



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

Case reference : **LON/00AY/LDC/2019/0091**

Property : **1 – 24 & 26 – 45 William Bonney
Estate London SW4 7JQ**

Applicant : **London Borough of Lambeth**

Representative :

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

Representative : **-**

Type of application : **To dispense with the consultation
requirements under S.20 Landlord
and Tenant Act 1985**

Tribunal member(s) : **Mrs E Flint FRICS**

**Date and venue of
determination** : **17 July 2019
10 Alfred Place London WC1E 7LR**

DECISION

Decision of the tribunal

- (1) The Tribunal grants dispensation from all the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to the erection of scaffolding to enable the replacement of the communal boiler flues.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by the Applicants on 4 June 2019.
2. The application concerned the erection of scaffolding and replacement of boiler flues.
3. Directions were issued on 14 June 2019 requiring the applicant to prepare bundles by 5 July 2019 to include statements
 - (i) Setting out the full grounds for the application, including all the documents on which the landlord relies and copies of any replies from the tenants;
 - (ii) The Leaseholders were asked to confirm by 28 June 2019 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. No formal responses were received from the leaseholders.

The Evidence

5. The property comprises a purpose built development of two blocks of flats consisting of 44 properties.
6. The applicant is the freeholder, there are 15 leasehold flats within the development.
7. In late April 2019 the applicant was notified of a noxious gas escaping from the boiler house serving both blocks. This was in breach of the relevant gas regulations and posed a threat to health and safety.

8. The Applicants long term contractor was asked to attend and identified the problem as the corroded boiler flues. The works relate to the communal boiler room in the basement of 1 – 24 Bonney Estate which provides hot water to both blocks. The works specified were to replace the existing flue system and provide the appropriate drain points. The existing boiler flues were corroded, resulting in it being dangerous to leave the boilers operational because a product of combustion from the boilers could escape and infiltrate adjacent internal wall.
9. The works were deemed an emergency because there was a danger that the flues might fail completely causing a tremendous risk to residents and employees/agents of the Applicant.
10. A works order was issued on 22 May for the contractor to carry out the works.
11. A notice of intention was sent to each of the 15 leaseholders on 30 May. In response to the notice the Applicant received queries from several leaseholders, following an explanation of what the works entailed no formal objections to the application were received.
12. The work was scheduled to take place on 4 June 2019.
13. The Applicant further submits that the Respondents have not suffered any actual prejudice since the works were necessary to remove a health and safety risk.

The Decision

14. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
15. The Tribunal determines from the evidence before it that the works were necessary, were required to be completed as soon as possible to reduce the risk to health and safety not only to the residents of the block but others visiting the estate.
16. For the avoidance of doubt the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

17. On the evidence before it, and in these circumstances, the Tribunal determines that the application for dispensation be granted.

Name: Evelyn Flint

Date: 17 July 2019

ANNEX - RIGHTS OF APPEAL

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.