



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

Case reference : **LON/00AH/LDC/2017/0016**

Property : **147 Portland Road, South
Norwood, London SE25 4UX ('the
property')**

Applicant : **Southern Land Securities**

Representative : **Together Property Management**

Respondent : **Various leaseholders as per the
application**

Representative : **.....**

Type of application : **Section 20ZA of the Landlord and
Tenant Act 1985**

Tribunal member(s) : **Miss A Seifert FCI Arb
Mr S Mason BSc FRICS FCI Arb**

**Date and venue of
hearing** : **27th March 2017 at 10 Alfred Place,
London WC1E 7LR**

Date of decision : **27th March 2017**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that consultation requirements provided for by section 20ZA of the Landlord and Tenant Act 1985 ('the Act') be dispensed with.
- (2) The tribunal makes the determinations as set out under the various headings in this decision.

The tribunal's reasons

1. By an application dated 2nd February 2017, received by the tribunal on 7th February 2017, the applicant seeks a determination that the consultation requirements provided for by section 20ZA of the Act be dispensed with.
2. In the application the property was described as comprising an end of terrace property constructed circa 1890 which it was presumed provided for commercial premises to the ground floor with the upper floor being residential usage. It was stated that it appears that the property was converted into two self-contained flats within the past seven years with one located over ground floor level and the other at first floor although it further appeared to extend to within the roof void with a window within the front facing pitched section. The ground floor property has an extended flat roof felt section without rainwater goods. There are also no front elevation fascia or soffit boards with the black plastic gutters screwed directly into the brickwork.
3. The tribunal issued directions dated 16th February 2016. The applicant has provided a bundle of documents to the tribunal under cover of a letter dated 13th March 2017 from Together Property Management.
4. The tribunal has determined this application on the papers before them.
5. A copy of a lease dated 23rd April 2010 in respect of the ground floor flat at the property was provided to the tribunal.
6. The grounds for seeking a determination under section 20ZA included the following.

Whilst undertaking external repairs and redecorations to the property scaffolding was erected, as the works progressed it was noticed that the gable of the left hand flank wall leaned inwards severely at high level. The Surveyors Lewis Berkeley notified Together Property Management of the issue, we arranged for a structural engineer to

attend the property to carry out an inspection and provide recommendations to rectify the problem whilst the scaffolding was still in situ. The structural engineer recommended that the top 12-13 courses of brickwork should be reconstructed and lateral restraint ties fixed to a minimum of 3 roof joists and set into the brickwork, fully renew and reconstruct live areas of brickwork to the front and rear of the gable and renew the parapet coping bricks to the full length of the gable. A copy of the report outlining the recommendations in greater detail is enclosed.

7. The tribunal noted the report of angell thompson, Consulting Engineers & Surveyors dated 25th November 2016 a copy of which was provided. It was noted that in addition to the works referred to in the application that complete re-pointing of the brickwork to the gable wall was recommended. They also recommended complete removal of the chimney stack.

8. The consultation that had been carried out was described as follows.

Section 20 of the Landlord & Tenant Act 1985 as amended by section 151 of the Commonhold and Leasehold Reform Act 2002 has already been carried out for the External Repairs & Redecorations works, these were underway when the 'lean' to the gable was noticed. The Notice of Intention was served on 06th August 2015, the Notice of Estimates was raised on 13th September 2016 and the works commenced 17th October 2016.

9. The explanation provided for seeking dispensation was stated as follows.

As full scaffolding was in situ at the time of the 'lean' to the gable was discovered it seemed prudent that the works be carried out with immediate effect, this was not only from a safety point of view due to the instability of the gable area, but to ensure that costs to the leaseholders were kept to a minimum as the works to reconstruct and make the gable safe would require scaffolding to be in place.

10. In a letter dated 4th November 2016 Together Property Management informed the leaseholders that the surveyor had concerns regarding the gable wall that appeared to be leaning and requested access to the first floor flat to investigate the roof space and gave notice that a structural engineer would be inspecting to advise how to proceed. This was followed by the report of angel thompson dated 25th November 2016.
11. Included in the applicant's bundle were photographs showing the condition of the flank wall and parapet.

12. Mr Chevin Byagee, the leaseholder of the ground floor flat at the property, provided a statement opposing the application dated 10th March 2017. Mr Jahmel Scott of Scott Holdings International Limited, the leaseholder of the first floor flat, also provided a statement opposing the application dated the same date. These statements referred to various provisions of the leases. It was claimed that the lessor had defaulted in complying with its obligations under the lease particularly in respect of repairing and decorating obligations. It was also alleged that a reserve fund ought to have been put in place. They alleged that had the lessor carried out maintenance work earlier damage would have been dealt with sooner. They submitted that the lessor should bear the costs of repairs to the gable.
13. A Statement of Case and a 'rebuttal statement' both dated 13th March 2017 were provided on behalf of the applicant. It was stated that all the remedial works recommended by angell thompson had been undertaken at a cost of £5,076. It was denied that the lessor had not complied with the terms of the leases. The current lessor had acquired the property in June 2012 and on completion of the purchase the external redecoration was scheduled for 2015/2016. They did not know when the property was last redecorated prior to the purchase. The consultation provisions of section 20 were put in place in respect of the redecoration / repair works. Copies of notices were included.
14. It was stated that the additional works to the gable wall only became apparent after the scaffolding was erected. The lessor had advised the leaseholders of the possible problem in the letter of 4th November 2016 and the structural engineers were instructed to report as referred to above. It was submitted on behalf of the applicant that the defects to the gable wall were not ascertainable from ground floor level prior to erection of the scaffolding.
15. It was submitted that it was reasonable for the works to be carried out without delay whilst the scaffolding was in situ, in order to save the leaseholders additional expense and in the interests of safety. It was noted that in angell thompson's report that there were loose areas of brickwork at the junction of the eaves with the parapet. The photographs provided confirmation of the poor external condition that was identified by angell thompson.
16. Section 20ZA of the Act provides supplementary provisions to the section 20 provisions for 'limitation of service charges: consultation requirements'.

20ZA(1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

17. Having considered the evidence as a whole, the tribunal was satisfied that it is reasonable to dispense with the consultation requirements of section 20 of the Act.
18. The tribunal considers that that it is reasonable to grant dispensation. There were good reasons that the works were carried out without delay including avoiding the increased costs if these were not carried out whilst the scaffolding was in place. Further there was evidence of loose masonry and it was reasonable that the works be carried urgently having regard to safety considerations.
19. Accordingly the tribunal grants the application and dispenses with the relevant requirements.

Name: First-tier tribunal judge
Seifert

Date: 27th March 2017

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).