



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

**Case Reference** : **LON/00BK/LDC/2024/0635**

**Property** : **The Brazenhead, 69 Lisson Street,  
London NW1 5DA**

**Applicant** : **Latep Estates Limited, represented  
by Duncan Douglas, managing  
agent.**

**Respondents** : **(1) Veronica Florio  
(2) Arjun Dublish  
(3) Natalya Gerasimenko**

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

**Tribunal Members** : **Judge Professor R Percival  
Ms R Kershaw BSc**

**Venue** : **Remote paper determination**

**Date of Decision** : **17 February 2025**

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**DECISION**

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## **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 which are the subject of the application.

## **Procedural**

1. The landlord submitted an application for dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 24 October 2024.
2. The Tribunal gave directions on 6 December 2024. The directions provided for a form to be distributed to “the respondent” to allow him to object to or agree with the application, and, if objecting, to provide such further material as they sought to rely on. The deadline for return of the form, to the Applicant and the Tribunal, was 3 January 2025.
3. The Applicant only identified one of the three leaseholders as the Respondent in its application, an error that was not corrected in the directions. As a result, the Applicant only sent the form provided to that one leaseholder (the second respondent, Mr Dublish), which is all that the directions required.
4. The reason for that is that the Applicant had previously sought the “consent” of all of the leaseholders to the making of this application, and (they report) the other two leaseholders both responded by granting “consent”. The Applicant confirms that Mr Dublish has not returned the form.
5. The seeking of consent to an application for dispensation under section 20ZA is misconceived, although it is no doubt helpful for a landlord to inform the leaseholders of an application. Nonetheless, that is what has happened in this case.
6. Accordingly, strictly, the other two Respondents have not had the opportunity provided by the form to object to the application. It is of fundamental importance to the exercise of the jurisdiction under section 20ZA that leaseholders have the opportunity to object, and to seek to prove that they would be prejudiced by the granting of dispensation.
7. We have considered how we should proceed. The works have apparently not been carried out (the Applicant ticked the box to indicate this in the application form). They report, plausibly, that the

disrepair presents a danger to those passing by the building. There is, therefore, an objective basis for a claim of urgency, in the light of danger to the public.

8. We have concluded that, if the two other leaseholders have purported to grant consent to the application, it cannot be the case that they object to it, and it is remote in the extreme that they would make a claim for prejudice, such that the Tribunal should grant dispensation on conditions that alleviated that prejudice, as required by : *Daejan Investments Ltd v Benson and others* [2013] UKSC 14; [2013] 1 WLR 854.
9. Accordingly, we conclude that the appropriate approach is to treat the indications of consent as to the same effect as if the first and third leaseholders had indicated in response to the form that they did not object to dispensation.

### **The property and the works**

10. The property is described as a three storey block in Marylebone, comprising a commercial unit on the ground floor and three flats above.
11. The works are necessitated by the disrepair of two chimney stacks on the roof the building, both of which are located on the edge of the roof. The pointing is defective, resulting in loose brickwork. The works require the erection of two scaffolding towers to allow the stripping out and replacing of the defective pointing including the re-siting of lose bricks or their replacement as necessary, and applying a cement fillet.
12. The Applicant received a quotation for £2,800. It is not clear whether this includes VAT or not.

### **Determination**

13. 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>

14. 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.

15. In the first place, as noted above, we accept that the completion of the works is urgent, given the risk to the safety of passers-by occasioned by the disrepair.
16. As noted above, no response has been received from the second Respondent, and we are assuming that the first and third Respondents do not wish to either oppose the application, or claim that they will suffer prejudice. On that basis, the Tribunal must, quite apart from any question of urgency, allow the application: *Daejan Investments Ltd v Benson*.
17. 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**

18. 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.
19. 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.
20. 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.
21. 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:** 17 February 2025

