



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

**Case Reference** : **MAN/00DA/LDC/2024/0049**

**Property** : **50/54 Vicar Lane, Leeds LS1 7JH**

**Applicants** : **Evolve Estates**

**Respondents** : **(1) Tsar Investments Limited  
(2) Tuscola (199) Limited**

**Type of Application** : **Landlord & Tenant Act 1985 – Section 20ZA –  
Dispensation of Consultation Requirements**

**Tribunal Members** : **Judge J Stringer  
Tribunal Member J Gallagher, MRICS**

**Date of Decision** : **14<sup>th</sup> May 2025**

---

**DECISION**

---

## **DECISION**

1. The requirement to consult with the respondents in accordance with section 20 of the Landlord and Tenant Act 1985 is dispensed with, pursuant to section 20ZA Landlord and Tenant Act 1985, in respect of the works identified in the email from Mr Daniel Moon, MRICS, of Reynold Associates, Chartered Building Surveyors, dated 6<sup>th</sup> June 2024.

## **REASONS**

### **Preliminary Matters**

1. The applicant in the application notice agreed to the appeal being considered on the papers without an oral hearing. There has been no response to the application from the respondents. Having reviewed the written evidence and noted the applicant's consent, and the absence of any objection from the respondents, the Tribunal concluded pursuant to Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 that it is able to decide the matter without a hearing.
2. In accordance with the *'Practice Direction from the Senior President of Tribunals: Reasons for decisions'*, this decision refers only to the main issues and evidence in dispute, and how those issues essential to the Tribunal's conclusions have been resolved.

### **Background to the application**

3. Evolve Estates have applied pursuant to section 20ZA of the Landlord and Tenant Act 1985 (LTA 1985), and by way of an application notice dated 10<sup>th</sup> July 2024, for dispensation of consultation requirements provided for by section 20 LTA 1985. The application is in respect of consultation (and service charge obligations) relating to two leases concerning 50-54 Vicar Lane, Leeds LS1 7JH (although both leases refer to the relevant property being 50-56 Vicar Lane, Leeds LS1 7JH).
4. The landlord in respect of both leases (and Evolve Estates principal for the purposes of the property management) is Grainrest Limited.
5. The respondents to the application are: firstly, Tsar Investments Limited (the first respondent) – the lease submitted in support of the application indicates that the first respondent is the lessee of the first floor, 50-56 Vicar Lane, Leeds LS1 7JH; secondly, Tuscola (199) Limited (the second respondent) – Land Registry documents and the associated lease indicate that the second respondent is the lessee of second, third and fourth floor, 50-56 Vicar Lane, Leeds LS1 7JH.

6. The lease submitted in relation to the first respondent details at clauses 7 and 10 service charge obligations in relation to retained and common parts, and service charge obligations in respect of the second respondent are detailed in Part 1 of Schedule 7 to the submitted lease.
7. The applicant seeks dispensation on the following basis – *“The property is located in a prominent location between the newly developed Victoria Gate shopping centre. The property is a purpose-built block containing mixed use retail units and residential units on the upper floors which have been sold on a long leaseholder. The building is grade 2 listed and requires immediate works for Health and Safety concerns. The Roof is made up of a mixed mastic asphalt and slate roof system. The roof has various splits and penetrations in the asphalt. The windows are of timber construction and the existing dormer window frames and glazing are in poor condition... The building has undergoing a survey by a Charter Building Surveyor who has advised an immediate health and safety concern due to the proximity of the slipped tiles and precarious lead flashing detail hanging above the public walkway on George Street and Vicar Lane and has recommended immediate action is taken to prevent any public liability issues arising. We have instructed scaffold to go up on 3 sides of the building (Vicar Lane, George Street and Harwood Street to deal with all issues raised which includes the slipped tiles. Provisional cost of repair is £116,527 plus VAT”*.

## **Issues**

8. The following issues were identified for determination by the Tribunal:
  - a. Should the Tribunal permit the statutory consultation requirements under section 20 LTA 1985 in relation to works to be dispensed with in accordance with section 20ZA LTA 1985?
9. Given the nature of the works and the date of the application (and other collateral evidence in the bundle) the Tribunal assumes that the works have been undertaken and that the applicant, in effect, seeks retrospective dispensation.

## **The Law**

10. Extracts from sections 20 and 20ZA of the Act are reproduced in Schedule 1, below. 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”*.
11. The Tribunal has had regard to the guidance on dispensation given by the Supreme Court in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 (*‘Daejan’*), in particular, 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.

12. The Tribunal note 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, and that a Tribunal is permitted, subject to evidence, 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.

## **Evidence**

13. The Tribunal was provided with a 122 page bundle containing the application, title documents and copy leases, the reports of Steven Devine, Regional Facilities Manager, Evolve Estates and Daniel Moon, MRICS, of Reynold Associates, Chartered Building Surveyors, and quotations for works from Phoenix Roofclad Limited (dated 27<sup>th</sup> June 2024) and MCT (dated 20<sup>th</sup> June 2024).
14. The Tribunal has carefully considered all the available written evidence.

## **Relevant Evidence and the Tribunal's Conclusions on the Issues**

15. Neither of the Respondents has submitted a response to the application, there is no evidence to indicate that either respondent object to the application, nor is there any evidence before the Tribunal that indicates that either respondent consider themselves to be prejudiced in any way by the absence of a section 20 consultation exercise.
16. The applicant's evidence from Mr Devine and Mr Moon indicates that urgent works are (or were at the time of the application) required in relation to the roof due to potentially significant health and safety risks, both to occupants of, or visitors to, to the building (due to leaks and loose slates or leadwork), and the general public in the streets around the building (due to loose tiling and/or leadwork), the specific works identified, and for which dispensation is sought, being in relation to access to the roof, replacement or refixing of loose slates, redressing or replacing leadwork as necessary, and necessary remedial works to top floor windows.
17. The Tribunal is satisfied that the applicant's proposed repairs are (or were) in accordance with the expert recommendations.
18. The Tribunal is satisfied that the application has been served on the respondents, the service addresses being consistent with the information in the leases or Land Registry documentation.
19. The Tribunal finds that there is no relevant prejudice to either respondent as a consequence of the applicant proceeding with the works without first carrying out the section 20 consultation.
20. The respondents have made no representation as to any condition the Tribunal might impose in granting dispensation, and there is no evidence of any cost

being incurred by the respondents that should appropriately be met by the applicant.

21. In these circumstances, the tribunal considers it reasonable to dispense with consultation requirements unconditionally.
22. 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, as detailed in the email from Mr Moon dated 6<sup>th</sup> June 2024.
23. The Tribunal makes no findings, and expresses no view, as to whether any costs associated with the works for which dispensation has been granted are reasonable in amount, whether the works were necessary or of a reasonable standard, or whether the costs intended to be recovered by way of service charge are contractually payable under the tenancy agreements or are within the meaning of 'relevant costs reasonably incurred' in sections 19 and 27A of the Act. No such applications are currently before this Tribunal and the Tribunal's decision does not include or imply any determination of such matters.

J Stringer

Tribunal Judge

14<sup>th</sup> May 2025

## **Schedule 1**

### **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.