



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

Case Reference : CHI/ 29UB/LDC/2020/0036.

Property : 1-48 Stanhope Court, Ashford, Kent, TN23
5EW

Applicant : Stanhope (Site 3) Management Company
Ltd

Representative : Caxton Commercial Limited

Respondents : Koran Tuncay (1)
Martin McColl Limited (2)
M Kaygun & Y Cesim (3)
William Hill Organisation (4)
Moat (5-39)
West Kent Housing Association (40-48)

Representative : -

Type of Application : To dispense with the requirement to
consult lessees about major works

Tribunal Member(s) : Judge Tildesley OBE

**Date and Venue of
Hearing** : Determination on Papers

Date of Decision : 9 June 2020

DECISION

Due to the Covid 19 pandemic, communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.

The Application

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act.
2. The Applicant explains that after the strong winds of 11/12 April 2020 brick slips occurred over large areas of the exterior of the building at the gable ends. Alan Baxter Partnership LLP, Structural Engineers, inspected the building on 20 April 2020 and reported that the loose and fallen areas of brick slips had been caused by the failure of the adhesive fixing the polystyrene backing panels to the masterboard panel behind. The Engineers recommended that the brick support system should be removed without delay and netted scaffolding immediately erected to minimise the danger to the public from falling bricks. The Engineers suggested that in view of the height of the brick slip panels and the consequent danger to the public, a proven 'positive-hold' brick slip retention system should be used to repair the structure.
3. The Applicant served a Notice of Intention to carry out the works which expired on 2 June 2020. The Applicant intends to continue with the consultation process by obtaining estimates and giving the appropriate notice. The Applicant, however, has to erect additional scaffolding and remove the failed brick slips as a matter of urgency. The Applicant is seeking dispensation from consultation in respect of these works.
4. The Application for dispensation was received on 20 May 2020
5. On 22 May 2020 the Tribunal directed that the matter be determined on the papers in accordance with rule 6A of the Tribunal Procedure Rules 2013 as amended by The Tribunal Procedure (Coronavirus) Amendment Rules 2020 SI 2020 No 406 L11. The Tribunal was satisfied that the matter was urgent, it was not practicable for there to be a hearing and it was in the interests of justice to make a decision disposing of the proceedings without a hearing
6. The Tribunal directed the Applicant to serve the Application and directions on the leaseholders. The Applicant confirmed that this has been done on 26 May 2020.
7. The leaseholders were required to return a pro-forma to the Tribunal by 8 June 2020 indicating whether they agreed or disagreed with the application and if they disagreed why. The leaseholders made no representations.

8. The Tribunal indicated that it would make its determination within 3 working days from 8 June 2020.

Determination

9. The Tribunal is satisfied from the application and the documents that the erection of the additional scaffolding and removal of brick slips is urgent and necessary.
10. The Tribunal infers from the leaseholders' lack of response that they do not object to the Application.
11. The Tribunal notes that the leaseholders will be given the opportunity to consult on the costs of the works of repair.
12. The Tribunal finds that the leaseholders will not suffer relevant prejudice from not being consulted on the costs of the erection of the additional scaffolding and removal of brick slips. **The Tribunal, therefore, dispenses with the consultation requirements in respect of that aspect of the works.**
13. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the additional scaffolding and removal of the brick slips. The Tribunal has made no determination on whether the costs of those works are reasonable or payable. If a leaseholder wishes to challenge the reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
14. The Tribunal directs the Applicant to serve a copy of the decision on the leaseholders and confirm that has been done by 17 June 2020.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making application by email to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.