



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

<b>Case Reference</b>	:	BIR/37UG/LDC/2024/0023
<b>Property</b>	:	Castle Brewery, London Road, Newark, NG24 4AF
<b>Applicant</b>	:	Castle Brewery Management Company Limited (The Management Company)
<b>Representative</b>	:	Franklin Management Limited
<b>Respondents</b>	:	The 75 leaseholders of the Property (1) Gleeson Developments Limited (landlord) (2)
<b>Type of Application</b>	:	Application to dispense with the consultation requirements for a qualifying long term agreement pursuant to s.20 of the Landlord & Tenant Act 1985 ('the Act') under s.20ZA of the Act.
<b>Tribunal Members</b>	:	I.D. Humphries B.Sc.(Est.Man.) FRICS (Chairman) T.W. Jones FRICS
<b>Date of Hearing</b>	:	N/A Decided on submitted papers
<b>Date of Decision</b>	:	09 April 2025

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**DECISION**

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## **Introduction**

- 1 The Applicant applied to the First-tier Tribunal (Property Chamber) on 2 September 2024 for an order to dispense with the consultation requirements in Section 20 of the Landlord & Tenant Act 1985. The section requires landlords to consult tenants before entering a qualifying long term agreement that would cost each tenant more than £100 in any one year and there are Regulations setting out a timetable and procedure to be followed for consultation.
- 2 However, the Act envisages there may be occasions where for various reasons a landlord may be unable to consult, for example cases of emergency, and there is provision in section 20ZA for a landlord to apply to the Tribunal for 'dispensation' to over-ride the consultation requirements. An application can be made before or after an agreement has been made.
- 3 In this case, the Applicant applied for dispensation from the requirement to consult the Lessees on the cost of a qualifying long term agreement to supply gas to a communal boiler providing hot water to a development of flats. They considered it would benefit the Lessees if the Applicant were able to enter a long term contract with a supplier but as gas prices were changing rapidly they could have changed before the consultation process could have been completed.
- 4 The Applicant did not propose a contract with any particular supplier but general dispensation order that would have provided them with sufficient flexibility to place a contract when required.
- 5 The only issue for the Tribunal is whether or not it would be reasonable to dispense with the consultation requirements. Consenting to the application for dispensation does not preclude a subsequent application to the Tribunal by any of the Respondents to decide whether the cost of the 'qualifying long term agreement' was reasonably incurred or whether the amount paid was unreasonable.
- 6 The Tribunal issued Directions on 12 September 2024 and the case was listed for decision by Tribunal Members on 6 February 2025. The members requested further information from the Applicant to which the Applicant's agent replied on 24 February, following which the Tribunal re-convened on 12 March to reach its Decision.

## **Facts Found**

- 7 The Tribunal did not inspect the property. It relied on the description provided by the Applicant which described it as a development of 75 flats managed by a residents' management company.

## **Relevant Law**

- 8 The Applicant provided the Tribunal with a sample lease relating to a Flat known as 'Plot 7, Castle Brewery, Albert St., Newark' and the other leases were assumed to be similar. It was granted for 200 years from 1 January 2002 at an initial ground rent of £125 p.a. subject to a service charge.
- 9 A landlord would normally have to comply with consultation requirements in section 20 of the Landlord & Tenant Act 1985 before entering a long term contract but in this case, due to the time constraints of changing gas prices, the landlord applied for dispensation of the consultation requirements under section 20ZA of the Act.

- 10 The Tribunal can grant dispensation if satisfied it would be reasonable to do so [Section 20 ZA(1) of the Act] providing it would cause no real prejudice to the tenants [*Daejan Investments Ltd. v Benson & Others* 2013 UKSC 14].

## **Submissions**

### **Applicant**

- 11 The submission was made on the Application Form. It stated:  
*'In this unique block of flats, there is a communal boiler which supplies communal hot water to all the properties. The cost of the gas for this communal boiler is the liability under the terms of the leases of the lessees. The contract rates of gas we have been quoted are only valid for a certain number of days, after which we will be supplied with a new quote which again will only be valid for a short period. Due to how rates for gas contracts work in England and Wales, we will be unable to conduct a full section 20 consultation. If we enter a contract for less than 12 months the contract rates are much higher, and this would prejudice the leaseholders.'*

### **Respondent**

- 12 The Tribunal wrote to the Respondent lessees inviting comment on the application but received no replies.

## **Tribunal Decision**

- 13 As none of the Respondent lessees objected to the application the Tribunal finds there would be no prejudice in granting dispensation. Accordingly, the Tribunal grants dispensation for the Application under section 20ZA of the Landlord & Tenant Act 1985.

I.D. Humphries B.Sc.(Est.Man.) FRICS

Date:

## **Appeal Procedure**

If a party is dissatisfied with the Decision they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days of the date these Reasons have been sent to the Applicant [rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013].

If the person wishing to appeal does not comply with the 28 day time limit, they shall include with the application for permission to appeal a request for an extension of time and the reason for not applying within the 28 day time limit. The Tribunal will then decide whether or not to extend the time limit to allow the application for permission to appeal to proceed. The application must identify the Tribunal decision to which it relates, state the grounds of appeal and the result the party making the application is seeking.

Alternatively, in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, a party may make further application for permission to appeal to the Upper Tribunal (Lands Chamber) on a point of law only. Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 28 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal. Where possible, any such further

application for permission to appeal should be sent by email to [Lands@justice.gov.uk](mailto:Lands@justice.gov.uk) to enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently. The Upper Tribunal (Lands Chamber) may also be contacted by post at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).