



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

**Case reference** : **LON/00BK/LDC/2020/0201**  
**P:Paperremote**

**Property** : **Tothill House Page Street London**  
**SW1P 4DG**

**Applicant** : **Lord Mayor & Citizens of Westminster**

**Representative** : **Andrew Pye Case Management Officer**

**Respondent leaseholders** : **Various leaseholders as per the application**

**Representative** : **-**

**Type of application** : **To dispense with the consultation requirements under S.20 Landlord and Tenant Act 1985**

**Tribunal member(s)** : **Mrs E Flint DMS FRICS**

**Date of determination** : **22 December 2020**

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**DECISION**

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This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that I was referred to were emailed to the Tribunal, the contents of which I have recorded.

### **Decision of the tribunal**

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to the erection of scaffolding to the perimeter of the building, the replacement of the flat roof and box gutter repairs.
- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

### **The Background**

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by the Applicant on
2. The application concerns erecting scaffolding and carrying out **works to replace the roof and guttering** which are said to be beyond their life expectancy and economic repair.
- 3.
4. Directions were issued on 17 November 2020 requiring the applicant to send to each of the leaseholders a copy of the application form and a copy of the tribunal’s directions and also arrange for a copy of each to be displayed in a prominent position in the common parts of the property.
5. The leaseholders were asked to confirm by 7 December 2020 whether or not they would give their consent to the application. In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon
6. By 17 December 2020 the applicant was required to provide a bundle setting out the full grounds for the application, including all of the documents on which the applicant relies and copies of any replies from the tenants.
7. No responses were received from the leaseholders.

### **The Evidence**

- (1) Tothill House is a Grade II listed 6 storey purpose built block of 112 flats built between 1928 and 1930, constructed of dark masonry and patterned render with double hung sash windows and a flat roof. 55 of the 112 flats are owned by long leaseholders.
  - (2) The applicant is the freeholder of the block and has applied for dispensation from the statutory consultation requirements in respect of erecting scaffolding and carrying out **works to replace the roof and guttering** which are said to be beyond their life expectancy and economic repair.
  - (3) Notice of intention of the works was issued 6 November with observations being due by 10 December 2020. The application is said to be urgent because the work is necessary to prevent further water ingress into the building. A temporary repair had been carried out in June 2020 so that the replacement of the roof and gutters could be carried out in 2021 however there has been further water ingress and the occupants of several flats are currently in temporary accommodation cannot return home until the work is completed. Consequently, the work has been brought forward to be completed before winter.
8. A Notice of Intention in respect of these works was served on 6 November 2020 with observations being due by 10 December 2020. The works are estimated to cost £135,464.76 plus fees.
  9. The leaseholders have not been prejudiced by the application as the Applicant has complied with the statutory consultation process except that the scaffolding and work commenced prior to the date for receipt of observations. Only two observations were received, one from a lessee who was exempt from paying, the second from a lessee who stated that “the works are long overdue”. Subsequently the Council has received a further two complaints regarding further water ingress.

### **The Decision**

10. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
11. The Tribunal determines from the evidence before it that the works are necessary, require to be completed as soon as practicable and that no prejudice to the lessees has been demonstrated or asserted.
12. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

**Name:** Evelyn Flint

**Date:** 22 December 2020

### **RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.