



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

Case reference : **LON/00BK/LDC/2023/0052**

Property : **69-71 Gloucester Terrace, Bayswater,
London, W2 3DH**

Applicant : **Southern Land Securities Limited**

Representative : **Together Property Management**

Respondent : **Various leaseholders of 69-71
Gloucester Terrace**

Type of application : **For dispensation from statutory
consultation**

**Tribunal
member(s)** : **Mr O Dowty MRICS**

**Date of
determination** : **14 June 2023**

DECISION

Decision of the Tribunal

The Tribunal grants the application for dispensation from statutory consultation in respect of the qualifying works.

The application

1. The applicant is the freeholder of the subject premises, a Grade 2 listed period property built originally as a single house and later converted into 25 flats. The property is of typical construction for its location and age, arranged over basement, ground and 4 upper floors, and is located within a conservation area.
2. The application, dated 3 March 2023, seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“The Act”) dispensing with statutory consultation in respect of qualifying works they intended to carry out in early April 2023. The Tribunal infers that those works have now been carried out, particularly in light of the applicant providing in the bundle an invoice from Garratts Damp & Timber Ltd which appears to be for those works dated 3 May 2023.
3. Directions were issued by the Tribunal on 20 March 2023. The landlord was directed to provide copies of those directions to the leaseholders and any residential sublessees of the property, as well as to display a copy in the communal parts of the property. The applicant emailed the Tribunal on 6 April 2023 to confirm that this had happened.
4. The Directions of 20 March 2023 invited any leaseholders and sublessees who opposed the application to make submissions by 9 May 2023. No such submissions have been received by the Tribunal, and the applicant has confirmed that they have not received any observations by any of the leaseholders or flat owners at the property in respect of the works.
5. The Tribunal considered that a paper determination of the application was appropriate, and the applicant indicated that they were content for this to happen in their application. The Tribunal therefore determined the matter on the basis of the papers provided to it without a hearing.
6. The Tribunal did not inspect the subject property as it was not necessary to do so to determine the present application.

The Qualifying Works

7. The applicant avers that works including tanking work, enabling works, asbestos removal, insulation, redecoration, external works and other associated works and surveying advice were required to prevent damp from forming in Flat 1 of the property. At the same time as those works were conducted, other works were carried out at the building insurer's expense to make good damage to Flats 1 & 3 following flooding damage. Whilst the cost of making good the damage caused by the flooding was covered by insurance, the applicant submits that damp proofing and associated works to Flat 1 were not.
8. Those works of damp proofing and associated works to Flat 1 which are not covered by the insurance of the building are therefore the qualifying works for which dispensation is sought.
9. The applicant states that they began the Section 20 notice process, however due to the length of time this would take the prices from contractors would not have been held while such a consultation was carried out. They therefore decided to make an application to dispense with the requirements of Section 20. In addition, this enabled the qualifying works to be carried out at the same time as the works conducted by the insurer were carried out, thereby meaning the Leaseholder of Flat 1 did not have to vacate the property on two separate occasions.

Decision and Reasons

10. Section 20ZA(1) of the Act provides:

Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

11. The applicant has set out the need for the works, and the rationale for their timing. It appears to the Tribunal that the desire to carry out the works at the same time as the works conducted under the insurance policy is a reasonable one; to say nothing of the potential increase in cost from delaying the start of the works whilst a section 20 consultation was conducted.

12. The Tribunal has not received submissions from any leaseholders or other interested parties objecting to the application or its contents.
13. The Tribunal finds, on the evidence provided to it, that it was appropriate to carry out the qualifying works without carrying out statutory consultation. The Tribunal therefore considers it reasonable to grant the application for dispensation from statutory consultation. No conditions on the grant of dispensation are appropriate and none are made.
14. This decision does not affect the Tribunal's jurisdiction upon an application to make a determination under section 27A of the Act in respect of the reasonable and payable costs of the works, should this be disputed by any leaseholder.

Name: Mr O Dowty MRICS

Date: 14 June 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).

