



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

**Case reference** : **BIR/00CN/LAM/2023/0004**

**Property** : **58-60 Albion Street, Birmingham B1  
3EA**

**Applicant(s)** : **Ben Clark & Amy Clark (leaseholders of  
60 Albion Street)**

**Respondent** : **MTH Properties Limited (landlord)**

**Type of  
application** : **Variation of Order for Appointment of a  
Manager under s24 of the Landlord and  
Tenant Act 1987**

**Tribunal Judge** : **Judge D Barlow**

**Venue** : **Remote via HMCTS CVP**

**Date of Decision** : **5 October 2023**

---

**DECISION**

---

## **DECISION**

The Tribunal varies the Management Order dated 17 September 2020 and extends the period of the Manager's appointment to 9 October 2026.

## **REASONS**

1. The Application received on 4 August 2023, is to vary a management order dated 17 September 2020 ("the 2020 Order"), appointing Mr Joe Jobson MRICS of Principle Estate Management, Cornwall House, 31 Lionel Street, Birmingham B3 1AP, as Manager of the Property, by extending the term of the order by a further three years.
2. The only variation requested is an extension of the term of the 2020 Order for a period of three years expiring on 9 October 2026.
3. The Tribunal is therefore required to determine whether to vary the 2020 Order to extend the term of the Managers appointment.
4. The application was served on the freehold landlord and all leaseholders of the Property together with a copy of the directions dated 1 September 2023, which include standard provisions for the leaseholders and landlord to file objections. The directions also notify all recipients that the application would be considered at an oral hearing on 5 October 2023 commencing at 10.00am.
5. The leaseholders of the Property (other than the Applicants) have not objected to the application or participated in the hearing.
6. No objection has been received from the landlord, MTH Properties Limited, who has also not participated in the hearing.

## **The Law**

7. This application is under section 24 of the Landlord and Tenant Act 1987 and the relevant parts state:

*“(9) The appropriate Tribunal may on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 2002, the Tribunal may by order direct that the entry shall be cancelled.*

*(9A) The Tribunal shall not vary or discharge an order under section (9) on the application of any relevant person unless it is satisfied –*

*(a) That the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made and  
(b) That it is just and convenient in all the circumstances of the case to vary or discharge the order.”*

## **Issues**

8. The issues for the Tribunal are:
  - a. Will the proposed variation of the order result in a recurrence of the circumstances which led to the order being made?
  - b. Is it just and convenient to vary the management order?
  - c. Should any conditions be attached to the variation?

The Tribunal considered the issues an oral hearing on 5 October 2023. The Applicants were represented by Mr Clark. The Manager, Mr Jobson also attended together with a colleague of his from Principle Estate Management. No other leaseholders participated.

## **The application**

9. The Applicants' state that the Manager has effectively managed the Property. Major redecoration works were carried out in 2022 and the Property is now in much better condition. They now have a reliable point of contact. The Manager has resolved issues with late presentation of budgets and accounts and lack of transparency concerning funds. Following a delay in the handover to the Manager the landlord continues to show no interest in managing the Property. The Applicants fear that the circumstances that led to the appointment of the Manager in 2020 will reoccur if the Order lapses.
10. In April 2023 the landlord served notice of intent to sell the freehold. The owner of 58 & 59 Albion Street has expressed an interest in purchasing the reversion but apparently does not wish to take over management of the Property and is happy for the current arrangements to continue.
11. Discussion took place with the leaseholders of 58, 59, 58c, 60a and 60b Albion Street, all of whom support the application.
12. The Manager has provided a written statement which confirms that he has implemented several positive changes and improvements including: enhancements to the appearance of the Property through a detailed 5 year planned programme of maintenance; establishing open lines of communication with leaseholders to address concerns transparently and effectively; introducing up-to-date accounting systems to ensure timely delivery of service charge budgets and accounts; a review of all third party contracts; a full reinstatement survey to ensure the Property is adequately insured coupled with a comprehensive fire risk assessment.

13. The service charge budget for 2023 shows a small budgeted increase in overall costs from £11,265 in 2022, to £12,376 in 2023, and provides for an annual contribution to the reserve fund of £2,500. The fund balance currently stands at £4000.00 and there are no arrears of service charges.
14. The Manager's plan for the extended term of the Order is to continue with the long term maintenance plan which includes replacement of main entrance doors in year 5 and cyclical maintenance of the building generally. A budgeted forecast to 2031 was provided.
15. The current order does not refer to the Manager's professional indemnity insurance. Mr Jobson confirmed at the hearing that he has insurance cover for professional indemnity to a limit of £10 million and was happy for the management order to include a requirement for insurance to an appropriate level of indemnity to be maintained.
16. The Judge explained that one reason for ordering an oral hearing was to ascertain the current position with any sale of the freehold. So far no restriction has been entered in the register of the freehold title which leaves the status of any management order vulnerable, in that it would not bind a successor in title to the landlord. The Judge indicated that the management order would be updated to make provision for a direct covenant to be procured from any successor in title to the landlord and protected by entry of an appropriate restriction.
17. The current order also fails to address the handover of management functions on expiry of the extended term. As it is too early to be certain that a further extension will be sought (or granted), the Judge indicated that the management order would be updated to cover the possibility that it may end on the term date.

### **Tribunal's consideration and decision**

18. The Manager has been in place for three years. The Tribunal finds that the Manager has effectively performed his duties under the 2020 Order so as to mitigate the failures identified in the 2020 decision. He has taken steps to identify and put in place a long-term maintenance plan for the building, and addressed the primary breaches of the codes of management practice concerning accounts and the separation of service charge monies, which led to the making of the 2020 Order. The current proposals take account of the ongoing management functions and services set out in the 2020 Order.
19. The Applicants having sought the views of the majority of the leaseholders, and the consent of the Manager, now seek a three year extension of the Managers appointment.

20. The Tribunal finds that this will provide continuity of efficient management of the Property and allow for an orderly hand over of the Managers functions, including the reserve fund, on expiry of the extended order.
21. The application is not objected to by the leaseholders or the current freehold landlord who appears to have no interest in appointing a manager or agent to manage the Property.
22. The Tribunal finds for the reasons set out above that the Manager has effectively managed the Property in accordance with the powers granted by the 2020 Order and is satisfied that it is just and convenient to vary the 2020 Order to extend the period of the Managers appointment to the 9 October 2026.
23. Finally, the Tribunal takes this opportunity to vary several the other terms of the Management Order for the reasons set out above to reflect current good practice and the relevant parts of the FTT Practice Statement – Revised Version July 2023. The parties should therefore consider all the terms of the varied Management Order.

Deputy Regional Judge D Barlow  
Dated 5 October 2023