



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference : **LON/00AW/LDC/2024/0672**

Applicant : **Colville Freehold Ltd**

Representative : **Andreea Bertaru of FirstPort Group Ltd (applicant's managing agent)**

Respondents : **The 21 leaseholders of the 22 flats listed in the appendix to the application.**

Property : **4,5,6,7 Colville Houses Talbot Road London W11 1JB**

Tribunal : **Judge N O'Brien**

Date of determination : **28 April 2025**

DECISION

Decision of the tribunal

1. Colville Freehold Ltd is substituted as applicant in these proceedings.
2. The Tribunal grants the application for dispensation from the statutory consultation requirements in respect of the subject works namely repairs to the exterior of 4-7 Colville Houses to address water ingress into Flat 5A, 5 Colville Houses.

The Application

3. By an application notice dated 5 December 2024 the Applicant's managing agents applied pursuant to section 20ZA of the Landlord and Tenant Act 1985 (LTA 1985) for dispensation from the statutory consultation requirements in respect of repair works to 4-7 Colville Houses. It appears from the lease attached to the application that 4-7 Colville Houses consists of 4 conjoined terraced buildings which have been converted into flats. The application

indicates that the building is purpose-built although the tribunal assumes that this was in error.

4. The application names the property manager Andreea Bertaru as applicant and names Colville Freehold Ltd as the landlord. It appears to the tribunal that the correct Applicant is the freeholder and that party will be named as applicant in these proceedings. Any objection to Colville Freehold Ltd being named as applicant in these proceedings. should be sent to the tribunal within 14 days of this determination.
5. The works consist of repointing an external wall repairs to 5 Colville Houses. In the application notice the Applicant's representatives states that the works are urgent because water penetration is causing black mould to form inside Flat 5A of 5 Colville House, posing a potential health hazard. The application indicates that the cost of the work to be £5274. However the documentation included in the bundle indicates that the quote provided by the applicant's chosen contractor was a little higher at £5539. The works had been started when the application was made.
6. By directions dated 9 January 2025 the Tribunal directed that the Applicant should, by 24 January 2025, send to the leaseholders and the residential sub-lessees and any recognised tenants association the application, and a brief statement explaining the reasons for the application if not already contained in the application, and the directions, by email or post and affix them to a prominent place in the common parts of the property.
7. By email dated 24 January 2025 the Applicant's managing agent confirmed that they had served the required documentation. They further confirmed by letter dated 13 February 2025 that no response had been received from any of the respondents.
8. The directions provided that if any leaseholder or sublessee objected to the application, he or she should inform the Applicant and the Tribunal by 7 February 2025 with any reply by the Respondent to be filed and served by 13 February 2025. The Tribunal did not receive any objections to the Application.
9. The directions provided that the Tribunal would decide the matter on the basis of written representations unless any party requested a hearing. Neither the Applicant nor any of the Respondents have requested a hearing.
10. **This determination relates to the works described in the application. It does not relate to whether or not the cost of the works was payable, reasonable or reasonably incurred.**

Legal Framework

10. The Service Charges (Consultation Requirements) (England) Regulations 2003 set out the consultation process which a landlord must follow in respect of works which will result in any individual leaseholder contributing more than £250 towards the cost. In summary they require the Landlord to follow a three-stage process before commencing the works. Firstly the Landlord must send each leaseholder a notice (usually referred to as a stage 1 notice) of intention to carry out the works and give the leaseholders 30 days to respond. Then the Landlord must supply the leaseholders with a statement with least two estimates for the carrying out of the proposed works, and permit a further 30-day period for observations. Then, if the landlord does not contract with a contractor nominated by the leaseholders or does not contract with the contractor who has supplied the lowest estimate, it must serve a further notice explaining why.

11. Section 20ZA of the LTA 1985 provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with any or all 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”.

12. In *Dejan Investments Ltd v Benson and others* [2013] UKSC 14 the Supreme Court held that in any application for dispensation under s20ZA of LTA 1985 the Tribunal should focus on the extent, if any, to which the leaseholders are or would be prejudiced by either paying for inappropriate works or paying more than would be reasonable as a result of the failure by the landlord to comply with the Regulations. The gravity of the landlord’s failing or the reasonableness of its actions are only relevant insofar as they are shown to have caused such prejudice. The evidential burden of identifying relevant prejudice lies on the tenants but once they have raised a credible case of prejudice, the burden is then on the landlord/applicant to rebut it.

The Decision

13. The Tribunal determines that it will unconditionally grant the dispensation sought. It appears that the contribution in respect of each flat will just exceed the statutory £250 limit. The lease for the affected flat is attached to the application. By Clause 3(4) the leaseholder has covenanted to pay 1/19 of 11/12th of the relevant costs. The leaseholder of flat 5A’s share of the cost of these works will be £267.71, assuming that the freeholder proceeded to instruct its chosen contractor Aspect. There is no evidence of any prejudice to the Respondents, and none have objected to the application. The works were urgently required at the time the application was made.
14. This determination does not affect the rights of the leaseholders to apply for a determination under s27A of the LTA 1985 in respect of the cost of the works, or the cost of these proceedings, save as to the question of compliance with the consultation requirements.

15. The Applicant is reminded that, as stated in paragraph 8 of the directions, it is the responsibility of the Applicant to serve a copy of this decision on all the affected lessees.

Name: Judge N O'Brien

Date: 28 April 2025

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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).