



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

**Case Reference** : **LON/00AY/LDC/2023/0212**

**Property** : **The Queen, 45-47 Bellefields  
Road, London, SW19 9UH**

**Applicant** : **Lyndhurst Homes Ltd**

**Representative** : **Sue Davis, Ashby Building  
Surveyors Limited (ref H183/3093)**

**Respondents** : **The residential leaseholders of The  
Queen**

**Representative** : **In person**

**Type of Application** : **For dispensation from the  
consultation requirements under  
section 20ZA Landlord & Tenant  
Act 1985**

**Tribunal** : **Mr R Waterhouse BSc (Hons) LLM  
Property Law MA FRICS**

**Date of Decision** : **23<sup>rd</sup> October 2023  
Amended 1<sup>st</sup> November 2023**

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**DECISION**

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This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable, and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 504 pages and an email Ashby Building Surveyors on behalf of Lyndhurst Homes Ltd confirming that a copy of the application and a copy of the directions had been sent to the leaseholders. Additionally, that a copy was placed in the communal hallway in the property.

### **Decision**

- (1) The tribunal determines that dispensation should ~~not~~ be granted from the consultation requirements from section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of the property The Queen, 45-47 Bellefields Road.**

### **The application**

1. This Application is made by the agent to the freeholder Ashby Building Surveyors Ltd on behalf of Lyndhurst Homes Limited, dated 28<sup>th</sup> July 2023.
2. The Application seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985.
3. The Application is concerned solely with the question of what consultation if any should be given of the consultation requirements of section 20 of the 1985 for works costing in excess of £250 per flat. It is not concerned with the reasonableness or payability of any service charges which may arise.

### **The determination**

4. A written Application was made by the agent for the freeholder Lyndhurst Homes. The case was decided on paper and no appearances were made. The tribunal considered the written bundle of 504 pages, in support of the Application.

### **Background**

5. The property, 45-47 Bellefields Road, was originally a Public House, between 2008 to 2015 referenced to lease dates, the property was converted into basement and ground floor, business premises, with a smaller residential area to no 45 Bellefields Road, and further residential accommodation, to 1<sup>st</sup> , 2<sup>nd</sup> , 3<sup>rd</sup> of 47 Bellefields Road. There are 15 flats and one commercial premises.
6. The applicant in this case is the freeholder of the property.
7. This application has been issued because, following a report of lack of water pressure, the maintenance engineer attended the site, to find an alarm on the water booster pump set control, The fault referenced pump 2. it was found that pump 2 had failed and caused the electrical breaker to switch off. Pump 1 is working, though complaints of lack of water pressure, are being raised. If pump 1 also fails, given they are of similar age, then there would be no cold-water supply to the flats.
8. The section 20 limit on the property is £3333.33 for Service charge B, for which these works would be covered.
9. The current maintainer Hamchem Ltd have provided a quote to replace the pump and the control panel, in the sum of £8015 plus VAT.
10. The Application form notes “A section 20 initial notice has been prepared and is being issued on/ dated 31<sup>st</sup> July 2023, It is due to lapse on the 1<sup>st</sup> September 2023. This advises the leaseholders, of the issue, the intension to proceed to repair given the risk, the intention to apply for dispensation of consultation, via the tribunal.”
11. The Directions dated 30<sup>th</sup> August 2023, provided for the freeholder to give a copy of the Application, to each leaseholder, a brief statement to explain the reasons for the Application if not already done so and display a copy of the directions in a prominent place in the common parts of the property, by 8<sup>th</sup> September 2023. The freeholder should confirm with the tribunal by the 12<sup>th</sup> September 2023 that this has been done. This was confirmed done by e mail 8<sup>th</sup> September2023 noting that Direction 1 was complied with on Wednesday 6<sup>th</sup> September 2023.A further e mail dated 12<sup>th</sup> September 2023 noted a copy had been placed on the communal notice board.
11. The Directions also note that any leaseholder who opposes the application should by the 22<sup>nd</sup> September 2023 completes the reply form and return it to the tribunal.

12. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

### **Documents**

13. The applicant has submitted an application form, and e mail of the 8<sup>th</sup> September confirming that all leaseholders have received a copy of the application form and the directions.

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

14. The tribunal does grant dispensation under section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the application.
15. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
16. The Supreme Court (Lord Neuberger at para 50) accepted that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in sections 19 and 27A of the Landlord and Tenant Act 1985.
17. The tribunal received an email dated 5<sup>th</sup> September 2023 letter from Roberto Pajares, Flat 11, submitting that the freeholders had sufficient time between issuing the notice on 31<sup>st</sup> July 2023 and 8<sup>th</sup> September 2023 to obtain a second quote.
18. In a later email of the 7<sup>th</sup> September Roberto Pajares, Flat 11, noted that whilst not objecting to the application for dispensation, he was querying why a second quote had not been obtained.
19. The tribunal in considering Roberto Pajares note determines that there has been no objection to the application to dispense with section 20. However, the tribunal acknowledges Roberto Pajares concerns and notes that should any leaseholder wish to challenge the reasonableness or payability of the service charge then a subsequent section 27A application can be made.

21. Accordingly, we find that dispensation should be granted.

*Richard Waterhouse*

<b>Name:</b>	<b>Richard Waterhouse LLM FRICS</b>	<b>23<sup>rd</sup> October 2023.</b>
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**Amended 1<sup>st</sup> November 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 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 to 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 (ie 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**