
Respondents Statement of Case

Date: 12th July 2024

Case Reference : CAM/00KG/LDC/2024/0007

Property : All properties accommodating dwellings let to any of the respondents

Applicant : Legal and General Affordable Homes Limited and the other applicants listed in the schedule to the application

Applicant's Representative : Trowers & Hamlins LLP
FAO Meadow O'Connor

Respondents : [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent's Representative : [REDACTED]

Respondent's Managing Agent : Chelmer Housing Partnership Limited

Type of Application : Landlord & Tenant Act 1985 – Section 20ZA

Tribunal Member : Judge David Wyatt

1 – Urgency is a reason, however not a pre-condition for dispensation from conducting S20 consultations for Qualifying Long Term Agreements (QLTAs).

It is understood by leaseholders, the situation that the Applicant found themselves in at the start. The dwellings being new builds and perhaps not all occupied at the time when requiring to appoint a Management Agreement and Provider in preparation of having a contract and agreement in place to underpin the lease and TP1 terms in order to sell the brand new dwellings to their very first owners was an exceptional one off event. Ergo, resulting in the Applicant's unintentional failure in statutory procedure re S20 consultation in entering the initial contractual term and agreement.

To address this prejudice: The suggested alternative request being asked of the First Tier Tribunal to consider is the appropriateness of awarding a full dispensation to the Applicant and to consider a reduction in scope of the award to cover only the unintentional period of failure in statutory procedure in setting the brand new Management Agreement and Provider contract and agreement in place to underpin the lease and TP1 terms in order to sell the brand new dwellings to their very first owners. That all ongoing contract renewals and/or entering into new Management Agreements and/or with new Providers that the S20 consultation process remains in place with leaseholders.

2 – The Applicant has defined intention that QLTA with Management Agreement and Provider is to be made at 10 years term with an initial term point at 5 years with a potential 5 year extension. Thus, the dispensation does not meet the criteria for being of urgent need for QLTA/work to start with insufficient time to consult.

There is sufficient timeframe available to the Applicant to plan given this known and intentional initial 5 year term point and with the proposed introduction of KPIs to measure and review performance of the Management Agreement and Provider an intentional decision to change Management Agreement and Provider will not be a surprise to the Applicant. It is considered that it is highly unlikely the Applicant will find themselves to be in a situation of an emergency/urgent nature to undertake a change in Management Agreement and Provider and warrant a full and ongoing dispensation.

To address this prejudice: The FTT is asked to consider not awarding the full scope of this application as it is believed that the Applicant would have the 2months timeframe available to them as part of business as usual financial forecasting, planning and preparation to prepare and undertake a QLTA S20 consultation procedure with leaseholders going forward.

3 – It is not considered the Applicant's reason of "to make sure that a different Legal and General Group company could enforce the terms of each agreement with the

Management Provider if it needed to" to be relevant reasoning for requesting full and ongoing dispensation to be awarded from the QLTA statutory S20 consultation procedures.

It is considered by leaseholders that this reasoning falls to the responsibility of the procurement contracts terms and conditions of the agreement drawn up between the Applicant and the Management Provider. The lease, TP1 set out the guiderails of expectations on how the Management Agreements leaseholders dwellings and areas of responsibility are to be managed, terms of payment between leaseholders and Management Provider.

To address this prejudice: In what is considered by leaseholders to be a highly unlikely a such immediate urgency to change Management Provider and Agreement will occur - a landlord is named on the lease, there are more suitable alternatives such as temporary short term agreements or specific terms and conditions set out in the contracts containing notice periods, proposed KPI measurement and reviews etc where this issue of a different Legal and General Group company being able to enforce the terms of an agreement can be addressed for the alleged aim to minimise disruption to services.

4 – It is claimed by the Applicant that the "Management Agreements are materially the same (save as to the fee per unit)" as the reasoning for requiring full and ongoing dispensation to be awarded from the QLTA statutory S20 consultation procedures.

This reasoning fails to address a reasoning of urgency again and fails to take into consideration the elements of the lease and TP1 terms in place that removes leaseholders Summary of Rights and Obligations. The QLTA statutory S20 consultation procedures is the remaining element that leaseholders, as also invested parties, are still able to exercise their leaseholder rights to be a consulted and a considered voice and input into the decisions making process being made in respect to the suitability, scope and performance of the Management Agreement and Provider.

For example:

- the present Management Agreement and Provider in repeated breach of contract in respect to end of year signed expenditure certificates and adjustments pursuant to Clauses 4.1, 4.7, 4.8 and 4.10 of the Rentcharge Deed
- Management Agreement and Unit costs – significant financial prejudice to leaseholders increasing the unit costs unreasonable to +2/3 increase due to a blanket management agreement being entered into and failure to properly S20 consult and scope accordingly. Financial prejudice has seen a further £100k increase as example

due to zero accountability for consultation with leaseholders to provide reasonable reasoning, provide supporting specific scope of inclusion into management agreement and unit costs. The blanket management agreement continues to increase to areas outside of the actual leaseholders lease agreement, etc. A blanket wide Management Agreement charging for management of all areas that are outside the scope. See attached lease obliged actual scope as per land registry detailed conveyance plans for the area (**Appendix One**). The scale of the blanket management agreement entered into with the Provider has not been properly consulted and scoped with Provider and leaseholders resulting in the unit costs to leaseholders spiralling and out of leaseholders control as a result of the absence of S20 consultation, the removal of leaseholder Summary of Rights and ability to raise a FTT application (see next item) in their contract and proper management agreement scoping review behind the agreement and charges with leaseholders.

- Clause 6.4 of the Rentcharge Deed removes the Summary of Rights and Obligations of leaseholders to challenge reasonableness of service charges, S20 consultation statutory procedure for works £250 or more per leaseholder and/or QLTA as it removes the ability for leaseholders to make any application to FTT. Only the Company may appoint for determination and award a Chartered Surveyor appointed by the Company whose determination will be final and binding on the leaseholder.

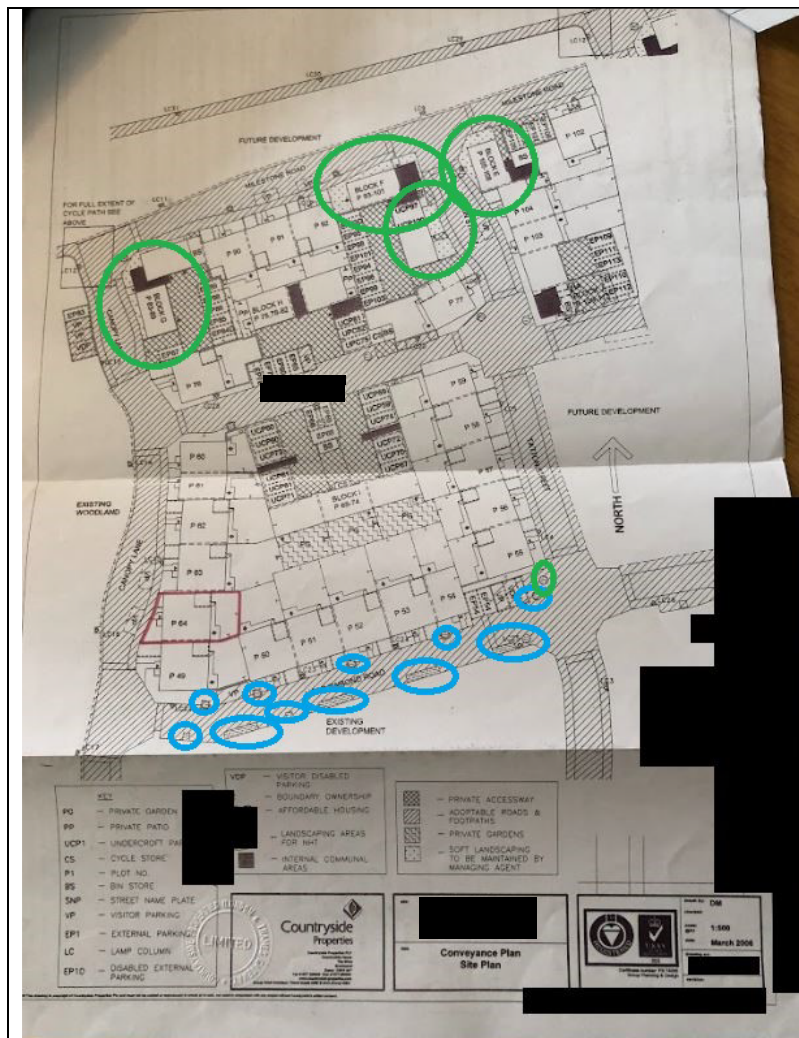
Leaseholders' therefore request the FTT to strongly consider not taking away the last remaining voice and right leaseholders have as voice and input into the decision making and agreement on whom the Applicant's QLTA Management Agreement and Provider is made with and ultimately representing leaseholders interests, payments, issues and communications with the Rentcharge Deed Company on leaseholders behalf.

Whilst the Applicant's reasoning is a misguided belief it is only the fee per unit differing in the Management Agreement and Providers in reality a poor performing Management Agreement and Provider with an absence of defined and clear agreed scope of works to actually manage KPI's from a leaseholders interest and perspective is currently causing leaseholders financial prejudice with a further for example unexplained and unjustified £100k increase across the Estate dwellings for one expenditure line alone. Coupled with repeated and ongoing failure by the Management Provider and Agreement to be aligned to and deliver on the TP1 and lease contractual obligations an award of this full and ongoing QLTA dispensation to the Applicant would mean leaseholders are left with zero voice and input and zero Summary of Rights and Obligations in respect to their investments into their homes they have made and spiralling Management Agreement and Provider costs.

To address this prejudice: Undertake a Management Agreement and scoping review with leaseholders against land registry detailed conveyance plans to ensure the Management Agreement is for the scope of only what the lease is responsible for. All dwellings are occupied and therefore it is considered it would appropriate to undertake a S20 consultation process with leaseholders as the blanket Management Agreement is covering management and unit costs for private buildings and land outside the lease and leaseholders responsibilities.

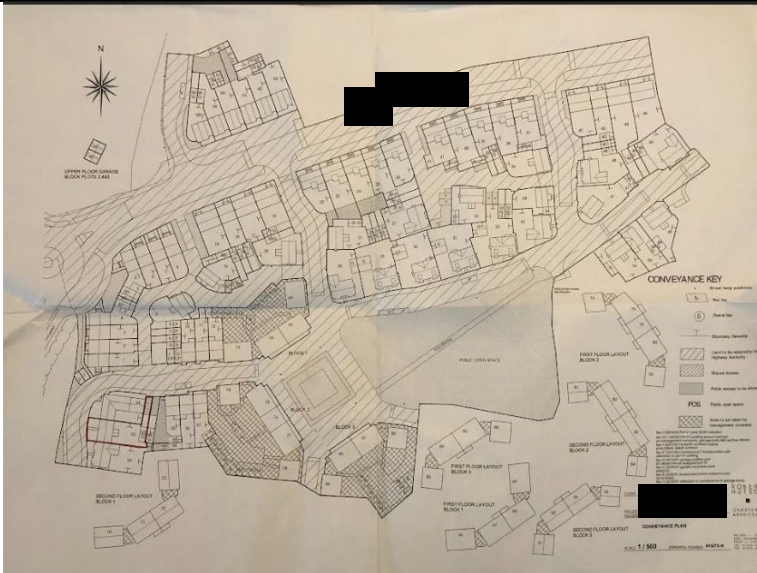
Appendix One

Blanket Management Agreement and Unit costs – significant financial prejudice a further +£100K increase for completely out of scope items and areas which have been included in the management provider agreement unit costs passed onto leaseholders due to lack of proper S20 consultation process and procedure.



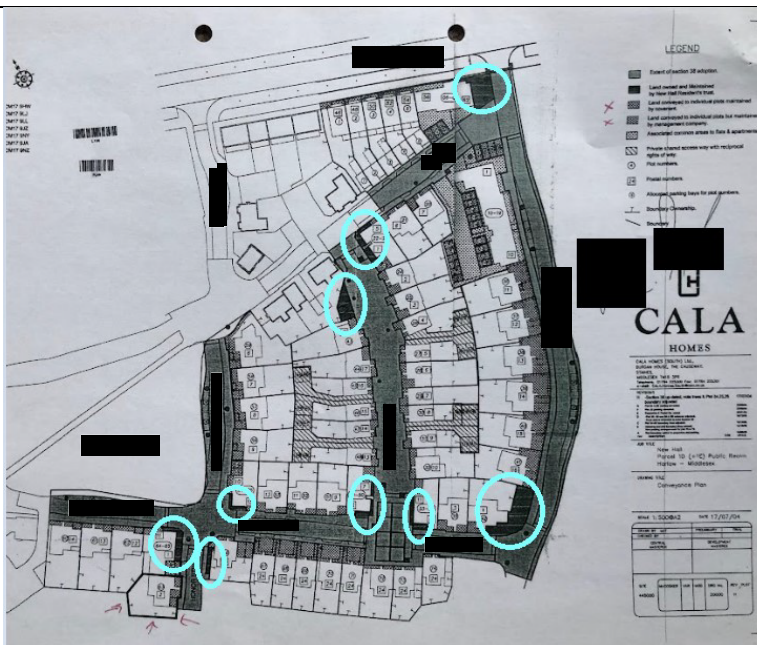
The Management Agreement and unit costs to leaseholders should only be the scope of the blue small circles.

However, lack of S20 consultation has resulted in the blanket Management Agreement and unit costs for management of all private, adoptable spaces and other private properties and leaseholders private buildings spaces to which leaseholders will never have opportunity under their TP1/lease exclusions to resolve without proper S20 consultation process and scoping with Management Providers taking place.



The Management Agreement and unit costs to leaseholders should not include any of this area.

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There are many more of these as examples, the above are to aid illustrating the statement of case being made in support of the reasons for objection to the applicant's application. The leaseholders request if they may please to reserve the right to make physical and legible print outs of these examples and circulate to the Tribunal and Applicants either via postal route or in person on the day of Tribunal and/or at the request of the Applicant if they require physical and legible print out versions in order to further inspect all the examples (including the above) and make further comment response to.