



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

Case Reference : **LON/00AH/LDC/2024/0011**

Property : **118 Pawsons Road, Croydon,
Surrey, CR0 2QF**

Applicant : **118 Pawsons Road Ltd**

Respondents : **Various Leaseholders of 118
Pawsons Road CR0 2QF**

Type of Application : **Dispensation from consultation
requirements under Landlord and
Tenant Act 1985 section 20ZA**

Tribunal Members : **Judge Professor R Percival
Mr M Cairns MCIEH**

Venue : **Remote paper determination**

Date of Decision : **25 April 2024**

DECISION

Decisions of the tribunal

- (1) The Tribunal, pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), grants dispensation from the consultation requirements in respect of the works the subject of the application.

Procedural

1. The landlord submitted an application for retrospective dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 15 January 2024.
2. The Tribunal gave directions on 5 February 2024. The directions provided for a form to be distributed to those who pay the service charge to allow them to object to or agree with the application, and, if objecting, to provide such further material as they sought to rely on. The application and directions was required to be sent to the leaseholders and any sublessees, and to be displayed as a notice in the common parts of the property. The deadline for return of the forms, to the Applicant and the Tribunal, was 4 March 2024.
3. The Applicant confirmed that the relevant documentation had been sent to the leaseholders.
4. No response from any of the leaseholders has been received by the Tribunal. The Applicant confirmed that no responses had been received by it.

The property and the works

5. The property is a Victorian ex-public house converted into eight flats.
6. The works are to the roof and parapet walls. In the summer of 2023, significant rainwater ingress became apparent. Following inspection of the roof, the Applicant determined that the cause of ingress was the condition of the originally installed flashings and associated works, which required urgent attention. In addition, the consequences of the defects was penetrating dampness into rooms below, giving rise in turn to safety risks with electrical installations and potential collapse of ceiling plaster work. Further, the condition of the external rendering to the parapet was poor, with sections become detached, such that falls of render could be expected. If such falls occurred, they would be likely to cause damage to roofs below, which in turn would have consequences for the insurance costs of the freeholder and/or leaseholders.

7. The Applicant received a quotation £5,800 plus VAT from Claret Roofing.
8. We assume, although it is not directly stated, that the Applicant is a leaseholder-owned company. The flooding occurred initially around 12 June 2023. The Applicant explained that they contacted three roofing contractors, but only secured a quotation from Claret roofing. The Applicant made what it described as an emergency service charge demand, which included Claret's quotation, on 26 June. It reports that all but two of the leaseholders "responding positively", so we assume that there was an element of consultation in this demand. The leaseholders who did not respond were those of flats 2 and 3.
9. There was then what the Applicant describes as a second consultation from 25 July to 4 August 2023, during which the leaseholder of flat 2 proposed an alternative contractor. The directors of the Applicant thereafter contacted three other contractors, who were all unavailable. The contractor proposed by flat 2 increased its initial quotation on receipt of some photographs of the relevant issues, and then did not reply when a particularised tender of works was provided.
10. As a result, the Applicant commissioned Claret on 14 August 2023. Thereafter, we assume, the work was carried out.
11. A copy of a letter dated 10 October 2023 from consulting engineers Torcal Ltd is included in the bundle. The engineers concluded that the work was well executed, and reasonably priced.

Determination

12. The relevant statutory provisions are sections 20 and 20ZA of the Landlord and Tenant Act 1983, and the Service Charges (Consultation etc)(England) Regulations 2003. They may be consulted at the following URLs respectively:
<https://www.legislation.gov.uk/ukpga/1985/70>
<https://www.legislation.gov.uk/uksi/2003/1987/contents/made>
13. The Tribunal is concerned solely with an application under section 20ZA of the 1985 Act to dispense with the consultation requirements under section 20 and the regulations.
14. Although clearly not in accordance with the 2003 Regulations, the Applicant made a reasonable attempt to informally consult its member leaseholders. We accept that the water ingress meant that there was a substantial element of urgency in the work.

15. No response has been received from any of the leaseholders objecting to the application, either by the Tribunal or, it reports, the Applicant. It is therefore clear that none of the leaseholders have sought to claim any prejudice as a result of the consultation requirements not having been satisfied. Where that is the case, the Tribunal must, quite apart from any question of urgency, allow the application: *Daejan Investments Ltd v Benson and others* [2013] UKSC 14; [2013] 1 WLR 854.
16. This application relates solely to the granting of dispensation. If the leaseholders consider the cost of the works to be excessive or the quality of the workmanship poor, or if costs sought to be recovered through the service charge are otherwise not reasonably incurred, then it is open to them to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

Rights of appeal

17. 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 London regional office.
18. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
19. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
20. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

Name: Judge Prof Richard Percival **Date:** 25 April 2024