



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

Case Reference : **CAM/11UE/LSC/2019/0058**

Property : **Stratton Audley Manor, Mill Road,
Stratton Audley, Bicester ,
Oxfordshire, OX27 9AR**

Applicant : **Stratton Audley Manor House
(Management) Ltd. (Landlord)**

Representative : **Neil Douglas Block Management
(Agent)**

Respondents : **All leaseholders of the Property**

Representative : **None**

Type of Application : **S20ZA of the Landlord and Tenant
Act 1985 - dispensation of
consultation requirements**

Tribunal : **Mr. N. Martindale FRICS**

**Date and venue of
Hearing** : **27 December 2019, Cambridge
County Court, 197 East Road,
Cambridge CB1 1BA**

Date of Decision : **27 December 2019**

DECISION

Decision

1. The Tribunal grants dispensation from the requirements on the Applicant to consult the Respondents under S.20ZA of the Landlord and Tenant Act 1985, in respect of this application.

Background

2. The Applicant applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the Act”) for the dispensation from all or any of the consultation requirements contained in S20 of the Act.
3. Although this is not material to the substance of the decision, the application is dated 8 November 2019 but, appears from the subsequent actions of the Tribunal to have been received earlier.
4. The application related to works to a structural element of tower roof, being part of an historical Listed building. The work is being carried out by the landlord. They deemed it to be their responsibility, under the leases of all flats at the Property to effect and that it is for them to recharge costs under the service charge provisions to all flats in the Property.

Directions

5. Directions dated 4 November 2019 were issued by the Tribunal without any oral hearing. They provided for the Tribunal to determine the applications on or after 2 December 2019 or by oral hearing if either party so requested in the 7 days of 4 November 2019.
6. The applicant landlord was, by 11 November 2019 to send to each leaseholder copies of the application and directions whilst displaying a copy of same in a prominent position in the common parts of the property. Confirmation to the Tribunal, of compliance by the Applicant with both requirements, had to be sent by 13 November 2019.
7. They further provided that the leaseholders who objected to the application should complete a standard form and return this to the Tribunal and sent a written statement to the landlord. Leaseholders had until 18 November 2019 to complete both.
8. The Directions concluded by requiring the landlord, to prepare a bundle of documents including representations from the leaseholders and return this to the Tribunal by 25 November 2019.
9. In the event, the Tribunal did not receive any requests for a hearing, nor did it receive any forms from respondents either supporting to objecting to

the application. The applicant generally complied with the directions. The Tribunal determined the case on the bundle received from the applicant.

Applicant's Case

10. The Property appears to consist of two principal buildings. The older part dating from the C16th and the newer part apparently dating from the 1970's. The latter was built as purpose built flats (12), around the same time as the former manor house was being subdivided and converted into (12) self contained flats.
11. Despite their huge disparity in age, construction, likely maintenance requirements and costs, all flats (in both parts) share by due individual lease proportion in the entirety. It follows that leaseholders of all parts of the Property might therefore be expected to take an interest in the works to the older building at this juncture.
12. The Property (the older building) had already been the subject of an application for dispensation under S.20ZA consultation (CAM/38UB/LDC/2019/0002). This had been granted by the Tribunal earlier in 2019. Works for which a further dispensation had already been started. This application was essentially to address the additional works required and their cost which had only become evident after a start had been made on the initial works.
13. At application form box 9 the applicant sought to have the matter dealt with under Fast Track giving special reason for urgency at box 10: *“Turret of Grade II Manor House has failed structurally and damage to building is increasing incrementally. Work has commenced on the turret, however further emergency works have been found to be required. To minimise any delays to the work and keep the financial impact to Leaseholders to a minimum, then the structural engineer overseeing the project has advised these works must be completed as swiftly as possible.... The additional structural works required are as a result of a further failed /corroded steel beam that was not visible during the initial assessment..”*
14. At the application form under ‘Grounds for seeking dispensation’, the applicant further stated: *“Dispensation was previously granted due to limited viable contractors able to complete the bespoke work that was required to the Grade II listed development.... Indicative costs for this are in the region of £21,000 + VAT which exceeds the amount and scope approved in the previous dispensation request....Not completing these works now could impact on the structural integrity of the whole building and if the works were to be completed at a later date would result in additional avoidable costs to Leaseholders, due largely to the re-erection of scaffolding that would be required.”*

15. The applicant produced a copy of the report dated 4 November 2019 from structural engineer Michael Aubrey Partnership Ltd.. It set out details of the findings of the additional investigations and the further serious and pressing structural disrepair to the turret which had been uncovered. It also set out the works required and a quote of an *additional* £27,621 plus VAT.
16. The Tribunal did not receive any objections from any of the respondents.
17. The Tribunal did not consider that an inspection of the property would be of assistance and would be a disproportionate burden on the public purse.

Respondents Case

18. The Tribunal did not receive representations or objections from any of the respondents.

The Law

19. S.18 (1) of the Act provides that a service charge is an amount payable by a tenant of a dwelling as part of or in addition to the rent, which is payable for services, repairs, maintenance, improvements or insurance or landlord's costs of management, and the whole or part of which varies or may vary according to the costs incurred by the landlord. S.20 provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
20. Dispensation is dealt with by S.20 ZA of the Act which provides:-
“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 or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”
21. The consultation requirements for qualifying works under qualifying long term agreements are set out in Schedule 3 of the Service Charges (Consultation Requirements) (England) Regulations 2003 as follows:-

1(1) The landlord shall give notice in writing of his intention to carry out qualifying works –

- (a) to each tenant; and**
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.**

(2) The notice shall –

- (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;**
- (b) state the landlord's reasons for considering it necessary to carry out the proposed works;**
- (c) contain a statement of the total amount of the expenditure estimated by the landlord as likely to be incurred by him on and in connection with the proposed works;**
- (d) invite the making, in writing, of observations in relation to the proposed works or the landlord's estimated expenditure**
- (e) specify-**
 - (i) the address to which such observations may be sent;**
 - (ii) that they must be delivered within the relevant period; and**
 - (iii) the period on which the relevant period ends.**

2(1) where a notice under paragraph 1 specifies a place and hours for inspection-

- (a) the place and hours so specified must be reasonable; and**
- (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.**

(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

3. Where, within the relevant period, observations are made in relation to the proposed works or the landlord's estimated expenditure by any tenant or the recognised tenants' association, the landlord shall have regard to those observations.

4. Where the landlord receives observations to which (in accordance with paragraph 3) he is required to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made state his response to the observations.

Tribunal's Decision

22. The scheme of the provisions is designed to protect the interests of leaseholders and whether it is reasonable to dispense with any particular requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose.
23. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that leaseholders who may ultimately pay the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.
24. No evidence has been produced that any of the respondents have challenged the consultation process and no written submissions have been received.
25. The structural engineer 's report at para 4.0, recommends: *“The defects with this beam are major and make the beam structurally inadequate. The recommendation is to replace this beam immediately. The works are underway to remove the previously indicated defective beam, these works have exposed the newly discovered beam and it is highly recommended that the additional works are undertaken now to minimise impact on the residents and the budget.”*
26. On the basis of safety for *‘the structural integrity of the whole building’* as noted in the application but, not for the reason of the alleged cost minimisation of the entirety, by carrying out these additional works immediately; the Tribunal is satisfied that it is reasonable to dispense with requirements and determines that those parts of the consultation process under the Act as set out in The Service Charges (Consultation Requirements) (England) Regulations 2003 which have not been complied with may be dispensed with on both applications.
27. **In making its determination of this application, it does not concern the issue of whether any service charge costs are reasonable or indeed payable by the leaseholders. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act.**