



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

**Case Reference** : **CAM/11UF/LDC/2022/0035**

**HMCTS code  
(paper, video, audio)** : **P:PAPERREMOTE**

**Property** : **1-4 Tweenfields, 5-8 Carmel Court  
and 9-12 Tower House, Highfields,  
Marlow, Buckinghamshire, SL7 2LG**

**Applicant** : **Highfield Flat Owners Limited**

**Representative** : **Alba Management**

**Respondents** : **All leaseholders of dwellings at the  
Property (including any of their sub-  
tenants of any such dwelling) who  
are liable to contribute to the cost of  
the relevant works**

**Type of application** : **For dispensation from consultation  
requirements - Section 20ZA of the  
Landlord and Tenant Act 1985**

**Tribunal member** : **Judge Ruth Wayte**

**Date of decision** : **13 February 2023**

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**DECISION**

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**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; all issues could be determined on paper. The documents I was referred to are in the bundle of 80 pages prepared 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 respect of urgent works to the drains which were carried out in October 2022, following the report of leakage on 31 August 2022.

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

### **The application**

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of certain “qualifying works” (within the meaning of section 20ZA) to repair the lining of five existing drains, excavate and replace one of the drains to rectify and prevent further leakage into the flats.
2. The relevant contributions of the Respondents 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, or what proportion is payable.**

### **The property, the parties and the leases**

5. The Applicant is the relevant landlord of the Property, which was described as a building conversion comprised of three connected blocks, each containing four flats. From the description within the specimen lease provided, the blocks are known as Tower House, Carmel Court and Tweenfields.
6. The sample lease produced by the Applicant is a copy of the counterpart lease for flat 12 Tower House. It includes a covenant by the

Applicant to maintain and keep in repair the drains of the Property (clause 5(3)(B)(ii) and (iii)), and a covenant by the leaseholder to pay a proportion of the relevant costs as a Service Charge (clause 4(4) and the Fourth Schedule).

### **Procedural history**

7. On 5 December 2022, a judge gave case management directions, requiring the Applicant to by 16 December 2022 serve on the Respondents copies of the application form, any other evidence relied upon and the directions. The directions included a reply form for any Respondent 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 9 January 2022. The directions provided that this matter would be determined on or after 30 January 2022 based on the documents, without a hearing, unless any party requested an oral hearing.
8. No leaseholder has responded, and no party has requested an oral hearing. Accordingly, this determination is based on the documents produced by the Applicant in their bundle. On reviewing these documents, I 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**

9. In the application form, the Applicant said that the drains for the property started leaking into two flats on 31 August 2023. A CCTV survey was carried out on the drains and it identified that most of the drains were leaking. They said the work needed to be carried out as a matter of urgency so that the damage to two of the leaseholders' flats would be minimised. The Applicant confirmed that without doing all the essential work, it would have been impossible to resolve the extensive problem with the drains. They said that the leaseholders were informed of the leak and the requirement for urgent works at their Annual General Meeting (AGM) on 29 September 2022. It would have been helpful to include the minutes of that meeting in the bundle.
10. The bundle prepared by the Applicant for this determination includes a copy of the two quotes obtained for the works. The Applicant has opted for the lower quote of £7,895.00 plus VAT from Clear Drains and the repair was completed during the week of the 10 to 15 October 2022. The Applicant confirmed that the leaseholders were informed of their choice to go with Clear Drains by WhatsApp and no one objected. On 12 December 2022, the Applicant confirmed that a copy of the application form and directions had been delivered to each leaseholder that day, as directed.

### **The Respondents' position**

11. As noted 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. In the circumstances, the tribunal concluded that the application was unopposed.

### **The Tribunal's decision**

12. This application was not opposed by the Respondents, who have not challenged the information provided by the Applicant, identified any prejudice they might suffer because of the non-compliance with the consultation requirements, or in these proceedings asked for or provided any other information. In the circumstances, based on the information provided by the Applicant (as summarised above), I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.
13. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
14. The tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in respect of urgent works to the drains which were carried out in October 2022, following the report of leakage on 31 August 2022.
15. There was no application to the tribunal for an order under section 20C of the 1985 Act.
16. The Applicant landlord shall be responsible for serving a copy of this decision on all relevant leaseholders.

**Name:** Judge Ruth Wayte

**Date:** 13 February 2023

### **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).