



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

**Case reference** : **LON/00BJ/LDC/2025/0643**

**Property** : **8 Schubert Road, SW15 2QS**

**Applicant** : **Goodwyn Realty Limited**

**Representative** : **Eight Asset Management Lt**  
**Charlotte Hanks (Flat 1)**  
**Jack Theo Ttaris (Flat 2)**

**Respondents** : **Ella Poppy Hussey (Flat 3)**  
**Chloe Victoria Lisa Halliday (Garden Flat)**

**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** : **13 May 2025**

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**DECISION**

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## **Introduction**

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for *prospective* dispensation with the consultation requirements in respect of remedial roof works at the property known as 8 Schubert Road, London, SW15 2QS (“the property”).
2. The Applicant is the freeholder of the property and the Respondents are the long leaseholders.
3. The property is described as a house that has been converted into 4 flats.
4. As a result of structural movement, the Applicant commissioned a building survey report. The report was carried out by EMA Engineering Group Limited following an inspection of the property on 28 October 2024 (“the report”).
5. The findings made in the report were that:

*“the structural issues observed, including the floor slope in the first-floor flat, deformation of the spine wall, noticeable cracks on the ground floor, and the floor drop at the entrance to the ground-floor flats, are all likely due to inadequate support for the original 2m-wide opening at the lower ground floor. This opening, connecting the living room to the hallway, relies on an original support structure that appears to have lost its strength and load-bearing capacity over time. As a result, this support continues to deflect, contributing to the ongoing movement and instability in the floors and walls above. Without intervention, this deflection is expected to progress, exacerbating structural issues in the flats above and potentially compromising overall stability.”*

6. The recommended immediate works were:

*“Immediate Inspection: Start by removing the plaster around the support at the lower ground floor level to expose the original structure. Additionally, remove plaster from the spine wall at the first-floor level, particularly in the corridor area, to inspect the extent of wall deformation and assess its current condition. This inspection will allow for structural calculations to determine the load-bearing capacity of the original support and the spine wall, enabling the design of an appropriate reinforcement or replacement solution.*

*Reinforcement: Based on the inspection and calculations, reinforce the lower ground floor opening with a suitable support system to ensure structural stability. Address any identified issues with the spine wall on the first floor, implementing remedial work as needed to prevent further deformation. This reinforcement should be carefully tailored to restore and enhance the load-carrying capacity of these elements.*

*Monitoring Plan: Implement a structured monitoring plan to observe the reinforced areas over time. Regular checks will help detect any ongoing movement or deflection, allowing for timely adjustments if needed. This proactive approach is essential to ensure the continued stability and integrity of the structure above.”*

7. On 20 November 2024, a section 20 Notice of Intention was served on the Respondents by Eight Asset Management on behalf of the Applicant. The notice stated that the Applicant was proposing to carry out the following works:

*“a. Structural Design*

*b. Installation of a new beam or reinforcement of the existing beam.*

*c. Remediation works to structurally support the deformed spine wall to address the deflection and restore stability.”*

8. The justification for doing so was the findings made in the report. It was intended to obtain estimates limited to intrusive inspection and measurement and temporary supports and propping. Observations were invited from the Respondents by 28 December 2024.
9. By an application dated 29 January 2025, the Application made this application seeking prospective dispensation in relation to the proposed work. However, a Notice of Estimates was not served until 7 April 2025, after the application had been made, providing two estimates of £27,564 and £17,152.50.
10. On 18 March 2025, the Tribunal issued Directions requiring the Applicant to serve the Respondents with a copy of the application. The index page in the hearing bundle confirms that this was done, but does not state when service took place. 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 13 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 difficulty with the application is that it was not entirely clear what qualifying works the Applicant was seeking dispensation from and why. The application states in bare terms that:

*“FOLLOWING A RECENT BUILDING SURVEYOR CARRYING OUT A SURVEY, IT WAS FOUND THAT THE BUILDING HAS STRUCTURAL*

*DEFECTS CAUSING MOVEMENT IN THE BRICKWORK. THIS WAS FOUND ON THE BASEMENT LEVEL AND IS A HEALTH AND SAFETY ISSUE.”*

15. The application further states that the basis on which dispensation is sought is that:

*“THE HEALTH AND SAFETY ISSUE AND THE BUILDING WALLS HAVE MOVED MORE THAN 5MM IN THE LAST YEAR.”*

16. This has to be contrasted with the Notice of Intention, which refers to works for structural design, installation of a new beam or reinforcement of the existing beam and remediation works to structurally support the deformed spine wall to address the deflection and restore stability.
17. This has to be further contrasted with the findings and recommended works found in the report., which are not entirely consistent with what is stated in the application and the Notice of Intention.
18. Unhelpfully, the application has not been prepared or made in the clearest terms. Arguably, the stated “health and safety” reason giving rise to the application and the urgent basis on which dispensation is sought is not made out on the facts of the case. The Applicant has not filed or served any statement in support as directed, which may have provided some explanation or assistance to the Tribunal. It is assumed that the possible reason why a Notice of Estimates was served by the Applicant after the application had been made is in the event that it was not granted and the Applicant was required to carry out statutory consultation.
19. The relevant test to be 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.
20. 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.
21. On balance, 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.

- (b) Following the findings made in the report, the recommendation was to carry out *immediate* (my emphasis) investigation about the cause(s) of the structural movement of the property and to carry out reinforcement work as recommended in the report. The Tribunal was satisfied that the Structural Engineer who carried out the report was sufficiently concerned about the structural integrity of the property to recommend that these works be carried out immediately.
  - (c) It follows, that the Tribunal was satisfied that any delay incurred by the Applicant having to carry out statutory consultation would possibly have resulted in a health and safety risk to the occupants of the building. In addition, potentially any further delay could result in greater remedial costs being incurred by the Respondents as a result of more structural movement occurring in the interim.
  - (d) 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.
22. The Tribunal, therefore, concluded that the Respondents were not being prejudiced by the Applicant's failure to consult, and the application was granted. However, the dispensation granted by the Tribunal is limited to the immediate inspection, reinforcement and monitoring works recommended in the report only.
23. 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:** 13 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.