



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

Case reference : **LON/00AW/LDC/2023/0054**

Property : **63 and 65 Pont Street London
SW1X 0BD**

Applicant : **The Welcome Trust**

Representative : **Savills (UK)Ltd**

Respondent : **The Various Leaseholders of 63 and
65 Pont Street London SW1X 0BD**

Representative : **-**

Type of application : **For dispensation from the
consultation requirements under
section 20ZA Landlord & Tenant
Act 1985**

Tribunal members : **Mr R Waterhouse BSc (Hons) LLM
Property Law MA FRICS**

Date of decision : **23rd October 2023**

DECISION

This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable, and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 26 pages and by an email dated 23rd May 2023 from Savills on behalf of the freeholder confirming that copies of the Directors had been sent to the leaseholders and a copy displayed in the common parts of the building.

Decision

- (1) The tribunal determines that dispensation should be granted from the consultation requirements from section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of the property 63 and 65 Pont Street London SW1X oBD.**

The application

1. This Application is made by the freeholder Savills on behalf of The Wellcome Trust Limited dated 3rd March 2023.
2. The Application seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985.
3. The Application is concerned solely with the question of what consultation if any should be given of the consultation requirements of section 20 of the 1985 for works costing in excess of £250 per flat. It is not concerned with the reasonableness or payability of any service charges which may arise.

The determination

4. A written Application was made by the Savills on behalf of the Wellcome Trust Limited. The case was decided on paper and no appearances were made. The tribunal considered the written bundle of 26 pages, in support of the Application.

Background

5. The property comprises 63 and 65 Pont Street, two separate buildings served by one heating/hot water system. There are 6 flats in 63 Pont Street and 6 flats in 65 Pont Street. The two separate buildings are operated and managed via 2 service charges with certain services and supplies being shared.
6. The Applicant in this case is the freeholder of the property.

7. This Application has been issued because, “positive legionella sample was recorded on the system serving both 63 and 65 Pont Street”.
8. The works comprised;
 - (i) Isolation of existing unit from power and water
 - (ii) Drain and remove from site
 - (iii) Supply and install new Aquafirst DD unit adapting heating and hot water pipework to suit
 - (iv) Fit and flush new unit
 - (v) Wire to existing power supply with new control box
 - (vi) Set up and commission new unit- put in service
9. Cost £11,038.54 plus vat
10. A Section 20 (Notice of Intention) was issued on 3rd March 2023, copies of sent letters provided in the bundle.
11. The Directions dated 11th May 2023, provided for the freeholder to provide by the 25th May 2023; copy of the application form, brief statement of intended works unless already done so, and to display a copy of the two items in the common parts
12. Additionally by 29th May 2023 to confirm with the tribunal that this has been carried out.
13. By 8th June any leaseholders that oppose this should provide the tribunal with a completed reply form copied to the freeholder.
14. The freeholder by 15th June 2023 may reply to all leaseholders that have submitted any statements.
15. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

Documents

16. The Applicant submitted an application form, and e mail confirming the directions have been complied with. The tribunal received no representations from any leaseholders at the time of the determination.

The tribunal's decision

17. The tribunal does not grant dispensation under section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the application.
18. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
19. The Supreme Court (Lord Neuberger at para 50) accepted that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in sections 19 and 27A of the Landlord and Tenant Act 1985.
21. Accordingly, we find that dispensation should be granted.

Richard Waterhouse

**Name: Richard
Waterhouse LLM 23 DOctober 2023
FRICS**

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 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 to 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 (ie 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**