



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

Case reference : **LON/00BG/LDC/2025/0644**

Property : **Anglesey House, Lindfield Street,
London, E14 6HS**

Applicant : **Poplar Housing & Regeneration
Community Limited**

Representative : **Clarke Willmott LLP**

Respondent : **The Lessees as listed in the schedule**

Representative : **None**

Type of application : **To dispense with the statutory
consultation requirements under
section 20ZA Landlord and Tenant Act
1985**

Tribunal members : **Judge Sarah McKeown**

Date of decision : **27 March 2025**

DECISION

This has been a remote hearing on the papers. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper. The documents to which the Tribunal was referred are in an electronic bundle of 117 pages, the contents of which the Tribunal has noted. The decision made is as set out below.

DECISION

The Tribunal grants the application for retrospective dispensation from statutory consultation in respect of additional scaffolding in the sum of £79,054.37 plus VAT.

This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonableness and/or cost of the qualifying long-term agreement.

The Applicant must serve a copy of this decision on all Respondents and display a copy of this decision in a prominent place in the common parts of the Building in which the Respondents properties' are situate within 14 days of receipt of this decision.

The Application (p.3)

References are to page numbers in the bundle provided for the hearing.

1. Anglesey House ("the Building") is a high-rise 10 storey building with 60 residential flats. A total of 20 flats are held by leaseholders as detailed in Appendix A of the Statement of Case (p.25).
2. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and tenant Act 1985 ("the Act") for retrospective dispensation from consultation in respect of the erection of Additional Scaffolding as detailed below.
3. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if the landlord plans to carry out qualifying works or enter into a qualifying long-term agreement which would result in the contribution of any tenant being more than £250. The cost which is the subject of the application exceeds this threshold.
4. By directions (p.76) dated 20 February 2025 ("the directions") the Tribunal directed that the Applicant had to send to each of the leaseholders (and any residential sublessees and any recognised residents' associations), by 24 February 2025, by email, hand delivery or first-class post:

- (a) Copies of the application form;
- (b) The directions.

5. The Applicant also had to display a copy of the directions in a prominent place in the common parts of the Building. Photographs of this have been provided (p.85).
6. The directions provided that leaseholders who oppose the application had to, by 3 March 2025, complete the reply form and sent to the Applicant and the Tribunal and sent to the Applicant a statement in response with copies of any documents they wished to rely upon. There was also provision for a response from the Applicant.
7. Page 111 of the bundle is a specimen of the letters which were sent to the property addresses of all relevant flats. Page 114 of the bundle is a specimen of the letters which were sent to the “tenants” of all properties the Applicant understood may be tenanted. The Applicant confirms that all of the letters were sent on 24 February 2025.
8. The Tribunal has not received a completed form from any leaseholder or sublessee.
9. The directions provided that the Tribunal would decide the matter on the basis of written submissions unless any party requested a hearing. No such request has been made.

The Applicant’s case

10. The Applicant is the freehold owner of the Building. The office copy entry showing the Applicant’s title (title number EGL402605) is at p.27 of the bundle.
11. The bundle contains two specimen leases. One of them relates to a long residential lease to the council (p.33) and the other is a private individual long residential lease (p.87). They are in the same form, other than the reference to subletting under a statutory tenancy. The Respondent confirmed in an email dated 5 March 2025 that these are the only forms two leases used on the scheme.
12. The leaseholders, who are the Respondents, contribute to the cost of the maintenance of the external structure and roof of the Building and service charges are payable (cl. 4.4 - p.44 and cl. 4(4) – p.93) and the Fifth Schedule (p.59 and p.106) for a reasonable proportion of the Total Expenditure. The Total Expenditure includes the costs incurred by the Applicant in carrying out its obligations under cl. 5 of the Lease (p.45 and p.93), which includes maintenance of the external structure of the Building (cl. 5.5.1.1 – p.46 and cl. 5(5)(a)(i) – p.93) and decoration of the exterior of the Building (cl. 5.5.2.1-5.5.2.3 – p.46 and cl. Cl. 5(5)(b) – p.94).

13. In January 2024, part of the roof was damaged in a storm and, since that time, various investigations and surveys were carried out to ascertain the extent of the damage. A drone survey to assess the initial damage was obtained following the storm, which showed extensive damage to a section of the roof covering the south-west side of the site – large sections of the metal roof sheets had detached from the structure, and some were missing completely. As a result of the drone survey, Bailey Garner consultants were asked to assist with the procurement and delivery of the required works. They were instructed to prepare specifications and drawings for the repair needed to the damaged section of the roof.
14. It is said that the works were urgent and there was immediate risk to health and safety (falling debris). The Applicant appointed a contractor, Niblock (Builders) Limited, to erect scaffolding on the southern and western elevations of the building to allow access to the area where damage had occurred. The scaffolding allowed urgent remedial/safety work to be undertaken but also gave access to enable surveys to be carried out to ascertain the condition of the roof covering generally. Loose roof sheets were removed and temporary weather protection put in place to the area damaged in the storm.
15. Bailey Garner sought specialist advice from a structural engineer (Furness Partnership) and a specialist consultant with experience working with Stramit Speed Deck Systems relevant to the roof covering on the Building (SJL Limited). Following completion of the required site surveys by the specialist contractors, Bailey Garner advised that other parts of the roof were in disrepair and that patch repair of the damaged roof was not feasible (30 September 2024). It was advised that a full roof replacement would be required. An options appraisal was provided, setting out their conclusion that a full roof replacement was needed (p.67).
16. Bailey Garner proposed two potential options (p.72-73):
 - (a) tendering for the work via an existing framework or via an open tender; or
 - (b) proceeding with the roof replacement immediately but pursuing dispensation from the Tribunal.
17. The Applicant felt that option 2 would place them at financial risk as, if dispensation was not granted, their recovery would be capped. Further, it was felt that it was important to allow the leaseholders a say within the procurement process and using option one would allow leaseholders to make their own nominations for a contractors and/or make observations during the process.
18. The Applicant has been advised that to progress the full remedial work, scaffolding would need to be erected to the full perimeter of the Building.
19. The various surveys and investigations highlighted a potential safety risk with the wider roof areas as, in addition to the general need for the Roof Replacement work, there is concern that a failure has occurred such that the roof cladding has detached from the structure. It was, therefore, necessary to erect the Additional Scaffolding around the remainder of the Building to:
 - (a) carry out further investigations and allow a full inspection of all areas of the roof (some areas could not be reached by the scaffolding on the southern and

western elevations) to establish the nature of the roof replacement works, so that this could be tendered and consultation carried out;

(b) to secure any loose fixings or roof cladding to the structure of the roof to eliminate the risk of further damage and debris falling from the roof areas.

20. It was viewed as sensible to use Niblock to erect the scaffolding to the remainder of the Building to limit the cost. Further, due to their previous involvement, it was possible to contract with them through an existing South East Consortium framework, meaning that their rates had been through a procurement exercise. Due to the urgency, they started erecting the scaffolding on 11 November 2024 and this was completed on 20 December 2024.
21. It was decided that redecoration work should also be undertaken whilst the scaffolding was up, as it was required imminently. The same scaffolding can be used for the Roof Replacement work and the external decoration. A Notice of Intention was issued in respect of both on 13 December 2024. It is hoped that work can commence mid-March 2024.
22. The application relies on the urgency of the works and the risk to health and safety as to why scaffolding had to be erected to allow access to the roof to:
 - (a) establishing exactly what is required for the Roof Replacement; and
 - (b) so that contractors can secure the loose roof cladding pending the roof renewal work being carried out.
23. The Applicant's insurers have confirmed that they will settle the claim in relation to the damage caused by the storm (£247,000), and it is anticipated that this should cover most (if not all) of the cost of the scaffolding erected to the southern and western elevations and some of the storm damage repair.
24. It is said that there is no prejudice to the Respondents and the Applicant then addresses the issues set out in *Deajan Investments Ltd* (see below) as the cost had been secured via an existing framework which had previously undergone a full procurement exercise and to delay in erecting the scaffolding would not allow a full assessment of the roof to allow the exact extent of what is required to be determined before the notices of estimates were issued.
25. The Tribunal considered the application and asked the Applicant to provide confirmation of:
 - (a) The cost of the works in respect of which they were seeking dispensation;
 - (b) Any invoice in relation to those works;
 - (c) Whether the Respondents were informed of the cost (or the likely cost) of the works and if so, when and how (with any evidence as to this).
26. The Applicant was asked to provide this by 4pm on 21 March 2024. They made an application seeking an extension of time and, having considered the application, and a response having now been received by the Applicant, the application for an extension of time dated 24 March 2024 is granted.

27. The Applicant's response dated 25 March 2025 confirms:

- (a) The cost of the Additional Scaffolding (the subject of the application) is £79,054.37 plus VAT (i.e. £94,865.25 split between the 60 flats, a cost of £1,581.09 per flat);
- (b) An invoice was attached but this included other works;
- (c) The cost was not discussed with leaseholders due to the urgency, but the leaseholders retain the right to challenge the reasonableness of the costs.

The Respondent's case

28. No Respondent objected to the application (as confirmed by the Applicant in an email to the Tribunal dated 5 March 2025).

The Law

29. Section 20ZA of the Act, subsection (1) provides:
"Where an application is made to a 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 that it is reasonable to dispense with the requirements".
30. The Supreme Court in the case of *Daejan Investments Ltd v Benson and Others* [2013] UKSC 14 set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of section 19 to 20ZA of the Act was to ensure that tenants are protected from paying for inappropriate works and paying more than would be appropriate, went on to state *"it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements"*.

Determination and Reasons

31. The whole purpose of section 20ZA is to permit a landlord to dispense with the consultation requirements of section 20 of the Act if the tribunal is satisfied that it is reasonable for them to be dispensed with. Such an application may be made retrospectively, as it has been made here.
32. The Tribunal has taken account of the decision in *Daejan Investments Ltd v Benson and Others* in reaching its decision.

33. The works were urgent and the Respondents have been informed of the need for the works as set out above. There is no evidence before the Tribunal that the Respondents were prejudiced by the failure of the Applicant to comply with the consultation requirements.
34. The Tribunal is therefore satisfied that it is reasonable to grant unconditional retrospective dispensation from the consultation requirements of s.20 Landlord and Tenant Act 1985 in regard to the works set out herein.
35. The Tribunal make no determination as to whether the cost of the works are reasonable or payable. If any leaseholder wishes to challenge the reasonableness of the costs, then a separate application under s.27A Landlord and Tenant Act 1985 should be made.

Name: Judge S. McKeown

Date: 27 March 2025

Rights of appeal

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).