



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

**Case reference** : **MAN/00BY/LDC/2023/0013**

**Property** : **1-12 Glovers Court, North Park Road, Kirby, Liverpool,  
Merseyside L32 2DP**

**Applicant** : **Onward Homes Limited**

**Respondents** : **Various Long Residential Leaseholders  
(listed in Schedule 2)**

**Type of  
Application** : **Landlord & Tenant Act 1985 - Section 20ZA**

**Tribunal  
Members** : **Tribunal Judge S Moorhouse LLB  
Mr J Platt FRICS**

**Date of Paper  
Determination** : **4 October 2023**

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**DECISION**

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## **DECISION**

1. Pursuant to section 20ZA of the Landlord and Tenant Act 1985 the tribunal makes a determination to dispense with the requirement to consult with the Respondents on the works to 1-12 Glovers Court, North Park Road, Kirby, Liverpool, Merseyside L32 2DP described in Schedule 1.

## **REASONS**

### **The Application**

2. The application ('the Application') was made on 3 February 2023 by Onward Homes Limited ('the Applicant'). It seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') in relation to the statutory consultation requirements prescribed by section 20.
3. Dispensation is sought to carry out certain works described in Schedule 1 ('the Works'). The Works are to be carried out to 1-12 Glovers Court, North Park Road, Kirby, Liverpool, Merseyside L32 2DP ('the Property'), situated within the North Park Road conservation area and comprising 12 individual flats within three low rise cavity brickwork blocks beneath a traditional pitched slate roof. The Applicant social landlord is the freehold proprietor of the Property and the Respondents are the leaseholders of the individual residential flats.
4. Directions were issued on 15 June 2023. Pursuant to these the Applicant submitted a bundle of papers including a statement of case and supporting documents.
5. HMCTS has confirmed that none of the Respondents submitted a statement opposing the Application.
6. The Applicant indicated that it would be content with a determination on the papers. The tribunal considered this to be appropriate because none of the Respondents opposed the Application, neither party had requested a hearing and because there was sufficient information before the tribunal to reach a decision. It was unnecessary to conduct an inspection of the Property in view of the matters in issue.

### **The Law**

7. Extracts from sections 20 and 20ZA of the Act are reproduced in Schedule 3. Section 20ZA subsection (1) provides that the tribunal may make a determination to dispense with consultation requirements 'if satisfied that it is reasonable to dispense with the requirements'.
8. The tribunal considers the Supreme Court case of *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 ('*Daejan*') to be the leading case on dispensation. In *Daejan* Lord Neuberger stated that in deciding pursuant to section 20ZA whether it is reasonable to dispense with consultation requirements, a tribunal should consider whether any relevant prejudice would be suffered by the leaseholders. Lord Neuberger stated that whilst the legal burden of proof rests throughout on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered rested on the tenants. Lord Neuberger went on to hold that a tribunal is permitted to grant dispensation on

terms, including compensating leaseholders for any prejudice suffered by requiring a landlord to reduce the amount claimed as service charge, and including an order for costs.

### **Findings of fact and Reasons for decision**

9. In this case, none of the Respondents have submitted a statement of case opposing the Application. The cost of the Works is to be met in part by the Applicant and in part by way of service charge, the service charge element being drawn from the reserve fund. The respective contributions are identified in consultation notices dated 3 February 2023 as being £248,243 (Applicant) and £53,613 (reserve fund).
10. The Applicant has confirmed that a section 20 process was carried out and has evidenced this. However the process was defective because the Applicant was unable to obtain more than one quotation. Three successive tender exercises were carried out, resulting in no bids on the first occasion and single bids on the subsequent occasions. The Applicant has accepted the most recent single bid and has awarded the contract since costs have been increasing and the contractor would have been unable to hold the price. The Works are considered by the Applicant to be necessary in order to improve comfort and security for the residents.
11. There is no evidence before the tribunal that any of the Respondents consider themselves to be prejudiced in any way with the Works proceeding on the basis of a single bid. Indeed the Works are intended to improve the thermal comfort and security of residents, and the bulk of the cost is being met by the Applicant. The tribunal finds therefore that there is no relevant prejudice identified by any Respondent, suffered as a consequence of the Applicant's intention to proceed with the Works whilst being unable to meet in full the requirements for consultation prescribed by section 20.
12. The Respondents have made no representation as to any condition the tribunal might impose, and there is no evidence of any cost being incurred by the Respondents that should appropriately be met by the Applicant.
13. In these circumstances, the tribunal considers it reasonable to dispense with consultation requirements unconditionally. Accordingly the tribunal makes a determination under section 20ZA of the Act to dispense with the requirement to consult with the Respondents under section 20 in relation to the Works.
14. The tribunal expresses no view as to whether any costs associated with the Works are reasonable in amount, whether the Works are of a reasonable standard or whether the element intended to be recovered by way of service charge is payable, within the meaning of sections 19 and 27A of the Act. The tribunal's decision does not include or imply any determination of such matters.

**S Moorhouse**

Tribunal Judge

## **Schedule 1**

### **‘the Works’**

The Works are as follows:-

- (a) to replace all flat windows, including frames;
- (b) to replace all flat doors, including frames; and
- (c) to replace all canopies.

**Schedule 2**  
**The Respondents**

1 Glovers Court	Mr & Mrs Whelan
2 Glovers Court	Mr & Mrs Pilnick
3 Glovers Court	Ms Smith
4 Glovers Court	Mr & Mrs Bucknall
5 Glovers Court	Mrs Moore
6 Glovers Court	Mr & Mrs Miller
7 Glovers Court	Mrs Evans
8 Glovers Court	Mrs Skeaping
9 Glovers Court	Mr Colligan
10 Glovers court	Mrs Nolan
11 Glovers Court	Mrs Riley
12 Glovers Court	MrsFerries

## **Schedule 3**

### **Extracts from legislation**

#### **Landlord and Tenant Act 1985**

##### **Section 20**

(Subsections (1) and (2):)

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either -

(a) complied with in relation to the works or agreement, or

(b) dispensed with in relation to the works or agreement by (or on appeal from) a tribunal.

(2) In this section 'relevant contribution', in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works under the agreement.

##### **Section 20ZA**

(Subsection (1))

(1) 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.