



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

Case reference : **MAN/00FC/LDC/2024/0602**

Property : **Flats 1-6, 8 Manningtree Close, Grimsby,
DN32 9LZ & Flats 1-6, 270 Hainton Avenue,
Grimsby DN32 9BB**

Applicant : **Amplius Living
(formerly Longhurst Group Limited)**

Representative : **N/A**

Respondents : **The residential long leaseholders of the
Property**

**Type of
Application** : **Landlord & Tenant Act 1985 - Section 20ZA**

**Tribunal
Members** : **Mr J Platt FRICS, FTPI
Mr J Gallagher MRICS**

**Date of Paper
Determination** : **30 April 2025**

DECISION

DECISION

1. Pursuant to section 20ZA of the Landlord and Tenant Act 1985, the tribunal makes a determination to dispense with the requirement to consult with the Respondents on the replacement of the communal door access control system, to both 8 Manningtree Close and 270 Hainton Avenue, with a Volo access control system providing 2 fobs per property, at a cost of £9,267.71 (including VAT).

REASONS

The Application

2. The application ('the Application') was made on 11 October 2024 by Longhurst Group Ltd (now Amplius Living) ('the Applicant'). It seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') in relation to the statutory consultation requirements prescribed by section 20.
3. Retrospective dispensation is sought for replacement of the communal door access control system to both 8 Manningtree Close and 270 Hainton Avenue with a Volo access control system providing 2 fobs per property ("the Works"). The Works were carried out, in or around July 2024 at a cost of £9,267.71 (including VAT).
4. The property comprises 12 one-bedroom flats located in two separate blocks ('the Property').
5. Directions were issued on 25 February 2025.

Evidence

6. The Applicant submitted a bundle of papers including a statement of case and supporting documents. The Applicant seeks dispensation based on its evidence that:

Since September 2022 there have been several faults reported on the intercom system at both Manningtree Close and Hainton Avenue, each time a fix was completed, however within a few months there were always further issues, and the system had to be repaired again.

On the 27th June 2024 the contractor reported that there was nothing further they could do to repair the current system installed due to its age.

Inaccessible or non-functional access control systems can create safety concerns, especially in an emergency situation where quick entry or exit is crucial for emergency services. This could affect vulnerable residents or those with mobility issues. Taking into consideration these factors it was felt that the work needed to take place immediately leaving no time for the section 20 consultation.

7. Two Respondents have submitted statements to the tribunal opposing the Application:

- Doorstep, the leaseholder of Nos: 3 & 4, 8 Manningtree Close and 2,3 & 6, 270 Hainton Avenue and
- Sarah Robinson, the leaseholder of no 6 Manningtree Close

8. Both Respondents make similar points in opposing the Application, namely:
- The Applicant has been aware of issues with the door entry system for some considerable time. Doorstep's evidence is that it has regularly reported problems since January 2022.
 - The Applicant therefore had ample time to plan for the works and to undertake consultation under section 20.
 - The Applicant (being aware of the issues) should have made provision for the works within the reserves / sinking fund collections
 - The works are incomplete, and
 - It is not now reasonable to seek to recover a large proportion of the costs from leaseholders due to the inadequacy of funds held in reserve / sinking fund.
9. The Applicant indicated that it would be content with a determination on the papers. The tribunal considered this to be appropriate because none of the Respondents had requested a hearing and because there was sufficient information before the tribunal to reach a decision. In view of the matters in issue, it was unnecessary to conduct an inspection of the Property.

The Law

10. Extracts from sections 20 and 20ZA of the Act are reproduced in Schedule 1. Section 20ZA subsection (1) provides that the tribunal may make a determination to dispense with consultation requirements 'if satisfied that it is reasonable to dispense with the requirements'.
11. The tribunal considers the leading case on dispensation to be the Supreme Court decision in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 ('*Daejan*'). In *Daejan*, Lord Neuberger stated that in deciding pursuant to section 20ZA whether it is reasonable to dispense with consultation requirements, a tribunal should consider whether any relevant prejudice would be suffered by the leaseholders. Lord Neuberger stated that whilst the legal burden of proof rests throughout on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered rested on the tenants. Lord Neuberger went on to hold that a tribunal is permitted to grant dispensation on terms, including compensating leaseholders for any prejudice suffered by requiring a landlord to reduce the amount claimed as service charge, and including an order for costs.

Findings of fact and Reasons for decision

12. Although the Respondents submit that the Applicant should have consulted and should have made adequate reserve / sinking fund provision, neither of them have provided any evidence to the Tribunal that they have been prejudiced by the lack of consultation under section 20. Specifically, neither of them identify how they might have responded to any notices and how those responses may have resulted in the Applicant acting differently to the benefit of the leaseholders.
13. The Tribunal concurs with Doorstep to the extent that there appears to be no reason why the Applicant could not have undertaken some consultation with leaseholders even on a very condensed basis. From the evidence available, it appears that

leaseholders were not even informed of the planned works never mind consulted on them. Doorstep is the leaseholder of 5 out of 12 flats and it should not have been difficult for the Applicant to consult informally with Doorstep, even if that consultation was little more than a telephone call. Although the tribunal accepts the Applicant's case that the works needed to be completed relatively quickly, it does not accept that time was of the essence to such a degree that even cursory communication with the leaseholders was not possible.

14. Despite the lack of communication, however, the tribunal finds that there is no relevant prejudice identified by any Respondent, suffered as a consequence of the Applicant proceeding with the Works without first carrying out the section 20 consultation.
15. The Respondents have, in effect, made submissions that dispensation should only be granted on terms that the Applicant should, itself, cover the cost of the works, in full or in part. In the absence of any identified prejudice caused to the leaseholders by the lack of consultation, however, the Tribunal does not consider it appropriate to impose any condition that some or all of the costs of the works are to be met by the Applicant.
16. In these circumstances, the tribunal considers it reasonable to dispense with the consultation requirements unconditionally. Accordingly, the tribunal makes a determination, under section 20ZA of the Act, to dispense with the requirement to consult with the Respondents under section 20 in relation to the Works, as detailed in paragraph 3 above.
17. The tribunal expresses no view as to whether any costs associated with the Works are reasonable in amount, whether the Works were necessary or of a reasonable standard or whether the costs intended to be recovered by way of service charge are contractually payable under the leases or within the meaning of 'relevant costs reasonably incurred' in sections 19 and 27A of the Act. No such applications are currently before this Tribunal and the Tribunal's decision does not include or imply any determination of such matters.

Schedule 1

Extracts from legislation

Landlord and Tenant Act 1985

Section 20

(Subsections (1) and (2):)

(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 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 under the agreement.

Section 20ZA

(Subsection (1))

(1) Where an application is made to a tribunal for a determination to dispense with all or any 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.

Annex A

Respondent Leaseholders

G&C Doorstep

Miss D Lewis

Miss J C Piper

Miss S J Robinson

Mr CB & Mr P Wilson

Mr David Thorp

Mr Jeffrey

Mr M Clark