



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

Case References : BIR/41UK/LDC/2024/001

Properties : Bolehall House, Amington Road, Tamworth,
B77 3PA

Applicant : Davor Developments Limited

Representative : Property Fusion (Managing Agents)

Respondents : The Leaseholders of Bolehall House

Type of Application : An application under section 20ZA of the
Landlord and Tenant Act 1985 for dispensation
of Consultation Requirements.

Tribunal : Judge P. J Ellis.
V Ward BSc Hons FRICS – Regional Surveyor

Date of Hearing : 2 May 2024

Date of Decision : 14 May 2024

DECISION

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The Tribunal is satisfied it is reasonable to dispense with the consultation requirements on the Applicant in respect of a contract for qualifying works for the property the subject of this applications, namely, replacing all rotten wood and fit new fascia, soffits and gutters at a price of £6,988.00 as described in a quotation from Surelife Roofing dated 23 December 2023

Background and Introduction

1. This is an application for dispensation from the consultation requirements of s20 Landlord and Tenant Act 1985 (the 1985 Act). The application was issued on or after 4 January 2024. Directions were issued on 22 January 2024 requiring the Applicant acting by its agent Property Fusion to serve the application, the directions, a statement explaining the purpose of the application and supporting information on the leaseholders of Bolehall House by 2 February 2024.

2. The application relates to qualifying works, namely:

Urgent works required following storm damage and rotting of timber due to shortfall on overhang from the tiles.

Works had been granted the go ahead due to the risk of health and safety, hanging pieces of Soffit and fascia which posed a risk of falling. The building was also experiencing ingress due to front elevation being open to the elements. The Applicant started the works on 4 January 2024, after scaffolding was erected, and wished to replace all rotten wood and fit new fascia, soffits and gutters at a price of £6,988.00.

3. Section 20 of the Act, as amended by the Commonhold and Leasehold Reform Act 2002, sets out the procedures landlords must follow which are particularised, collectively, in the Service Charges (Consultation Requirements) (England) Regulations 2003. There is a statutory maximum that a lessee must pay by way of a contribution by way of a “qualifying long term agreement” (“QLTA”) unless the consultation requirements have been met or dispensation from the same has been granted.

4. Following service of the application on the leaseholders of Bolehall House one leaseholder Casey Littlewood - Flat 2 Bolehall House - wrote to the Tribunal opposing the application. The remaining leaseholders did not oppose the application.

5. The Tribunal directed that the application be dealt with on the papers without an oral hearing but after an inspection. There was no request for an oral hearing.

The Property and the reason for the application

6. Bolehall House is a converted detached house accommodating 11 residential units from ground floor to third floor with a basement for storage. The principal building was erected in or around 1700. It has been extended in modern times to accommodate the additional apartments.

7. Over Christmas 2023 the Applicants agent received reports of storm damage to roof fascias and soffits resulting in the risk of loosened rotten wood falling causing injury and ingress of water at many levels.
8. The Applicant's agent decided the property could not be left in its damaged condition. Arrangements were made for a repair involving replacing all rotten wood with white uPVC fascia, fitting new soffits and new black 1/2 round gutters. The cost of the works was agreed with the Applicant's contractor Surelife Roofline Limited at a total price of £6988.00 including scaffolding because the site of the works was too high for access by ladders.

The Parties Submissions

9. The Applicant served the quotation for the works with the application together with a copy of a specimen lease and the names of all leaseholders. The lease shown to the Tribunal was for a period of 99 years from 25 March 1975. It contains a covenant that the landlord will repair the structural parts of the building retained by the landlord including the roofs and all walls.
10. Casey Littlewood opposed dispensation because there had been no consultation about the work. There had been inadequate attention paid to the state of the building and its maintenance. The lease did not provide for this repair, the insurers should have been involved, not all the works were urgent, there had not been any consultation.
11. The Tribunal inspected the property by attending to observe the site of the affected areas and their height from the ground.

Discussion

12. Although there was only one objection to the application the Tribunal must be satisfied under s20ZA of the Act that it is reasonable to dispense with consultation requirements.
13. In considering this matter the Tribunal has had regard to the decision of the Supreme Court in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 ("Daejan") and the guidance to the Tribunal that in considering dispensation requests, it should focus on whether tenants are prejudiced by the lack of the consultation requirements of section 20.
14. The substantially unchallenged evidence is that a leak on the roof of the building is allowing an ingress of water into one or more of the flats rendering it unfit. A contractor had been instructed to carry out necessary repairs. There is no complaint that the work is unnecessary other than from Casey Littlewood.

15. This is an application for dispensation from consultation requirements. The Tribunal's decision on this application does not prevent further challenge to the payability and reasonableness of the charges incurred in due time. The Tribunal understands that some leaseholders may not agree that works are required if it is not possible for them to satisfy themselves at the time of the state of the property. However, their position is protected by other provisions of the relevant legislation regarding service charges.
16. In this case the Applicant's agent acted promptly to repair the storm damage to prevent further deterioration of the roof. In the circumstances the Tribunal is satisfied that it is reasonable for it to unconditionally dispense with the consultation requirements before entering a contract for qualifying works namely replacing all rotten wood and fit new fascia, soffits and gutters at a price of £6,988.00 as described in a quotation from Surelife Roofing dated 23 December 2023

Appeal

17. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal.

Tribunal Judge PJ Ellis.