



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

<b>Case Reference</b>	:	<b>CAM/22UJ/LDC/2020/0023</b>
<b>HMCTS code (paper, video, audio)</b>	:	<b>P:PAPERREMOTE</b>
<b>Property</b>	:	<b>1-4 Mill House, Harlow Essex CM17 0HQ</b>
<b>Applicant</b>	:	<b>Harlow Council</b>
<b>Applicant's representative</b>	:	<b>Lauren Carter/Vicky Summers</b>
<b>Respondents</b>	:	<b>The leaseholders of the Property</b>
<b>Type of application</b>	:	<b>For dispensation from consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985</b>
<b>Tribunal members</b>	:	<b>Judge D Wyatt</b>
<b>Date of decision</b>	:	<b>11 November 2020</b>

---

**DECISION**

---

**Covid-19 pandemic: description of hearing**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was P:PAPERREMOTE. A hearing was not held because it was not necessary and all issues could be determined on paper. The documents that I was referred to are in a bundle of 49 pages produced by the Applicant. I have noted the contents and my decision is below.

## **The tribunal's decision**

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the roof repair works described in the application form and explanatory note.

## **Reasons for the tribunal's decision**

### **The application**

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of qualifying works to repair/replace roof coverings at the Property.
2. The relevant contributions of leaseholders through the service charge towards the costs of these works would be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
  - (i) were complied with; or
  - (ii) are dispensed with by the tribunal.
3. In this application, the Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable.**

### **The Property and the parties**

5. The Property is described by the Applicant as a detached house which was converted into four flats in the 1970s. Two flats are on the ground floor and two are on the first floor. The flats to the west are accessed by a stairwell and separate front doors.
6. The application was made against the leaseholders of the flats (the “**Respondents**”). The Applicant is the landlord under the relevant leases.

7. The specimen lease produced by the Applicant includes a covenant by the Applicant to maintain and keep in repair the structure and exterior of the Property (clause 6(a)), and a covenant by the leaseholder to pay a Service Charge for repairs to the Property (not including making good of structural defects) and maintenance of the structure and exterior of the Property (clause 4(b) and Schedule G).

### **Procedural history**

8. The Applicant sent its application on 8 October 2020 and said that the proposed roofing works were urgent, as explained below. Case management directions were given on 9 October 2020, requiring the Applicant to serve on the Respondents copies of the application form, the explanatory note enclosed with it, and the directions. The Applicant has in the certificate of service in the bundle confirmed that these documents were served by hand on all the leasehold properties on Friday, 9 October 2020.
9. The directions included a reply form for any leaseholder who objected to the application to return to the tribunal and the Applicant, indicating whether they wished to have an oral hearing. Any such objecting leaseholder was required to respond by 30 October 2020.
10. The directions further provided that this matter would be determined on or after 9 November 2020 based on the documents, without a hearing, unless any party requested an oral hearing.
11. No leaseholder has responded and no party has requested an oral hearing. Accordingly, this application has been determined based on the documents produced by the Applicant. On reviewing these documents, which included photographs of the relevant roof coverings, the tribunal considered that an inspection of the Property was neither necessary nor proportionate to the issues to be determined and that a hearing was not necessary.

### **The Applicant's case**

12. In the application form and explanatory note (as served on the Respondents), the Applicant said that it was in the process of carrying out planned refurbishment works to the facades, and replacing/repairing windows and doors, at the Property. The Applicant indicated that it had complied with the statutory consultation requirements in relation to these planned works. Scaffolding had been erected to carry out the planned works. This allowed inspection of the roof and discovery that some of the roof coverings were in a poor condition and needed to be replaced. The roofing disrepair and proposed repair works were described in the explanatory note, which estimated that these would cost a further £9,037.50.

13. A witness statement in the bundle from Bob Purton, Operations Manager for the Applicant, explained that the Applicant had originally considered a comprehensive scope of improvements. After receiving market tested costs, proposed re-roofing works were deferred to be carried out in the future, apparently to spread the cost to the leaseholders over time. The remaining planned works included replacement of eaves constructions and rainwater goods, but no allowance was made for roof repairs. He says that the contract was put out to a list of contractors for tender and residents were invited to participate in evaluation of the tenders. After notice of estimate consultation with leaseholders, the contract was awarded.
14. Mr Purton states that the Property has a series of individual roofs which are predominantly covered with clay tiles, but some extensions have bituminous felt or lead coverings over bay windows, smaller projections, valleys and flashings. He says that after the disrepair in these areas was discovered he discussed the proposed repairs with the leaseholders, who made no adverse comments. He requested a quotation from the contractor for renewal of the clay tiled roof covering, felt and battening over the stairwell to Flat 4, renewal of the lead valley including the base board over that stairwell, renewal of the lead roof over the bathroom to Flat 2, renewal of a substantial length of isolated lead flashings to chimney and gable walls, and isolated roof tile repairs. A copy of the quotation has not been provided in the bundle, but he confirms that it is in the sum of £9,037.50.
15. The Applicant contends that having these additional works carried out while the scaffolding is in place, without delaying for formal consultation about them, is an opportunity to achieve best value for the leaseholders and maintain the integrity of the building.

### **The Respondents' position**

16. As mentioned above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. The tribunal has not received any response or statement of case opposing the application, or comments on the Applicant's statements in the application form or explanatory note. In the circumstances, the tribunal concluded that the application was unopposed.

### **The tribunal's decision**

17. This application was not opposed by the Respondents, who have not challenged the information provided by the Applicant with the application form, identified any prejudice which they might suffer because of the non-compliance with the consultation requirements, or asked for or provided any other information. The photographs

produced with the explanatory note demonstrate the relevant disrepair and it was clearly reasonable to carry out the roof repair works as a matter of urgency, while the scaffolding was in place, to seek to prevent deterioration or leaks (even if more substantial re-roofing works will need to be planned and carried out in years to come). The Applicant competitively procured the planned works and obtained a quotation for the additional roof repair works. As noted above, this decision does not determine whether the cost of these additional works was reasonable or payable under the leases, only whether the consultation requirements should be dispensed with in respect of them. In the circumstances, I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to these roof repair works.

18. The tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in relation to the roof repair works described in the application form and explanatory note.
19. There was no application to the tribunal for an order under section 20C of the 1985 Act.
20. The Applicant landlord shall be responsible for serving a copy of this decision on all leaseholders.

**Name:** Judge D Wyatt

**Date:** 11 November 2020

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).