



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

Case Reference	: HAV/29UQ/LDC/2024/0607
Property	: 2 Clanricarde Gardens, Tunbridge Wells, Kent, TN1 1PE
Applicant	: Clanricarde Gardens Ltd
Representative	: Alexandre Boyes
Respondents	: Mrs S Yadav (Flat 1) Mr R Bossom (Flat 2) Mr & Mrs Parish (Flats 3 & 4) Mr Tchestnov & Ms Chestnova (Flat 5) Mr & Mrs Salaman (Flat 6) Mr & Mrs Reece – (Flat 7 & The Studio) Ms E King (Flat 8) Ms N McCormack (Flat 9)
Type of Application	: To dispense with the requirement to consult lessees about major works s20ZA of the Landlord and Tenant Act 1985
Tribunal	: Judge R Cooper
Decision	: 14/03/2025

DECISION

Summary decision

1. The Applicant's application pursuant to s20ZA of the Landlord and Tenant Act 1985 for dispensation from the statutory consultation requirements is granted without condition.

2. This dispensation does not affect the Respondents' rights to make an application to the Tribunal as to the reasonableness or payability of the service charge under s27A and 19 of the 1985 Act.

The application

3. On 2/10/2024 the Tribunal received an application from Alexandre Boyes on behalf of Clanricarde Gardens Ltd ('the Applicant').
4. 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 respect of qualifying works required to remove the chimney and repair the roof of 2 Clanricarde Gardens, Tunbridge Wells, Kent, TN1 1PE ('the Property').
5. The Applicant seeks dispensation on the grounds that works are urgently required because of water ingress to two flats in the Property.
6. Following directions given on 5/02/2025 the Tribunal received confirmation from the Applicant on 3/03/2025 that no objections had been received to the application.

Consideration

7. The Tribunal considered the application and supporting documents, comprising the lease for flat 1 and HM Land Registry office copy entry for Flat 5, directions, and email correspondence from the Applicant.
8. This was a determination made on the papers and there was no inspection. No party requested a hearing or inspection, and it was not considered necessary for a fair determination of the issues.

Determination and reasons

9. Having considered the application and totality of the evidence, the Tribunal is satisfied that it is reasonable for dispensation to be granted from the consultation requirements under s20 of the Landlord and Tenant Act 1985 ('the 1985 Act') and the Service Charges (Consultation Requirements) (England) Regulations 2003 for the reasons set out below.
10. The purpose of the statutory consultation process is to ensure that leaseholders are given the fullest opportunity to comment on expenditure for which they will be partly liable to pay.
11. The relevant law relating to this application is s20ZA of the 1985 Act which allows the Tribunal to grant dispensation from that statutory

consultation requirement if it is satisfied it is reasonable to do so. In considering the application I have borne in mind the principles set down by the Supreme Court in *Daejan Investments Ltd v Benson & others* [2013] UKSC 14.

12. The Property is described by the Applicant as a converted brick built house with a pitched tile roof. The Property contains 9 flats, three on each floor (ground, first, and second) with a studio in the basement.
13. In its application, the Applicant says that works are urgently required because there is water ingress to flats 7 and 9 through the chimney. The works for which dispensation is sought are, in summary, the removal of the chimney. The Applicant proposed to erect scaffolding to the side of the house, remove the chimney to just below the roof line, install new timber, felt and batten and retile the area where the chimney used to be, and to clear away all debris.
14. Alexandre Boyes, the Applicant's representative, confirmed by email on 3/03/2025 that no objections to the application had been received.
15. The Tribunal was satisfied it was reasonable to grant dispensation under s20ZA of the 1985 as the application is unopposed and the Tribunal is satisfied that water leakage into the two flats may result in damage to the leaseholder's property and interfere with their enjoyment of their flats. It may also cause further structural damage to the roof. There is no evidence suggesting the Respondents would be prejudiced by a failure of the landlord to consult.
16. The Tribunal considered whether it was appropriate to impose conditions on that grant of dispensation. However, it decided it was not because the works were limited in scope and the Respondents have not incurred any costs.
17. The Tribunal, therefore, is satisfied that it is reasonable to grant dispensation under s20ZA of the 1985 Act from the s20 consultation requirements, and for that dispensation to be without condition.
18. The Tribunal makes no determination as to the reasonableness of the works or the reasonableness of the costs of the works and whether they are recoverable from the Respondents through the service charges. Those are matters which the Tribunal may consider on an application to the Tribunal under s27A and 19 of the 1985 Act.

Note: Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office that has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision, and should be sent by email to rpsouthern@justice.gov.uk.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.