



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

Case reference : **LON/00AK/LDC/2023/0164**

Property : **Bliss House and Purcell House,
Holbrooke Close, Enfield EN1**

Applicant : **London Borough of Enfield**

Representative : **Ludmilla Iyavoo
Enfield Legal Services Department
Ref: LS/C/LI/167227**

Respondent : **The leaseholders of Bliss house and
Purcell House as per the application**

Representative : **N/A**

Type of application : **Application for dispensation from
consultation – section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal member : **Judge Tagliavini**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **4 October 2023**

DECISION

The tribunal's summary decision

- (1) The tribunal grants the applicant dispensation from consultation in respect of External and Fire Safety Works for Bliss House and Purcell House, Holbrooke Close, Enfield EN1.
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The application

1. The applicant seeks dispensation from consultation in respect of External and Fire Safety Works for Bliss House and Purcell House, Holbrooke Close, Enfield EN1 ('the premises') which comprise 2 blocks of purpose built flats. The works commenced in May 2021 and were ongoing as at the date of this application on 15 June 2023.

Background

2. The applicant decided to carry out works to the subject premises in order to their compliance with the Regulatory Reform (Fire Safety) Order 2005 as well as meeting the guidance issued by the Department of Communities and Local Government. The estimated cost of the project was £4,238,870.18 and works commenced in May 2021, the contract having been awarded to Mulalley & Co Ltd. Notices of Intention were sent to leaseholders in period 7 February 2020 to 5 March 2021 but it is accepted these were the subject of several procedural flaws thereby potentially invalidating them.

The hearing

3. As no party requested an oral hearing this matter was determined on the documents which comprised a hearing bundle of 114 (electronic) pages provided by the applicant. The applicant relied on a witness statement of Mr Michael Hopper dated 15 June 2022 which set out the background, the Notice irregularities and the reason for this application.
4. Objections to this application were received from 3 leaseholders who objected to:

the lack of consultation with Notices being sent to the wrong addresses, not being sent at all or being sent to lessees who were not living at the property or abroad;

- the lack of information about the works;
- the cost of the works;

- the need for a repayment plan;
 - the extent of the works (some being regarded as optional such as the sprinkler system)
 - the historic failure of the applicant to maintain the subject premises;
 - The decision of a tenant to purchase the long lease of one flat in April 2023 had the cost of the works as stated in the application been known to the lessee.
5. The objections to the application were summarised by one lessee in the statement:

In summary; no dispensation should be given as apart from the issues outlined above, any dispensation would reward a large public sector organisation for its own incompetence and consistent failure to communicate, to consult, and to adhere to its legal requirements and responsibilities

The tribunal's decision

4. The tribunal grants the applicant dispensation from consultation in respect of the External and Fire Safety Works carried out by Mulalley & Co Ltd which commenced in May 2021.

The tribunal's reasons

5. The tribunal finds the lessees were informed of the nature and extent of the works despite the incorrect form of words being used in respect of the Notice of Intention. The tribunal has considered the objections to this application received from three lessees and finds they have failed to identify any substantive prejudice caused to them by the lack of consultation. Although, the cost of the works is highlighted as a major concern, this is not a consideration for this tribunal in this application as stated in its Directions dated 23 July 2023 and Amended Directions dated 23 August 2023.
6. The tribunal also finds that one lessee purports to speak on behalf of a number of lessees or all the lessees who live in the subject premises but does not identify any authorisation they have been given to speak on their behalf.
7. The tribunal finds the lessees were informed of the nature and extent of the works; detailed information about the works was provided on request or a meeting offered to discuss the works after computer uploads failed; payment plans have been set up (although no final demand has been made) and the lessee purchasing the long lease was informed of the items of work they would be expected to contribute to before the sale was completed.

8. The tribunal finds there were some deficiencies in the applicant's methods of informing and keeping fully informed all the lessees about the works. The tribunal finds a substantial amount of information about the nature and extent of the works was shared with the lessees, albeit by way of defective Notices and opportunities provided for observations to be made. The tribunal finds in the absence of any substantive prejudice identified by the lessees as having been caused, the tribunal determines it is reasonable to grant the dispensation from consultation sought in respect of External and Fire Safety Works; *Daejan Investments Ltd v Benson and others* [2013] UKSC 54.

Name: Judge Tagliavini

Date: 4 October 2023

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

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. The application should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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.

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.

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.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

