



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

Case Reference	:	CAM/34UE/LDC/2024/0023
Property	:	1-12 Kings Walk, King Street, Kettering NN16 8JF and 1-12 Regent Gate, Regent Street, Kettering NN16 8JD, known as the “Old Bakery”
Applicant	:	The Kettering Old Bakery Apartments Ltd
Representative	:	Conor O’Sullivan, director
Respondents	:	All leaseholders of dwellings at the Property
Type of application	:	Dispensation with consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985
Tribunal members	:	Judge David Wyatt
Date of decision	:	15 July 2024

DECISION

The tribunal’s decision

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works to fire board parking areas, with electrical and decoration works, as described in the summary below of the notice of intention.

The Applicant must send a copy of this decision to each of the Respondents.

Reasons for the tribunal's decision

1. The Applicant freeholder applied for dispensation with the statutory consultation requirements in relation to fireboarding and related work. Any contributions from the Respondents through the service charge towards the cost of these works would be limited to £250 unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003, were complied with or are dispensed with by the tribunal.
2. The Applicant seeks such dispensation from the tribunal, under section 20ZA of the 1985 Act. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. This application does not concern any issue of whether any service charges for the costs of the works will be reasonable or payable.

Background

3. In their application form, the Applicant said the relevant works were urgent, following enforcement action from the Fire and Rescue Service, so could not await full consultation. They said initial notice had been given to leaseholders. They indicated that quotations so far had ranged from £20,000 to £42,000, and they aimed to accept the lowest.
4. This application followed expiry on 24 March 2024 of a management order which, on the application of leaseholders against the previous freeholders, had re-appointed a manager of the property. The tribunal is dealing separately with proceedings between the Applicant and the former manager, because these are likely to take time to resolve. The tribunal expects to give further directions for those proceedings shortly (this week or next week).
5. On 20 May 2024, the tribunal gave case management directions for these dispensation proceedings. The directions required the Applicant to (amongst other things) write to each of the Respondent leaseholders with copies of the application form and details, any other evidence relied upon and the directions. The Applicant confirms they did so on 3 June 2024 by first class post (and by e-mail to those for whom they had an e-mail address).
6. The directions required any person who opposed the application to respond by 18 June 2024, giving a reply form for them to use. The directions provided that, unless any party requested a hearing or the tribunal decided a hearing was necessary, the tribunal would decide the matter based on the papers produced by the parties, without a hearing. I understand that none of the Respondents responded to oppose the application, or request a hearing, or at all.

7. In the circumstances, I treat the application as unopposed and, under rule 31(3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the parties are taken to have consented to this matter being determined without a hearing. This determination is based on the documents in the bundle prepared by the Applicant in accordance with the case management directions. On reviewing these documents, I considered that a hearing was not necessary.

Review

8. The documents in the bundle include a prohibition notice dated 23 February 2024 from Northamptonshire Fire and Rescue Service (“NFRS”) describing insufficient fire resistance between the undercroft car park and the flats above/escape staircases, putting occupants at unacceptable risk in the event of a fire in the car park. On 14 March 2024, NFRS wrote indicating that they were removing the prohibition (because, it seems, the residents had cleared the car park).
9. On 22 March 2024, the Applicant wrote to leaseholders about their dispute with the previous manager, introducing a new manager they had appointed. They explained that another order/notice now prevented use of the car park. They described quotes ranging from £19,650 to £42,506 to replace inadequate fireboarding and other matters. On 28 March 2024, the Applicant sent a notice of intention to leaseholders, describing the proposed works as:
 - (i) fire boarding of parking areas to both Regent Street and King Street elevations;
 - (ii) associated electrical works to enable these works and change operation of lighting to “time clock setting” to save energy; and
 - (iii) decoration of the newly installed boarding to protect the new materials.
10. In April 2024, the Applicant applied to the tribunal. In their application form, they referred to the above matters and said that, in addition, their new buildings insurance policy required replacement of the boarding within 60 days.
11. The letter from the Applicant to leaseholders on 1 June 2024 with the tribunal directions explained that the works had now been completed by the lowest bidder (LVA Builders) for £19,650, and without additional project management/professional fees. They identified the other bidders. They said that NFRS had accepted the work and they awaited lifting of the notice restricting use of the car park.
12. This application was not opposed by the Respondents, who have not challenged the information provided by the Applicant, identified any prejudice they might suffer because of the non-compliance with the consultation requirements, given any other reasons why dispensation should not be granted or in these proceedings asked for or provided any

other information. In the circumstances, based on the information provided by the Applicant (as summarised above), I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.

13. As noted above, this decision does not determine whether the cost of these works is reasonable or payable as service charges under the leases, only whether the consultation requirements should be dispensed with in respect of them.
14. The tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in relation to the works to fire board parking areas, with electrical and decoration works, as described in the summary above of the notice of intention.
15. There was no application to the tribunal for an order under section 20C of the 1985 Act.

Name: Judge David Wyatt

Date: 15 July 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 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).