



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

Case reference : **LON/00BJ/LDC/2023/0316**

Property : **140 Cavendish Road, Clapham South,
London, SW12 0DD**

Applicant : **Southern Land Securities Limited**

Representative : **Together Property Management Ltd**

Respondents : **The long residential leaseholders of 140
Cavendish Road**

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

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

**Date of
determination** : **13 March 2024**

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 140 Cavendish Road, Clapham South, London, SW12 0DD. The applicant provides a good description of the building in the application form:

A detached, solid brick, late Victorian residence constructed over basement, ground and two upper floors, the second floor being situated within the pitched slate roof and the flat roof extension to the rear. Formally [sic] "The Gloucester House Hotel" the property has been converted to house ten self-contained flats.

2. The application, dated 15 December 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. At the time of that application, those works had already been carried out.
3. Directions were issued by the Tribunal on 17 January 2024. Those Directions provided that the applicant was to send to the leaseholders of the property copies of the application form (if not already sent), the invoice for the pump works and the Tribunal's Directions. In addition, the applicant was to display a copy of the Directions in the common parts. The applicant emailed the Tribunal on 31 January 2024 to confirm that this had been done.
4. The Directions of 17 January 2024 invited any leaseholders and sublessees who opposed the application to make submissions by 14 February 2024. No such submissions have been received by the Tribunal, and the applicant confirmed by email on 11 March 2024, following a request for confirmation from the Tribunal dated that same day, that they have not received any responses either.
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 they received a report from one of the flats in the building that an alarm for a waste pump at the building was going off, and that there was a strong smell of sewage. Emergency repairs were needed to that waste pump and carrying out a section 20 consultation would not have been practical.
8. The works consisted of pump repairs, and necessitated the use of a tanker to suck out waste.
9. The applicant submits that, due to the urgent need for the works, they did not carry out a Section 20 consultation so that the works could begin urgently. Whilst no consultation was carried out, and the leaseholders were not notified prior to the repairs being conducted, the leaseholders have since been informed both of the costs incurred and that a retrospective application would be made to the FTT to seek dispensation.
10. The applicant provided two invoices in their bundle from Aquatronic Group Management Ltd to a total combined value of £2,727 including VAT.

Decision and Reasons

11. 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.

12. The applicant's case is that the works carried out were urgent works of repair to a waste pump at the property.
13. The Tribunal has not received submissions from any leaseholders or other interested parties objecting to the application or its contents and the applicant has confirmed they have not received any such objections either.
14. On the balance of evidence provided to the Tribunal, the Tribunal finds that it was appropriate to carry out the qualifying works without carrying out statutory consultation. The repair of defective waste pumps is clearly an urgent issue.

15. 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 is made.
16. 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: 13 March 2024

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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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).