



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

Case reference : **LON/00BK/LDC/2024/0243**

Property : **Basildon Court 28 Devonshire Street
London W1G 6PP**

Applicant : **Basildon Court Residents Company
Limited**

Representative : **D & G Block Management Ltd**

Respondents : **The long leaseholders of Basildon Court**

Representatives : **N/A**

Type of Application : **Application for dispensation pursuant
to s.20ZA of the Landlord and Tenant
Act 1985**

Tribunal : **Judge N O'Brien**

Date of Decision : **20 January 2025**

DECISION

Decision of the tribunal

1. The Tribunal unconditionally grants the application for retrospective dispensation from the statutory consultation requirements in respect of the subject works more particularly described in the application.

The Application

2. On 14 August 2024 the Applicant's managing agent D & G Block Management Ltd applied pursuant to section 20ZA of the Landlord and Tenant Act 1985 (LTA 1985) for dispensation from the statutory consultation requirements in respect of works to Basildon Court, Devonshire Street London W1G 6PP. Basildon Court consists of a purpose built mixed use block of 57 flats with

commercial premises on the ground floor situated in central London. The Applicant held a service lease of the structure and common parts of the building which expired on 23 March 2024. A copy of that service lease which appears to have commenced in 1967, between the applicant as lessee and Royal Exchange Assurance as lessor, is included in the bundle. It is not entirely clear from the documents provided but it seems that management of the building may have been taken over by a lessee controlled management company on the expiry of the Applicant's service lease.

2. A Notice of Intention was served on the 28 September 2022 and expired on the 2 November 2022. A notice of estimates was served on the 21 December 2023 and expired on the 23 January 2024. According to the notice of estimates the anticipated total cost of the works was in the region of £350,000.
3. The works were carried out between January 2024 and March 2024 and consisted of the following;
 - Internal Common parts redecoration to common areas including walls ceilings joinery items and metal work.
 - Electrical distribution board replacement to incoming supplies and localised distribution and electrical upgrade works, within Electrical Plant room.
 - Replacement and upgrade of emergency lighting to emergency staircases and outer exit routes plant rooms and service areas.
 - Plant room, storeroom, access corridors, and service corridor fire door, upgrades and fireproofing works
 - Asbestos removal to service plant rooms, and stores
 - Residents' door, fire door, upgrade works
 - Replacement of fire alarm with wireless fire alarm and fire detection
3. According to the information contained in the application, the Applicant's agent complied in substance with the consultation requirements save that it did not wait the requisite 30 day period between service of the Stage 2 notice of estimates and instructing its contractor to start the works. The managing agent was concerned that if it did so it would not be able to complete the works before the expiry of the Applicant's service lease. It was in particular concerned that the likely lead time for the fire alarm, if it waited until the expiry of the relevant consultation period prior to entering in to the agreement with its nominated contractor, would mean that it would not be able to complete the works prior to the expiry of its lease.
4. By directions dated 28 October 2024 the Tribunal directed that the Applicant should, by 18 November 2024, send to the leaseholders and the residential sub-lessees and any recognised tenants association the application, and a brief statement explaining the reasons for the application if not already contained in the application, and the directions by email or post and affix them to a prominent place in the common parts of the property. At that time it appeared to the Tribunal that the Applicant was D and G Block Management Ltd as this company was named as Applicant in the application submitted to the tribunal. The documents included in the bundle filed and served in compliance with those direction however indicate that the entity which requires dispensation is

Basildon Court Residents Company Ltd. The tribunal considers that Basildon Court Residents Company Limited should be substituted as Applicant in these proceedings.

5. The applicant's agent confirmed by email sent on 2 December 2024 that it had served the required documentation on each leaseholder on 14 November 2024 and had placed a copy of the same in the main lobby of the building.
6. The directions provided that if any leaseholder or sublessee objected to the application, he or she should inform the Applicant and the Tribunal by 9 December 2024 with any reply by the Respondent to be filed and served by 16 December. The Tribunal received an objection to the application from the freehold owners of Mr Zul Jetha and Mrs Shelina Jetha, the leasehold owners of flats 8, 17, 23, 35, 38, 40, 46, 50, 53 and 54 Basildon Court however this objection was subsequently withdrawn.
7. The directions provided that the Tribunal would decide the matter on the basis of written representations unless any party requested a hearing. Neither the Applicant nor any of the respondents have requested a hearing.
8. **This determination relates to the works described in the application. It does not relate to whether or not the cost of the works was payable, reasonable or reasonably incurred.**

Legal Framework

7. The Service Charges (Consultation Requirements) (England) Regulations 2003 set out the consultation process which a landlord must follow in respect of works which will result in any leaseholder contributing more than £250 towards the cost. In summary they require the Landlord to follow a three-stage process before commencing the works. Firstly the Landlord must send each leaseholder a notice of intention to carry out the works and give the leaseholders 30 days to respond. Then the Landlord must send out details of any estimates and permit a further 30-day period for observations. Then, if the landlord does not contract with a contractor nominated by the leaseholders or does not contract with the contractor who has supplied the lowest estimate, it must service notice explaining why.
8. Section 20ZA of the LTA 1985 provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with any or all of the consultation requirements in relation to any qualifying works or qualifying long term agreement the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”.

9. In *Dejan Investments Ltd v Benson and others [2013] UKSC 14* the Supreme Court held that in any application for dispensation under s20ZA of LTA 1985 the Tribunal should focus on the extent, if any, to which the leaseholders are or would be prejudiced by either paying for inappropriate works or paying more than would be reasonable as a result of the failure by the landlord to comply with the Regulations. The gravity of the landlord's failing or the reasonableness of its actions are only relevant insofar as they are shown to have caused such prejudice. The evidential burden of identifying relevant prejudice lies on the tenants but once they have raised a credible case of prejudice, the burden is then on the landlord/applicant to rebut it.

The Decision

10. The Tribunal determines that it will grant the dispensation sought. None of the leaseholders on the leaseholders have objected to the application. There is no evidence that they have been prejudiced by the Applicant's decision not to wait for the expiry of the 30 day consultation period before entering into the contract to complete the works.
11. This determination does not affect the rights of the leaseholder to apply for a determination under s27A of the LTA 1985 in respect of the cost of the works, save as to the question of compliance with the consultation requirements.
12. The Applicant is reminded that, as stated in paragraph 8 of the directions, it is the responsibility of the Applicant to serve a copy of this decision on all the affected lessees.
13. If any party to these proceedings objects to the substitution of Basildon Court Residents Company Limited in the place of D & G Block Management as Applicant they must notify the Tribunal within 14 days of receipt of this determination.

Name: Judge N O'Brien

Date: 20 January 2025

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).