. Moreover, having reviewed the case papers, I am satisfied that this matter is indeed suitable to be determined without a hearing. Determining this matter does not require me to decide disputed questions of fact.
21. It is not necessary to consider at this stage the extent of any service charges that may result from the works payable under the terms of the Respondents’ leases. If and when such is demanded, and if disputed, it may properly be the subject of a future application to the Tribunal.
22. Having considered the submission made by the Applicant I accept the urgent nature of the works. For the health and safety of all residents, a decision was taken to act swiftly after being notified of the failures of the Social Alarm System (SAS). Although the works have yet to be started, the Applicant has notified leaseholders about the proposed works, and also

notified leaseholders of the application to the Tribunal giving the reasons why it believes the application is necessary.

23. In **Daejan Investments Ltd v Benson [2013] UKSC 14** it was determined that a Tribunal, when considering whether to grant dispensation, should consider whether the tenants would be prejudiced by any failure to comply with the Consultation Requirements. Balancing the need for urgent action against dispensing with statutory requirements devised to protect service charge paying leaseholders, I conclude that the urgency outweighs any potential prejudice. Dispensation from consultation requirements does not imply that any resulting service charge is reasonable.

Order

24. The Applicant is dispensed from complying with the consultation requirements in respect of the works specified in the application.

Judge L Bennett
19 September 2023

Annex A – List of Respondents

1. Mr Richmond
2. Mr & Mrs Hilton
3. Mr & Mrs Warren
4. Mr & Mrs Greaves
5. Mrs Moxham
6. Mr & Mrs Hartley
7. Mr & Mrs Madden
8. Mr & Mrs Grunshaw
9. Mr & Mrs Ryan
10. Mr Daniel
11. Mr & Mrs Sculpher
12. Mr Hulme
13. Mrs Richmond
14. Mr & Mrs Whitely
15. The Late of the Estate Mrs M Wolstenholme
16. Mr Hughes
17. Ms Pilkington
18. Mr Curtis
19. Mr & Mrs Pickering
20. Mr & Mrs Oddie
21. Mr Gordon
22. Mrs Cartmel

