



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

Case Reference	:	LON/00AK/LDC/2023/0251
Property	:	Penrose House, 16 Newsholme Drive, London N21 1TW
Applicant	:	Penrose House (Freehold) Limited
Representative	:	Ringley Law
Respondent	:	The Leaseholders of Penrose House, 16 Newsholme Drive, London N21 1TW
Representative	:	N/A
Type of Application	:	An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works
Tribunal Members	:	Mr I B Holdsworth FRICS MCI Arb
Date and venue of Hearing	:	Remote hearing on 13 February 2024
Date of Decision	:	13 February 2024

DECISION

Decisions of the Tribunal

The Tribunal determines that retrospective dispensation should be given from the consultation requirements in respect of the specific scaffolding and repair works to reinstate a damaged roof (defined as the “Roof Works”) following a fire at Penrose House, 16 Newsholme Drive, London N21 1TW as required under s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for the reasons set out below.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to retrospectively dispense with the statutory consultation requirements associated with carrying out necessary and essential roof and ancillary repair works, “**the Roof Works**”, to Penrose House, 16 Newsholme Drive, London N21 1TW “**the property**”.
2. An application was received by the First-tier Tribunal dated 11 October 2023 seeking dispensation from the consultation requirements. Directions were issued on the 23 October 2023 to the Applicant. These Directions required the Applicant to advise all Respondents of the application and provide them with details of the completed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. This matter was determined by written submissions. The Applicant submitted a bundle of relevant materials to the Tribunal.
5. An objection to the grant of dispensation is submitted by the leaseholder of Apartment 33. No other submissions are received from the Respondents.

The background

6. The property which is the subject of this application is a converted built block containing 41 self-contained flats.
7. Ringleys, the Applicants representative and managing agent, explain in their Statement of Case dated January 3, 2024, that the property suffered significant fire damage to the roof in July 2023 and it was necessary to undertake urgent scaffolding and repair on the instruction

of the insurance loss adjuster. No detail of the cost of these works is provided.

8. The scaffolding works commenced on 11 July 2023 and the roof repair works followed over the subsequent weeks. All advised roof works were completed by 22 August 2023 and the scaffolding dismantled.
9. The Statement of Case confirms that due to the concern about the safety of the residents should the repair be delayed a contractor was instructed by the managing agent to undertake the scaffolding and roof works prior to further consultation.
10. The managing agent offers no information in their Statement of Case about taking contractor quotes for the Roof Works prior to commissioning the work. The Tribunal are told Pride Scaffolding supplied, erected and dismantled the scaffolding.
11. The Applicant contends that the repairs were needed urgently for the following reasons:
 - the works were required by the insurance loss adjuster to mitigate loss following the fire.
 - Any delay in rectifying the damaged roof would have led to further damage to the building, in particular those flats situated on upper floors and potentially increased repair costs; and
 - Further delay would have posed a continued health and safety risk to residents.

Objection to grant of Dispensation.

12. An objection to grant of dispensation is received from a leaseholder of the Property dated 18 January 2024. He claims the Directors of Penrose House (Freehold) Limited, and their agents Ringleys are not transparent in the provision of information about the Roof Works costs and associated insurance matters. No evidence is offered in his submission to support this assertion.
13. The tribunal has considered the objection from the leaseholder. The purpose of the consultation requirements is to ensure that leaseholders are protected from paying for works which are not required or inappropriate, or from paying more than would be reasonable in the circumstances. The factual burden of identifying some relevant prejudice is on the leaseholder opposing the application for dispensation. The leaseholder has an obligation to identify what prejudice they have suffered because of the lack of consultation. No

prejudice is identified or reported by the leaseholder in their submission.

14. The tribunal note that only one leaseholder objected to the grant of dispensation. This suggests that the benefit of carrying out these works urgently is recognised by the majority of the residents of the premises.
15. After consideration of the need and type of Roof Works, the Tribunal conclude that the Objector did not suffer financial or other material prejudice as a consequence of the lack of consultation.

The determination

16. The tribunal has considered the papers lodged. There is one objection raised by a Respondent.
17. There was a demonstrated need to carry out the works urgently to protect the leaseholder residents at the property following a fire. The Roof Works were advised by the insurance loss adjuster to mitigate the extent of damage to the building and the eventual remedial works costs.
18. It is for these reasons the tribunal is satisfied it is appropriate to retrospectively dispense with the consultation requirements for the Roof Works.
19. **It is the Applicant's responsibility to serve a copy of the tribunal's decision on all Respondent leaseholders listed on the Application.**
20. **This decision does not affect the right of the Respondents to challenge the costs, payability or the standard of work should they so wish.**

Valuer Chairman: Ian B Holdsworth

Date: 13 February 2024

Appendix of relevant legislation

Section 20 of the Act

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

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 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).