



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

Case reference : **LON/00AK/LDC/2023/0210**

Property : **Narev Court, 2 Cedar Avenue, Enfield EN3 5JB**

Applicant : **Narev Court Management Limited**

Representative : **Ringley Law LLP**

Respondents : **Various lessees as per the application**

Representative : **N/A**

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

Tribunal : **Judge Tagliavini
Mr Antony Parkinson MRICS**

Date of decision : **12 January 2024**

DECISION

The tribunal's summary decision

1. The tribunal grants dispensation pursuant to s.20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act') in respect of the pest control works at the subject Property, in so far as the applicant was required but failed to provide the leaseholders with the fullest opportunity to put forward observations or recommend a contractor after service of a Notice of Intention and failed to serve a second Notice (statement of Estimates) as required by section 20 of the Landlord and Tenant Act 1985.
-

2. The applicant has applied for dispensation pursuant to section 20ZA of the Landlord and Tenant Act 1985 from part of the statutory consultation requirements, in respect of pest control and the removal of pigeons and their nests and rats from the subject property at 2 Narev Court, 2 Cedar Avenue, Enfield EN3 5JB ('the Property') which comprises a block of 17 flats with 1 commercial unit.

Background

3. In a Notice of Intention dated 14 June 2023, the applicant notified the respondent lessees of its intention to carry out pest control works in and around the property. Subsequently, the matter became more urgent and the increased presence of pigeons and rats presented a health and safety issue as lessees reported an increasing number of rats within the property and more birds causing a nuisance.
4. Consequently, before a Stage 2 Notice was issued to the lessees, the applicant entered into a contract with TaylorMade Facilities Management for pest control works which included the installation of bird spikes around the roof perimeter and mid ledges to the front, back and side of the building; the installation of netting and the removal of birds' nests and cleaning.
5. The works were completed on 21 July 2023 at a cost of £15,180 (including VAT).
6. An objection to the application was received from one lessee, Mr Ronan Falsey who stated:

Prior to these works being undertaken, I had communicated in writing and verbally to The Applicant that I would seek to have the works carried out in a humane manner and provided details of a no-kill wildlife management company that would do the works without harming either pigeons or rats/mice. I had requested that The Applicant notify the residents in advance as to the nature, and cost, of

the works and that we be informed which contractors were invited to tender and which were chosen. None of this happened.

During the works, when I witnessed occupied nests being destroyed, and spikes/ netting being placed to prevent these birds returning to their nesting sites I objected to works continuing, and I wrote to The Applicant to request that the correct permits and licences were in place, and be evidenced to us, the residents . The Applicant agreed, in writing to provide these, but in fact they did not, and the works continued, and were completed without these licences being provided to us. The have still not been provided to us. It is my view that The Applicant knew there were considerable and valid objections to these works and disregarded these objections, and the proper process throughout. It is my view that the Applicant is only now attempting to seek this order to regularise the process after the fact

The hearing

7. An oral hearing of the application was requested by Mr Ronan Falsey and a remote video hearing was arranged. However the objecting lessee did not attend and relied on his written submissions. The applicant was represented by Ms A Theophanous (legal officer) and relied on an electronic bundle of 86 pages.
8. The tribunal also heard oral evidence from Ms C Griffin who told the tribunal that the company mentioned by Mr Falsey had been contacted to see if they would be willing to provide a quote for pest control works as well as two other companies. However, there was no response from Mr Falsey's preferred contractor. Of the two other contractors that provided quotes, TaylorMade Facilities was the lowest.
9. Ms Griffin also told the tribunal that during the pest control works, no live birds were found or removed from the Building and that the nests contained only empty eggs. Other residents had subsequently thanked her for having the works carried out.

The tribunal's decision and reasons

10. The tribunal grants dispensation pursuant to s.20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act') in respect of the pest control works at the subject Property, in so far as it failed to provide the leaseholders with the fullest opportunity to put forward observations or recommend a contractor after service of a Notice of Intention and failed to serve a second Notice (statement of Estimates) as required by section 20 of the Landlord and Tenant Act 1985.
11. The tribunal finds that the leaseholders had been notified of the applicant's intention to carry out pest control works by reason of the service of the Notice of Intention as well as in previous conversations between the parties. The tribunal also finds that Mr Falsey had been provided with an

opportunity to raise his views of the works before the Notice of Intention was served and suggested a contractor who the applicant subsequently approached but who failed to respond. The tribunal prefers the oral and written evidence of Ms Griffin to that of Mr Falsey, who alleged in his email communications without supporting evidence, he had a court order (see witness statement of David Taylor) preventing the applicant from carrying out these works and that despite the appropriate licence being provided, asserted the applicant and its contractors were committing a criminal offence.

12. Further, the tribunal is satisfied Mr Falsey did take an opportunity to raise his concerns about the proposed pest control works as he stated on 18 July 2023 (email):

I had recently provided you with details of a wildlife management company that would humanly remove and release the pigeons and any animals / rodents at Narev Court and it was my express understanding that this was the course of action, if any, to be undertaken.

13. The tribunal is satisfied the ongoing presence of rats and pigeons posed a threat to health and safety and required urgent action when the numbers started to unacceptably increase. The tribunal also accepts Ms Griffin's oral evidence as to how the pest control work was carried out as this went unchallenged by any respondent lessee, although the tribunal would have preferred to see this oral evidence included in the witness statements provided, together with a copy of the Notice of Intention and invoice (rather than just the quote) for pest control works.
14. In considering whether to grant dispensation, the tribunal considered the consequences of the consultation requirements not having been followed. The tribunal finds on the facts of this application, the prejudice caused to Mr Falsey was minimal in light of his ability to make representations and the ongoing danger to health the presence of pigeons and rats presented to all lessees. Further, in the absence of any alternative quote provided by Mr Falsey, the tribunal was not able to determine whether his preferred method of pest control was either feasible or cost effective.
15. Therefore, the tribunal finds the issue of prejudice raised by Mr Falsey is neither substantiated or substantial in light of the previous notification of the need for pest control works and the ongoing threat of health and safety.
16. The tribunal finds the presence of rats and pigeons posed a threat to health and required urgent action when the numbers started to unacceptably increase. The tribunal also accepts Ms Griffin's oral evidence as to how the pest control work was carried out as this went unchallenged by any respondent lessee, although the tribunal would have preferred to see this oral evidence included in the witness statements provided, together with a copy of the Notice of Intention and invoice (rather than just the quote) for pest control works.

17. In conclusion, the tribunal finds it reasonable and proportionate to grant the application sought; *Daejan Investments Limited v Benson and others* [2013] UKSC 14.

Name: Judge Tagliavini

Date: 12 January 2024

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).

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