



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

Case reference : **LON/00AN/LDC/2024/0211**

Property : **96 Wandsworth Bridge Road,
Fulham London SW6 2TF**

Applicant : **Southern Land Securities Limited**

Representative : **Laura Cody of Together Property
Management, Applicant's
managing agents**

Respondents : **The residential leaseholders of the
Property**

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

Tribunal members : **Judge P Korn
Ms F MacLeod MCIEH**

Date of decision : **8 October 2024**

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 we have been referred are in an electronic bundle, the contents of which we 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 works needed to remedy damage caused by water ingress and to prevent future water ingress, including scaffolding costs.
3. The Property is an Edwardian mid-terrace building comprising a commercial unit on the ground floor, residential accommodation at first and second floor levels and a third floor built into the original roofline.

Applicant’s case

4. The Applicant’s managing agents state that they were contacted by the leaseholder of Flat D in relation to water ingress in August 2023. They instructed GHD Contracting Ltd to attend to investigate, and that firm provided a quote for scaffolding in order to investigate more fully. The managing agents then wrote to leaseholders advising that they would be going ahead with the scaffolding because of the damage to Flat D. They also explained to leaseholders that they would be making an application to the tribunal for dispensation from compliance with the section 20 consultation requirements.
5. The managing agents were later asked to approach a second contractor (Wiszenko Partnership) for an alternative quote, which they duly did. On comparing the two quotes the Applicant then decided to go with Wiszenko Partnership as their quote was lower. The managing agents then wrote to leaseholders providing details of the cost of carrying out the external work to resolve the water ingress issue, i.e. in addition to the scaffolding costs.
6. The Applicant has not received any objections from leaseholders regarding the failure to carry out a full section 20 consultation. As for the reason for not consulting fully, in the application the managing agents state that the water ingress was affecting Flat D badly and that this is why they did not consider that the works should be delayed by going through a full statutory consultation.

Responses from the Respondents

7. None of the Respondents has written to the tribunal raising any objections to the dispensation application, and as noted above the Applicant states that no objections have been received from any of the Respondents.

The relevant legal provisions

8. 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”*.
9. 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

10. The Applicant has explained why the works were considered urgent and why, therefore, it seeks dispensation from compliance with the statutory consultation process.
11. 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.
12. In this case, none of the Respondents has expressed any objections in relation to the failure to go through the statutory consultation process, and there is no evidence before us that the leaseholders were in practice prejudiced by the failure to consult. The application has been properly explained and there is evidence within the hearing bundle of some informal consultation and of answers being given to leaseholders’ queries regarding the works. We also accept on the basis of the uncontested evidence before us that the carrying out of the works was urgent for the reasons given.
13. One point that could have been made clearer is whether Wiszenko Partnership were cheaper for all of the works in aggregate or whether they were merely cheaper for the scaffolding works. However, this slight lack of clarity is not by itself a reason to refuse dispensation.

14. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements. In this case the Applicant has explained why the works were urgent and no leaseholders have raised any objections or challenged the Applicant's factual evidence. We therefore consider that it is reasonable to dispense with the consultation requirements.
15. 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.
16. Accordingly, we grant unconditional dispensation from compliance with the consultation requirements.
17. **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

18. There have been no cost applications.

Name: Judge P Korn

Date: 8 October 2024

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.