

Reply Form for Leaseholders

Case Reference: LON/00AC/LDC/2023/0116
Property: Various properties in the London Borough of Barnet

ONLY COMPLETE AND RETURN THIS FORM IF YOU OBJECT TO THE
APPUCATION

If you do object please complete and return this form to:
First-tier Tribunal Property Chamber (Residential Property) **by email to:**
London.Rap@Justice.gov.uk

and send/email a copy to the landlord/applicant or their representative:
Judge and Priestley LLP
Justin House, 6 West Street, Bromley, BR1 1JN
0208 290 0333 / moakley@judge-priestley.co.uk

Have you sent a statement in response to the landlord? **YES (see below)**

Do you wish to request an oral hearing? **YES**

Name address of any spokesperson or representative
appointed for the leaseholder: **MYSELF**

Please also complete the details below:

Date: 13 June 2023

Signature:

Print Name:

Address of affected property:

Your correspondence address (if different):

Telephone:

Email:

**Leaseholder's statement in response to the London Borough of Barnet's
Application to the FTT under case reference LON/00AC/LDC/2023/0116**

1. I am the owner of [redacted] For the reasons below, I object to the application by the London Borough of Barnet ("the Council") for dispensation with the Section 20 consultation requirements.

Introduction

2. The Council has a large portfolio of properties and a dedicated management team. It is very familiar with statutory consultation requirements and has access to the best professional advice. Yet it still admits to making an elementary error. For that reason, and that reason alone, it is requesting dispensation.
3. The Council's statement of case is presently (the time is now around 11.30 AM on Tuesday 13 June 2023) unavailable on its website. It was available yesterday afternoon, when I looked through it briefly. However I cannot recall (I might be wrong) any reasonable explanation as to why the admitted error took place.

Arguments for dispensation

4. The Council has not provided any significant argument, other than its own convenience, as to why the consultation process should not be re-run. The Council did not state the need for the works, or say the work is urgent, or needs to be carried out urgently, or that a timetable needs to be complied with in order to secure funding: Daejan Investments Ltd v Benson & Ors [2013] UKSC 14.

Arguments against dispensation

5. There are at least three reasons why the consultation process should be re-run.
6. First, it is in the public interest that local authorities are required to comply with the law, including statutory consultation requirements, and "get it right the first time". Adherence to the law, and good practice, should be rewarded and sloppiness should be penalised. If the Tribunal were to allow the Council's

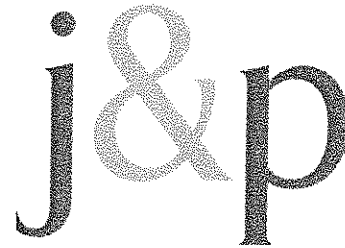
application for dispensation now, there would be no incentive for the Council to improve its administrative practice in the future.

7. Second, and perhaps of more material significance, interest rates have risen and London property prices have fallen since the Council put the contract out to tender. In that time the London property market has been relatively depressed. As a result, it is likely that asbestos removal contractors are now likely to supply more competitive quotes. So there are likely to be potential cost savings (to the Council and leaseholders) if the consultation process were to be re-run.
8. Third, the Council has been selective in the documents it has submitted to the Tribunal in support of its application. The lease attached to the Council's statement of case, which is said by the Council to be a typical lease, allows the Council to make improvements. It is possible (I put it no higher) that asbestos removal might be classified as an improvement. However my own lease, which is from the 1980s, does not allow improvements, and would not cover asbestos removal. There are many leaseholders with similar leases from the 1980s.
9. I am fully aware that questions of payability and/or reasonableness are not presently before the Tribunal. However, inevitably, they will come into play when the asbestos works are actually carried out. For that reason, if the Tribunal were minded to grant the Council's application for dispensation, I respectfully request it to make it a condition for dispensation that the Council would pay any Tribunal fees I might incur at a later date, were I to make an application under the service charge provisions of the Landlord and Tenant Act 1985.

Conclusion

10. The Tribunal needs to carry out a balancing exercise in deciding whether or not to dispense with the statutory consultation requirements. It is submitted that the Council has provided no significant argument in favour of dispensation; while, on the other hand, there are several arguments against dispensation. Therefore the Council's application for dispensation should be refused.

13 June 2023.



judge&priestley

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Justin House, 6 West Street, Bromley, Kent BR1 1JN

Our Ref: MDO/ZKA/BARN067/0107

Your Ref:

Date: 2 August 2023

Please ask for: Mark Oakley

Direct Dial: 020 8290 7337

Dear Sirs

**RE: Dispensation for Asbestos QLTA
CASE No: LON/00AC/LDC/2023/0116**

We write further to your Reply Form with objection dated 13 June 2023.

We write to provide a brief reply to your objection in accordance with the Tribunal directions dated 23 May 2023.

Applicant's website

We note that you state that the statement of case was unavailable on our client's website at around 11:30am on 13 June 2023 but that it was available the day before. Our client states that the document was momentarily unavailable on Monday 12 June 2023 between 9:39am and 9:57am but was available at all other times, and remains on the website.

Arguments against dispensation

We will respond to each of your reasons in the same order.

1. Please note that this is not the test under *Daejan Investments Ltd v Benson & Ors* [2013].
2. It is our client's position that relevant financial prejudice is assessed by reference to costs at the time of the S20 consultation and not at some future date when a Tribunal determines an application for dispensation.
3. The possibility of improvements is not relevant issue for consideration of the test on an application for dispensation. The determination of whether any specific charge is payable under the terms of a lease will be fact sensitive to any specific scheme of works in the future. Our client contends that the condition sought is not one that is within the Tribunal's jurisdiction, and without prejudice to that contention, is not one that should be applied to this application.

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Yours faithfully

Judge & Priestley

JUDGE & PRIESTLEY LLP