FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	**LON/00BK/LDC/2025/0653**
Property	:	**3 Shouldham Street, London, W1H 5FG**
Applicant	:	**Anglo Scottish Developments Limited**
Representative	:	**Gunnercooke LLP, Solicitors**
Respondents	:	**(1) Lidia Ivanova** **(2) Celio Lucchese**
Representative	:	**N/A**
Type of application	:	**For dispensation under section 20ZA of the Landlord & Tenant Act 1985**
Tribunal members	:	**Tribunal Judge I Mohabir**
Date of decision	:	**14 May 2025**

DECISION

Introduction

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 ("the Act") for *retrospective* dispensation with the consultation requirements in respect of roof works at the property known as 3 Shouldham Street, London, W1H 5FG ("the property").

2. The Applicant is the freeholder of the property and the Respondents are the long leaseholders.

3. The property is described as being ground floor retail/office space with two residential apartments above, one apartment on first floor, one apartment occupies second and third floors.

4. It is the Applicant's case that in or about the winter of 2024, it intended to replace the roof on the property due to persistent water ingress over some time. The Applicant had carried out statutory consultation under section 20 of the Act in relation to these works.

5. However, due to the location and nature of the building, the roof could only be properly surveyed once scaffolding had been erected. Consequently, once the scaffolding was erected a condition and defects report was carried out by the applicant's surveyor, Building Consultancy Ltd ("the report"). The report highlighted a number of additional items of work which were not included in the previous consultation, but which would have to be carried out on an urgent basis in order to prevent further water ingress and deterioration of the roof.

6. The report concluded that:

> *"It is our firm opinion that undertaking all of the above works are essential in the short term not only to prevent water ingress but also to prevent further deterioration of the roof which is at the end of its intended life. From a cost perspective completing all these works in a single package is the logical solution whilst the access scaffold is in place. Otherwise, there is a threat of an unnecessary duplication of cost as far as scaffolding and contractors, overheads and profits are concerned."*

7. The additional roof works that were required and identified in the report were:

    a. Remedial Repairs to External Gable End Elevation
    b. Remedial Repairs to Chimney Stack
    c. Remedial Repairs to Dormer Windows
    d. Redecorations ancillary to the remedial repair works
    e. Any other ancillary work such as asbestos reporting, scaffolding etc.

8. The additional work commenced on or around 5 or 6 December 2024. The Works were completed on 22 January 2025 at a cost of £24,328 including VAT.

9. Although formal consultation had not taken place in relation to the additional roof work, the following steps were taken by the Applicant to engage with the Respondents in relation to the proposed additional roof works:

    a. A copy of the report was issued to the leaseholders on 8 November 2024.

    b. Thereafter the Applicant's structural engineer and building surveyor formulated a specification of works. The building contractor engaged in respect of the original roof works was invited to tender for the works, along with a second building contractor recommended by the Applicant's building surveyor. They received Able's (who was one of the contractors who tendered for the work) tender packs on 11 November 2024.

    c. On 14 November 2024 the tender packs were provided to each of the leaseholders and they were invited to nominate their own building contractors for the works.

    d. Tender responses were received by 2 December 2024, with details of the quotes communicated to the leaseholders on 4 December 2024. The applicant engaged the contractor who had provided the cheapest quote.

10. The application to the Tribunal is dated 12 February 2025. On 28 March 2025, the Tribunal issued Directions requiring the Applicant to serve the Respondents with a copy of the application, which apparently was done. The Respondents were directed to respond to the application stating whether they objected to it in any way.

11. None of the Respondents have objected to the application.

Relevant Law

12. This is set out in the Appendix annexed hereto.

Decision

13. As directed, the Tribunal's determination "on the papers" took place on 14 May 2025 and was based solely on the documentary evidence filed by the Applicant. As stated earlier, no objections had been received from any of the Respondents nor had they filed any evidence.

14. The relevant test to the applied in an application such as this has been set out in the Supreme Court decision in ***Daejan Investments Ltd v Benson & Ors*** [2013] UKSC 14 where it was held that the purpose of the consultation requirements imposed by section 20 of the Act was to ensure that tenants were protected from paying for inappropriate works

or paying more than was appropriate. In other words, a tenant should suffer no prejudice in this way.

15. The issue before the Tribunal was whether dispensation should be granted in relation to the requirement to carry out statutory consultation with the leaseholders regarding the overall roof works. As stated in the directions order, the Tribunal is not concerned about the actual cost that has been incurred.

16. The Tribunal granted the application for the following main reasons:

(a) The Tribunal was satisfied that the Respondents had been served with the application and the evidence in support and there has been no objection from any of them. The Tribunal attached significant weight to this. The only "objection" appears to be the points raised by the First Respondent, Ms Ivanova (also known as Denino), in email correspondence with the Applicant's managing agent and its solicitors about the incorrect address for her flat being used and seeking a breakdown of the costs incurred. Indeed, Ms Ivanova (or Denino) who is a qualified Architectural Interior Designer, expressly agreed that the roof works as a whole were required.

(b) The Tribunal was satisfied that the additional roof works identified in the report could not have been identified until the scaffolding for the roof replacement work had been erected.

(c) The report concluded that the additional roof works were required to be carried out in the short term to prevent further water ingress. Undoubtedly, the Respondents would have suffered financial prejudice by the additional costs incurred, for example, the cost of scaffolding having to remain erected for longer or being dismantled and re-erected if the Applicant had carried out formal consultation. There may also have been further loss of amenity caused by water ingress in the interim.

(d) Despite the shortness of time, the Applicant had kept the Respondents fully informed of the need for the additional roof works and had in fact carried out informal consultation with them to the extent that their comments and/or observations were sought together with an invitation to nominate their own proposed contractor(s) from whom a tender could be obtained.

(e) Importantly, the real prejudice to the Respondents would be in the cost of the works and they have the statutory protection of section 19 of the Act, which preserves their right to challenge the actual costs incurred by making a separate service charge application under section 27A of the Act.

17. The Tribunal, therefore, concluded that the Respondents were not being prejudiced by the Applicant's failure to consult, and the application was granted as sought.

18. It should be noted that in granting this part of the application, the Tribunal makes no finding that the scope and cost of the repairs are reasonable.

Name: Tribunal Judge I Mohabir **Date:** 14 May 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).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 20

(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) the appropriate 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 or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  (a) an amount prescribed by, or determined in accordance with, the regulations, and
  (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in

accordance with, the regulations is limited to the amount so prescribed or determined.

Section 20ZA

(1) Where an application is made to a leasehold valuation 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.