



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

Case reference : **LON/00AG/LDC/2023/0209**

Property : **25-36 Morris Gardens, West Hill
Road, London SW18 5HL**

Applicant : **London Borough of Wandsworth**

Representative : **Mr Farhan Awan, Estate Manager**

Respondents : **The leaseholders of the Property**

Type of application : **Dispensation from compliance with
statutory consultation
requirements**

Tribunal member : **Judge P Korn**

Date of decision : **28 November 2023**

DECISION

Description of hearing

This has been a remote hearing on the papers. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondents did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which I have been referred are in an electronic bundle, the contents of which I have noted. The decision made is described immediately below under the heading “Decision of the tribunal”.

Decision of the tribunal

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The qualifying works which are the subject of this application consist of full electrical rewiring to the common parts. The Property comprises two adjacent blocks of flats, each on three floors.

Applicant’s case

3. The Applicant states that the public lighting within the Property needs complete rewiring. The circuit is constantly blowing, and the cables are old Vulcanised Indian Rubber cables and in very poor condition. Most of the lights are in old style lamp holder CP6 fittings that all need replacing. At present only one light is working within the whole Property.
4. The Applicant has provided details of the works that are proposed. Emergency works letters were sent out to leaseholders on 18 July 2023 and two quotations were sourced by the Applicant, a copy of one of which is in the bundle.
5. The Applicant seeks dispensation on the ground of health and safety due to the poor condition of the cables.

Responses from the Respondents

6. None of the Respondents has written to the tribunal raising any objections to the dispensation application.

The relevant legal provisions

7. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
8. Under Section 20ZA(1) of the 1985 Act *“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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”.

Tribunal’s analysis

9. The Applicant has provided evidence of its having conducted some limited consultation with leaseholders, and it has also provided information on the major works which supports its contention that the carrying out of the works was urgent for health and safety reasons. What is less clear is why action was only taken once the lighting and the cabling was in such a critical state.
10. However, as is clear from the decision of the Supreme Court in *Daejan Investments Limited v Benson and others (2013) UKSC 14*, the key issue when considering an application for dispensation is whether the leaseholders have suffered any prejudice as a result of the failure to comply with the consultation requirements.
11. In this case, none of the Respondents has expressed any objections in relation to the failure to go through the full statutory consultation process, and there is no evidence before me that the leaseholders were in practice prejudiced by the failure to consult fully. Furthermore, I accept on the basis of the uncontested evidence before me that the carrying out of the works is urgent, albeit that it is unclear why the Applicant has waited so long to attend to the cabling.
12. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements. In this case the Applicant has made a reasonable case as to why the cabling issue needs to be dealt with as a matter of urgency and no leaseholders have raised any objections or challenged the Applicant’s factual evidence. I therefore consider that it is reasonable to dispense with the consultation requirements.
13. As is also clear from the decision of the Supreme Court in *Daejan v Benson*, even when minded to grant dispensation it is open to a tribunal to do so subject to conditions, for example where it would be appropriate to impose a condition in order to compensate for any specific prejudice suffered by leaseholders. However, as noted above, there is no evidence nor any suggestion that the leaseholders have suffered prejudice in this case.
14. Accordingly, I grant unconditional dispensation from compliance with the consultation requirements.

15. It should be noted that this determination is confined to the issue of consultation **and does not constitute a decision on the reasonableness of the cost of the works.**

Costs

16. There have been no cost applications.

Name: Judge P Korn

Date: 28 November 2023

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.