



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

Case reference : **CAM/26UG/LDC/2015/0006**

Property : **28, 29, 33, 34 and 46 Telford Court,
Alma Road, St Albans,
Hertfordshire AL1 3BP**

Applicant : **St Albans City and District Council**

Representative : **Mr C Fernandes, Mr B Padley and
Mr M Aluko all of the Council and
Mr B Underwood and Mr S Brind of
Penmilne Electrical Contractors**

Respondent : **The leaseholders of the flats
referred to above whose details
appeared on the Application form**

Representative : **Mr A Crossley attended the
inspection and hearing**

Type of application : **To dispense with the requirement
to consult lessees about major
works (s20ZA Landlord and Tenant
Act 1985)**

Tribunal members : **Tribunal Judge Dutton
Mr N L Maloney FRICS FIRPM
MEWI
Mr O N Miller BSc**

**Decision venue and
date** : **15th May 2015 at The Noke Hotel,
Watford Road, St Albans**

Date of Decision : **21st May 2015**

DECISION

DECISION

Having considered the papers, inspected Telford Court (the Property) and heard from the Representatives on behalf of the Council and from Mr Crossley at the hearing we are satisfied that it is reasonable to grant dispensation from the consultation requirements set out at section 20 of the Landlord and Tenant Act 1985 (“the Act”) and the Service Charge (Consultation requirements)(England) Regulations 2003. This dispensation does not preclude the Respondents, or any one of them, challenging the reasonableness of the works as provided for at sections 19 and 27A of the Act.

BACKGROUND

1. By an application dated 21st March 2015 St Albans City and District Council (“the Council”) sought dispensation from the consultation requirements under s20 of the Act, pursuant to s20ZA.
2. The Application sought dispensation in relation to two sets of works, which were interlinked. The first was the replacement of the cold water mains at the Property and the second was an upgrade to the electrical supply system to the Property bought to a head as a result of leaks from various parts of the cold water main supply and storage facility.
3. Prior to the hearing we were provided with a copy of the leases to flats owned by the Respondents. Copies of the letters sent to the Respondents in respect of both sets of work were also included as were copies of the costings both for the water and electrical works. We also had a draft report prepared by Michael Dyson Associates Limited dated 13th November 2014 giving preliminary findings on the electrical installation. The Application referred to a ‘condition survey’ in respect of the water issues, but no such survey was with the papers. In addition, and separately, we received a report following further problems with the electrical system in early May 2015.

INSPECTION

4. Telford Court is 13 storey tower block built in the 1960’s. It apparently contains some 61 flats, of which 5 are held on long leases by the Respondents. The remaining flats are occupied by Council tenants. We had sight of the new tank and pump installed in an enclosed open area below ground floor level, outside what was, we were told, a common room for the residents. We saw the new pipe work at this level passing up through a “ductwork cupboard” of which we were told there are 5 separate risers each serving a flat on each floor of the building. We were able to inspect the interior of one flat to see the new pipework providing the water supply to that unit, which we were told was mirrored in each of the other flats.
5. In respect of the electrical works we were shown the new isolation and bus-bar chamber and associated works at lower ground floor level and how the electrical wiring had now been removed from the risers housing the water supply and instead moved to another location so that future water damage

from the close proximity of the main's pipework and flat "bathrooms" was excluded. This work was on going and indeed may take another 6 weeks to take the supply to each flat and to connect the flats to the new system.

HEARING

6. At the hearing held after the inspection, we heard from Mr Fernandes and Mr Aluko, albeit briefly, and more particularly from Mr Padley, Mr Underwood and Mr Brind, the latter two being from Penmilne the electrical contractors. Their input on the electrical works was helpful. The position appears to be this. The cold water system had, for some time, been leaking in places. This was caused by corrosion to the pipe from the concrete surround as the pipes passed through each floor, the pipes, probably by some chemical reaction between the two surfaces. In addition there had been a flooding incident from a specific flat. The leaks had permeated into the electrical supply causing power cuts, especially close to last Christmas. Two companies had been asked to quote for the replacement of the cold water main supply but only one had responded, Intelligent Disabled Solutions who had priced the work at £97,746.51 and were instructed to proceed. These works have been completed. As to the electrical work two companies had quoted, the lowest being Penmilne at £114,361 and they had been instructed to proceed and were, at the time of our inspection in the process of completing the works.
7. The Respondents had not filed any statements objecting to the application. Mr Crossley, the owner of flat 33 attended the inspection and the hearing. He was asked what his views were of the need for the works and whether the application, if dispensation were granted, would cause him prejudice. He told us that he accepted that an emergency situation had arisen and the works were needed. His flat is tenanted. He said he would not have been able to put forward any contractors to have undertaken the works and accepted that he had been kept fully advised of the works, the costs and the need for same. He gave no indication that he would suffer prejudice if the application were granted.
8. Mr Padley responded to questions from us as to the long term plans for these works. He told us that the Council had planned for concrete repairs and works to the lifts but that the water and electrical supply issues were not originally 'on the radar' as requiring works. However, the problems encountered at the end of last year had left the Council with no alternative but to proceed with all haste. He told us that the Council had identified at least 5 vulnerable tenants in the Property and the lack of electricity to a 13 storey block was a real problem. It was the Council's case that the electrical works could not be undertaken until the water supply issues had been resolved. The new system will enable better maintenance and the ability to isolate specific parts of the Property, be it floors or individual flats. The separation of the supply into separate risers would ensure that future problems of the like encountered last year will be avoided.
9. Mr Fernandes confirmed that the Council would agree to an order under s20C of the Act being made.

THE LAW

Landlord and Tenant Act 1985 (as amended)

Section 20

- (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.

Section 20C

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
 - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
 - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
 - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
 - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
 - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

FINDINGS

10. The inspection confirmed the extent of the work required and the need for same. We found the evidence of the Council compelling and were grateful for the input from Mr Crossley. No leaseholder has objected to the application. We therefore grant dispensation from the consultation requirements under the Act for these two items of work, that is to say the new cold water supply and storage facilities and new electrical system to the Property. The Council has confirmed it will not seek to recover the costs of these proceedings through the service charge regime and consents to an order under s20C of the Act being made. We make such an order considering it just and equitable so to do it being to the Council's benefit for dispensation to be granted and no leaseholder has objected.
11. In reaching our decision we have borne in the mind the relevant provisions of the Act and the Supreme Court decision in *Daejan v Benson*. The repairing covenants, for which the Council has responsibility, include the

provision of water and electrical supply to the flats, as we are sure do the tenancy agreements.

12. It should be noted however, that such dispensation does not remove the need for the Council to satisfy the provisions of section 19 of the Act as to the reasonableness of the works, in particular the standard and the costs. Any Respondent unhappy with those elements has the protection afforded them by s27A of the Act.

Andrew Dutton

Tribunal Judge Andrew Dutton

21st May 2015