



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

**Case Reference** : **LON/00AP/LDC/2022/0196**

**Property** : **Delphi Court, 150-152 Fortis Green,  
London, N10 3AT**

**Applicant** : **Delphi Court Freehold Ltd**

**Representative** : **Andrew Creighton Ltd**

**Respondent** : **Leaseholders of Delphi Court, 150-  
152 Fortis Green, London, N10 3AT**

**Representative** : **None**

**Type of Application** : **An application under section 20ZA  
of the Landlord and Tenant Act  
1985 for dispensation from  
consultation prior to carrying out  
works**

**Tribunal Members** : **Mr I B Holdsworth FRICS**

**Date of Decision** : **12 November 2024**

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**DECISION**

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## **Decisions of the Tribunal**

The Tribunal determines that retrospective dispensation should be given from the consultation requirements in respect of the works to repair the car park entrance gates at the property (the “**Car Park Gates repair**”) Delphi Court, 150-152 Fortis Green, London, N10 3AT as required under s.20ZA of the Landlord and Tenant Act 1985 (“**the Act**”) for the reasons set out below.

**This application does not concern the issue of whether any service charge costs will be reasonable or payable. The leaseholders will continue to enjoy the protection of Section 27a of the Act.**

The Tribunal directs the Applicant to send a copy of this Decision to the leaseholders and to display a copy in the common parts of the buildings.

## **The application**

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to dispense with the statutory consultation requirements associated with carrying out car park gates repair to the car park entrance at Delphi Court, 150-152 Fortis Green, London, N10 3AT (the “**property**”).
2. An amended application was received by the First-tier Tribunal dated 17 September 2024 seeking dispensation from the consultation requirements. Directions were issued to the Applicant on 19 September 2024. These Directions required the Applicant to advise the Respondents of the application and provide them with details of the proposed works including costs.
3. The relevant legal provisions are set out in the Appendix to this decision.

## **Parties’ submissions**

4. This matter was determined by written submissions. The Applicant submitted a bundle of relevant materials to the Tribunal.
5. No submissions were received from any Respondent.

## **The background**

6. The property which is the subject of this application comprises nursery premises at ground floor with residential properties above including a penthouse. There is car parking to the rear of the building. The Tribunal are told the sliding car park gates stopped operating in or around June 2022. The Tribunal understand repair works were

subsequently carried to the gates to ensure effective operation. This application seeks retrospective dispensation from the statutory consultation for these works.

7. In the brief statement of case Andrew Creighton Chartered Surveyors explains that the failure of the gates in or around June 2022 reduced the security of the car park. They allege theft took place from parked vehicles after the car park was left unsecured.
8. We are told following the failure of the car park gates a stage 1 consultation was undertaken with the 10 leaseholders. Copies of the letters issued to the leaseholders as part of this initial consultation advising them of the need to carry out works is not provided in the bundle.
9. The Tribunal is provided with two cost estimates for the car park repair works. A quote of £4,987.20 inclusive of Vat from PSL Automation and a second quote of £2,674.52 inclusive of Vat from Polytech. The Directors of the Freehold Company decided to instruct PSL Automation, but no justification is given in the written submissions for the choice of contractor.
10. The Applicant contends that the Car Park Gates repair works were needed urgently to reduce the likelihood of theft from parked vehicles and to improve the overall security of the premises.
11. This determination relies upon a bundle of papers which included the application, the Directions, Application, a brief Statement of Case, and copy of a specimen lease.
16. The only issue for the Tribunal to consider is whether it is reasonable to dispense with the statutory consultation requirements in respect of the Cornice and Turret Works. **This application does not concern the issue of whether any service charge costs are reasonable or payable.**

### **The determination**

17. The Tribunal has considered the papers lodged. There is no objection raised by the Respondent leaseholders.
18. The Applicants demonstrate a need to carry out the works expeditiously to reduce the risk of theft and maintain site security. It is apparent from the submissions site security could only be achieved and maintained through timely gate repair.
19. The Tribunal has not identified any prejudice to the leaseholder caused by the failure to comply with the statutory consultation procedure on this occasion.

20. It is for these reasons the Tribunal is satisfied it is appropriate to dispense with the consultation requirements for the Car Park Gates repair.
21. **It is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the Application.**
22. **This decision does not affect the right of the Respondents to challenge the costs, payability or the standard of work should they so wish.**

**Valuer Chairman:** Ian B Holdsworth **Date:** 12 November 2024

## **Appendix of relevant legislation**

### **Section 20 of the Act**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenant’s being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

## **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).