



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

**Case Reference:** LON/00AG/LDC/2023/0190 P

**HMCTS code:** P: PAPERREMOTE

**Property:** 106-110 (even) Kentish Town Road and  
335-341 (odd) Royal College Street  
(formerly known as Dunn's Hat  
Factory)

**Applicant:** British Overseas Bank Nominees  
Limited and WGTC Nominees Limited as  
nominees for and on behalf of Natwest  
Trustee and Depositary Services Limited  
as trustee of the St James's Place  
Property Unit Trust

**Representative :** DLA Piper UK LLP (ref  
AHO/95964/203081)

**Respondents:** Camden Place Leaseholders Limited and  
the residential lessees of the fifth and  
sixth floors of the Property listed in the  
schedule to the application

**Type of  
Application:** To dispense with the statutory  
consultation requirements under  
section 20ZA Landlord and Tenant Act  
1985

**Tribunal member:** Judge Pittaway

**Date:** 26 September 2023

## **Description of hearing**

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by any Respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper.

The documents to which the Tribunal was referred in a bundle of 137 pages which included a copy of the application dated 25 June 2023, the Directions dated 11 August 2023, a copy of the residential headlease dated 16 March 2006 of which Camden Place Leaseholders Limited is the headlessee (and a Deed of Variation thereof), a copy of the underlease of Flat 1 dated 16 April 2021 and the earlier lease dated 22 September 2006 to which it refers, various quotes for the works and witness statements by Mr A Hardwick, Asset Manager for Orchard Street Investment Management LLP, authorized by the Applicant and Mr W Stevens, process server.

The Tribunal has had regard to the documents before it in reaching its decision set out below.

## **DECISION**

**The Tribunal grants the application for retrospective dispensation from statutory consultation in respect of the subject works ('the works'), namely the removal of timber decking from the balconies in January 2023, works to seal and replace decking on the balconies and work to the internal rain and waste water pipework.**

**This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay, for a reason other than non-consultation in respect of the subject works, and the reasonableness and/or the cost of the subject works.**

## **The Application**

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (the '**Act**') for dispensation from consultation in respect of the works to the Property, namely the removal and replacement of the decking of the balconies and work to the internal rain and waste water pipework.
2. The application only relates to the fifth and sixth floors of the Property as the lower floors are used for commercial purposes.

3. The grounds for seeking dispensation attached to the application gave the cost of the works as follows
  - Removal of the timber decking £7,480 (excluding VAT)
  - Replacement balcony decking £63,440 (excluding VAT)
  - Repair of pipework £106,132 (excluding VAT)
4. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if it is planned to carry out qualifying works which would result in the contribution of any tenant being more than £250.
5. By directions dated 11 August 2023 (the '**directions**') the Tribunal directed that the Applicant by 21 August 2023 send each leaseholder and any residential sublessees the application and the directions and display a copy in a prominent place in the common parts of the property. The Applicant confirmed to the Tribunal on 23 August 2023 that the documents had been served by e mail or post on 15 August 2023 and that a process server had attended the Property on 16 August 2023 and affixed copies of the documents in sealed transparent envelopes to the rear and front doors on the ground fifth and sixth floors, being prominent places in the common parts and had also posted the documents through the letter box for each flat. The bundle included a witness statement from Mr William Stevens, the process server.
6. The directions provided that if any leaseholder/sublessee objected to the application he/she should do so, to the Applicant and the Tribunal, by 1 September 2023. The Tribunal received no objections and the Applicant confirmed to the Tribunal on 4 September 2023 that it had received no objections.
7. The directions provided that the Tribunal would decide the matter on the basis of written representations unless any party requested a hearing. No one did.

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

8. The application describes the property as a mixed use commercial and residential building. The basement to fourth floors were converted to commercial use in 2000. The building was then extended upwards to create the residential apartments on the fifth and sixth floors in 2005.
9. The Applicant's immediate tenant of the fifth and sixth floors is Camden Place Leaseholders Limited under a headlease dated 16 March 2006. The other Respondents are the applicant's sublessees and hold long leasehold interests in the individual flats.

10. The Applicant is responsible for the repair and maintenance of the exterior and structure of the Property.
11. The Property suffered serious damage by water ingress in October 2022, some water coming in through light fittings, causing major issues and risks to the occupiers. The property was no longer wind and watertight.
12. MAPP (Building Consultancy) LLP ('MAPP'), instructed to identify the cause of the water ingress, identified that it was caused by the failure of the sixth floor terrace decking, preventing water reaching the drainage system. Also failure of the internal rain and waste water pipework was causing damage to the fifth floor structure and the floors below. MAPP recommended the immediate removal of the timber decking and its replacement with fire proof perforated metal decking.
13. Given the urgency the timber decking was removed in January 2023.
14. The applicant obtained two quotes to seal and replace the decking, the lower quote being that of Meadows Contracting Services Limited. It also obtained two quotes to repair the pipework and install inspection and maintenance hatches, again the lower quote being that of Meadows Contracting Services Limited.
15. In the spirit of s20 consultation the Respondents' agent, Ringley, was provided with copies of the quotes and invited to advise the Applicant if it wanted another contractor to quote. Given the urgency of the work, and that two quotes had been obtained Ringley indicated it was satisfied that the two quotes were sufficient. Meadows Contracting Services Limited were instructed to undertake the work in March 2023.
16. The Applicant instructed the work to be commenced without full s20 consultation given the need to prevent the water ingress as soon as possible, to prevent more serious damage to the property and given the health and safety risks of water coming through light fittings.
17. The Applicant submits that it is reasonable in all the circumstances to dispense with consultation requirements and that the tenants have not suffered any prejudice.

### **Responses from the Respondents**

18. The directions provided that if any leaseholder/sublessee objected to the application he/she should do so, to the Applicant and the Tribunal, by 1 September 2023.
19. Neither the Applicant nor the Tribunal received any objections from the Respondents

## **Determination and Reasons**

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

*“Where an application is made to a leasehold valuation 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.”*

21. The purpose of section 20ZA is to permit dispensation with the consultation requirements of section 20 of the Act if the Tribunal is satisfied that it is reasonable for them to be dispensed with.

22. The Tribunal determines that the Respondents are not prejudiced by the works and it is reasonable to dispense with the consultation requirements.

23. In reaching its decision the Tribunal has considered the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14, and has had regard to the application and the documents provided, in particular

- the evidence of the consultation which the Applicant has undertaken with the Respondents,
- that no objection has been received from any Respondent, and
- the stated need for the works.

24. Whether or not the Respondents are liable for the cost of the works by reason of the terms of their leases, any statutory provision other than section 20ZA, and whether the works are carried out to a reasonable standard and at a reasonable cost are not matters which fall within the jurisdiction of the Tribunal in relation to this present application. This decision does not affect the Tribunal’s jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay and the reasonableness and /or cost of the works.

25. The Applicant is reminded that, as stated in the Directions, it is the responsibility of the Applicant to serve a copy of this decision on all Respondents.

Name: Judge Pittaway Date: 26 September 2023

## **ANNEX - 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.