



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

**Case reference** : **LON/00BF/LDC/2024/0505**  
**P:Paperremote**

**Property** : **2 Park Hill Close Carshalton SM5  
3QW**

**Applicant** : **2 Park Hill Close RTM Company  
Limited**

**Respondent  
leaseholders** : **Mr J Chambers  
Mr G Griffin  
Mr D Crisp  
Mr D McCarthy  
Mrs J Lawson  
Mr B Barnes  
Ms T Smith**

**Type of application** : **To dispense with the consultation  
requirements under S.20 Landlord  
and Tenant Act 1985**

**Tribunal member(s)** : **Mrs E Flint FRICS**

**Date and venue of  
determination** : **26 November 2024  
Remote on the papers**

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**DECISION**

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This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that I was referred to were in a bundle of 80 pages, the contents of which I have recorded.

### **Decision of the tribunal**

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to rebuilding the front boundary wall.
- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

### **The Background**

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by the Applicant on 23 August 2024.
2. The Applicant has applied for dispensation from the statutory consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of rebuilding the front boundary wall.
3. Directions were issued requiring the applicant to prepare bundles to include statements
  - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies and copies of any replies from the tenants;
  - (ii) The Leaseholders were asked to confirm whether or not they would give their consent to the application.
  - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application and provide copies of all documents to be relied upon.
4. The Applicant confirmed that copies of the application were sent to all the leaseholders on 16 October 2024 and displayed within the communal areas on the same date.
5. No objections were received from the leaseholders.
6. The Leaseholders were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was

not included in this application, the sole purpose of which is to seek dispensation.

### **The Evidence**

7. 2 Park Hill Close is a substantial Edwardian detached house converted into seven flats. It is situated on a plot which slopes down to the road in front of the building and consequently is supporting a considerable amount of soil. Immediately in front of the boundary wall is a bus stop, the bus stop and the pavement are used regularly by members of the public.
8. The applicant is the Right to Manage Company, the respondents are the leaseholders of the individual flats.
9. The front boundary wall and the retaining wall to the car park entrance were inspected in the summer of 2023 by Mark Everett FRICS who made a number of recommendations regarding the condition of the walls including either removing or trimming back the trees which were causing the walls to suffer structural damage. Subsequently work was undertaken to the trees in accordance with his recommendations.
10. Mr Everett re-inspected the front boundary wall in August 2024, He noted that although a certain amount of tree work had been undertaken no repairs appeared to have been carried out to the front wall. It was leaning more than in 2023. He was of the opinion that the wall had deteriorated further and required urgent attention since if it were to collapse there could be a danger to the public.
11. The managing agent advised the leaseholders of his advice and that the cost may exceed £2,500 per flat. The leaseholders were asked to provide the contact details for any contractors they wished to be asked to quote for the work. Several leaseholders were in active dialogue with the managing agents regarding the way ahead.
12. However, as the work was urgent and ideally should be completed prior to the winter, the managing agent confirmed that they would seek dispensation from the consultation requirements under the Act since full consultation would take several months in total. No leaseholder objected to the application.
13. At the date of the application the work had not been carried out.

### **Decision**

14. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
15. The Tribunal determines from the evidence before it that the works were necessary, were required to be completed urgently given the time of year and that no prejudice to the lessees has been demonstrated or asserted.
16. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

**Name:** Evelyn Flint

**Date:** 26 November 2024

### **RIGHTS OF APPEAL**

1. 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.
2. 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.
3. 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>
4. 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.

5. 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.