



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

Case reference : LON/00AW/LDC/2024/0210

Applicant : Wellcome Trust Limited

Representative : Ringley Law

Respondents : Leaseholders of St Georges Court

Property : St Georges Court, 258 Brompton Road,
Kensington, SW3 2AT

Tribunal : Judge Timothy Cowen
Ms Alison Flynn MA MRICS

Date of decision : 24 September 2024

SUBSTANTIVE DECISION

Decision of the tribunal

IT IS ORDERED THAT

Unconditional dispensation is granted in respect of the works which are the subject of the application.

REASONS FOR DECISION

1. This is an application by the Applicant freeholder under section 20ZA of the Landlord and Tenant Act 1985 to dispense with the consultation requirements under section 20 of that Act.
2. The application was made on 29 July 2024. The Property consists of 40 residential units and three commercial units.
3. The application is in respect of work to replace stack pipes following reports of sewage smells and one case of back-surge into a bath and toilet. At least one stack pipe had ruptured and there was a risk that further pipes would

rupture. Upon inspection, it became clear that several of the stack pipes needed repairing or replacing.

4. At the time the application was made, the scaffolding had already been erected and the repair works were due to commence in the first week of August 2024. The anticipated cost of the works was £31,248 including VAT together with a contingency fee of £3,100 making a total of £34,348.00.
5. Spread over 40 residential units, any works which cost more than £10,000 in this Property would trigger the section 20 consultation requirements.
6. The Applicant's case is that it was not possible to carry out the full consultation process under section 20 of the 1985 Act, because of the urgency and the threat to health, safety and sanitary conditions.
7. The only issue for the tribunal is whether it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs are recoverable or payable.
8. Directions for the application were given by the Tribunal on 7 August 2024. The directions ordered that the application be served on all of the leaseholders and posted up in the common parts by 15 August 2024 and gave the leaseholders an opportunity to send objections to the application and to make a statement in response by 28 August 2024.
9. In the bundle, there is an email from the Applicant's solicitor dated 16 August 2024 confirming and evidencing that they served and posted up the application on 15 August 2024. The bundle also contains a witness statement dated 11 September 2024 from the Applicant's solicitor, Anastacia Theophanous confirming that no responses to the application have been received from leaseholders.
10. The directions further ordered that the application be decided on paper without a hearing in the week commencing 23 September 2024, unless any party requested a hearing. No party has requested a hearing and this therefore is the decision of the Tribunal after considering the matter on paper without a hearing.
11. We must consider whether to grant dispensation. The relevant statutory provisions are found in subsection 20ZA (1) of the 1985 Act under heading "Consultation Requirements: Supplementary". That subsection reads as follows: "*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 it is reasonable to dispense with the requirements*".
12. In the light of the decision of the Supreme Court in *Daejan Investments v Benson* [2013] UKSC 14, the Tribunal must consider whether dispensation would cause prejudice to the leaseholders. The burden of identifying relevant prejudice falls on the leaseholders who are seeking to resist the application. Furthermore, the decision in *Daejan* made it clear that the

purpose of the statutory consultation requirements was to ensure (a) that the leaseholders were protected from paying for inappropriate works and (b) from paying more than was appropriate.

13. In our judgment, there is no evidence of prejudice for the purposes of section 20ZA of the 1985 Act. The works seem on their face to be appropriate and there is no-one who says otherwise.
14. We have also taken into account that the work needed to be carried out urgently, because of the risk of unsanitary sewage smells, further pipe rupture and back-surge into sanitary apparatus inside the residential units. Urgency is not of itself a reason to grant dispensation, but we take into account the extreme likely prejudice which would have been suffered by the leaseholders if the Applicant had gone through the full consultation process. We further take into account that there is no obvious difference in the outcome of the process which a full consultation would have produced.
15. In the circumstances, we are satisfied that the leaseholders would not be prejudiced by the dispensation requested.
16. For all of the above reasons we conclude that it is appropriate to exercise the discretion conferred by section 20ZA of the 1985 Act by dispensing with the consultation requirements in relation to the proposed works. We have considered whether any it would be appropriate to impose any conditions. The leaseholders have not incurred any costs in these proceedings and we have not identified any prejudice which could be remedied by the imposition of conditions. We therefore give dispensation without conditions.
17. For all the above reasons, we have made the order set out above.

Name: Judge T Cowen

Date: 24 September 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 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).

31.07.24 Deadline for sending everything to leaseholders
03.08.24 Confirmation to tribunal
14.08.24 Opposition
28.08.24 L's bundle