



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

Case Reference : **BIR/47UC/LDC/2019/0008**

Property : **3 Holly View Drive,
Malvern, Worcestershire WR14 4AQ**

Applicant : **Guild Homes Limited**

Representative : **Taylor Clarke Limited**

Respondent : **The long leaseholders of Holly View House
as set out in the Schedule**

Type of Application : **Dispensation
Section 20ZA Landlord and Tenant Act 1985**

Members of Tribunal : **Judge D Jackson
Mr R Bryant-Pearson FRICS**

Date of Decision : **5 November 2019**

DECISION

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Background

1. By application dated 9th September 2019 the Applicant has applied for dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985.
2. On 12th September 2019 the Tribunal issued Directions.
3. By letter dated 12th September 2019 the Tribunal sent copies of the application and Directions to all Leaseholders.
4. The Tribunal has considered Statement of Case dated 3rd October 2019 prepared by the Applicant.
5. None of the Leaseholders have submitted a Statement to the Tribunal in accordance with Directions. No objections to the application have been received by the Tribunal from any of the Leaseholders.
6. None of the parties has requested an oral hearing.
7. The Tribunal inspected the Property on the morning of 1st November 2019.

Deliberation

8. The Tribunal has followed the approach to be adopted on an application under section 20ZA(1) to dispense with consultation requirements as set out by Lord Neuberger in **Daejan Investments Limited v Benson and others** [2013] UKSC 14.
9. The development of Holly View House was completed in 2010. The main building contains 9 Apartments.
10. This application concerns ground floor Apartment 3 (one bedroom property). Dry rot was discovered to the underside of the flat roof above the entrance hall and bedroom. Prestige Preservation Limited have prepared a report dated 1st July 2019 on the basis of instructions “to carry out a standard non-invasive inspection and report on the above property in respect of fungal decay to the flat roof”.
11. Works commenced on 28th August 2019 with the removal of approximately 1.5m of plasterboard from the ceiling to allow a further survey to be carried out. On 16th September the existing roof was removed together with all woodwork and joists. On 18th September all brickwork and walls in the bedroom and the adjoining wall in the entrance hall was treated for dry rot.
12. Following treatment all joists and boarding was replaced on 19th September and a new fibreglass roof was installed on 25th September. The bedroom and hall were in the process of being plastered as at the date of the Tribunal’s inspection. Thereafter the Applicant will arrange for redecoration, electrical work and plumbing of the two radiators in the bedroom and entrance hall. New underlay will be required but existing carpets can be refitted. It was indicated at inspection that decoration would start on Monday 4th November.
13. The Applicant has not carried out statutory consultation as it was concerned to act without delay having regard to the aggressive nature of dry rot. However, on 11th September the Applicant’s managing agents wrote to all residents explaining that an application for dispensation had been made to the Tribunal, setting out a timeline for undertaking the works and providing details of two alternative quotations for (1) removal of roof and replace structure, (2) installing fibreglass roof, (3) internal plastering and (4) painting and decorating. Mr Clarke told the Tribunal at the inspection that no objections had been received from any of the Leaseholders

14. In the absence of any objections from the Leaseholders we are satisfied that no prejudice will result to Leaseholders in granting this application.
15. The parties should note that the Tribunal has only been asked to determine the question of dispensation with the consultation requirements under section 20ZA of the 1985 Act. The Tribunal has not been asked to determine payability or reasonableness of the amount of service charges payable by any of the Leaseholders under section 27A of the 1985 Act.

Decision

16. The Tribunal is satisfied that it is reasonable to dispense with all of the consultation requirements in relation to qualifying works and accordingly grants dispensation under section 20(1)(b) and section 20ZA (1) of the Landlord and Tenant Act 1985.
17. The qualifying works are those set out in letter dated 11th September 2019 sent by Taylor Clarke Limited to the Leaseholders.

D Jackson
Judge of the First-tier Tribunal

Either party may appeal this decision to the Upper Tribunal (Lands Chamber) but must first apply to the First-tier Tribunal for permission. Any application for permission must be in writing, stating grounds relied upon, and be received by the First-tier Tribunal no later than 28 days after the Tribunal sends this written Decision to the party seeking permission.

Schedule of Long Leaseholders

Jeffrey Guest (2, 3 and 5)
Jennifer Newey and Stephen Newey (4)
Peter Haywood and Sian Tjoe Ong (6)
Ian Henderson and Carol Henderson (7)
Rob Weston and Jane Weston (8)
Barry Kent and Elaine Kent (9)
Simon Foley and Sue Foley (10)