FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AM/LSC/2024/0615** **LON/00AM/LDC/2025/0683**
Property	**:**	**Various Blocks on Stamford Hill Estate: Quantock House, N16 6RW; Malvern House, N16 6RR; and Wicklow House, N16 6RL**
Applicant	**:**	**Southern Housing**
Representative	**:**	**John Beresford, Counsel**
Respondent	**:**	**Various Leaseholders**
Representative	**:**	**N/A**
Type of application	**:**	**For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985 (1)** **For the determination of an application to dispense with the consultation requirements under s.20ZA of the 1985 Act (2)**
Tribunal members	**:**	**Judge H Carr** **Mr D Jagger FRICS** **Ms J Delal**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of hearing	**:**	**June 9th 2025**
Date of decision	**:**	**July 14th 2025**

DECISION

Decisions of the tribunal

(1) The tribunal determines that the sum of £8,361,368.64 is payable in respect of the major works to the roof and associated works. The Respondents are therefore liable to pay their share of the total costs as set out in their respective leases.

(2) The tribunal makes no determination on the application to dispense with the consultation requirements as it determines that the requirements have been complied with.

(3) The tribunal makes the determinations as set out under the various headings in this Decision

(4) The tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service payable by the Respondent in respect of the service charge years

2. The Applicant also seeks a determination pursuant to s.20ZA of the 1985 Act as to dispensation from the consultation requirements.

3. On 20th May 2025 the Tribunal consolidated the two applications.

The hearing

4. The Applicant was represented by Mr Beresford of Counsel at the hearing. Also attending for the Applicant were Mr Osman, Director of Home Ownership, Ms Rebecca Mills, Project Manager, Mr M Rahman Director, Mr Jolly Head of Leaseholders and Ms Tumi Adenipenun, Solicitor with the Applicants.

5. The Respondents did not attend.

6. Immediately prior to the hearing the parties provided a copy of the settlement reached between those leaseholders represented by Comptons Solicitors LLP and the Applicant. The settlement is referred to in Paragraph below.

The background

7. Southern Housing, a registered provider of social housing, is the freehold owner of the Stamford Hill Estate N16, which comprises in total 516 flats. These blocks include Quantock House, Malvern House and Wicklow House. Quantock House contains 87 flats, 24 of which are owned by respondent leaseholders; Malvern House contains 102 flats, 39 of which are owned by respondent leaseholders; Wicklow House contains 53 flats, 15 of which are owned by respondent leaseholders.

8. The blocks were constructed around 1932 and are three to four storeys high. The roofs of the blocks are timber-framed, pitched and of tiled construction. Except for Quantock House, the roofs have not been replaced since construction. It appears that the roof of Quantock House was replaced some 56 years ago.

9. Various reports were commissioned by Southern Housing all of which concluded that the roofs should be replaced and following a consultation, in 2017 Southern Housing entered into a qualifying long term agreement with Chas Berger & Sons Ltd to carry out the works.

10. Neither party requested an inspection, and the tribunal did not consider that one was necessary.

11. The Respondents hold long leases of various flats within the blocks. The leases require the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

12. Originally there were 78 Respondents to the applications. 52 of the Respondent lessees are represented by Comptons LLP. Those lessees reached a settlement agreement with the Applicant on 3rd June 2025 which was the subject of a consent order dated by which they withdrew their opposition to the applications.

13. Following the settlement, Dr Araripe Garbonnini, leaseholder of flat 5 Malvern House, who was unrepresented, informed the tribunal that he had reached a settlement with the Applicant on the same terms as the leaseholders represented by Comptons LLP.

14. As a consequence the FTT no longer has jurisdiction over the Respondents represented by Comptons, nor over Dr Garnonnini. The tribunal therefore removes them from these proceedings using its powers under rule 10 of the Tribunal Procedure (First Tier Tribunal) Property Chamber) Rules 2014.

15. This determination is therefore in relation to the 25 leaseholders who have not reached a settlement with the Applicant. These leaseholders are unrepresented

The issues

16. At the start of the hearing the Applicant identified the relevant issues for determination as follows:

    (i) The payability and/or reasonableness of service charges relating to major works for roof repairs totalling £8,361,368.64.

    (ii) whether the landlord (a) has complied with the consultation requirement under section 20 of the 1985 Act or (b) should be given dispensation from compliance with those requirements.

17. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

The argument of the Applicant

The approach that the Tribunal should take

18. The Applicant argues that as the remaining Respondents have not raised any objections to either application nor have they fielded any evidence in response. The Applicant therefore submits that it is now too late for the remaining Respondents to raise any objections to these applications. Nor is it the role of the FTT to raise such arguments on their behalf. There is no procedural unfairness with this approach as the remaining Respondents have been given every opportunity to partake in these proceedings but have not done so.

The payability and reasonableness of the service charges demanded in connection with major works to the roof of the property

19. Counsel explained the service charge provisions in each of the three types of lease held by the lessees in dispute. Each of the leases in his submission incorporates a broadly drafted repairing covenant that requires Southern to "keep in good and substantial repair and condition (and whenever necessary rebuild and re-instate and renew and replace all worn and damaged parts)" the main structure of each of the Blocks which includes the roofs.

20. Counsel argued that the service charge provisions in the lease entitled the Applicant to recover the costs of the works through the service charge provisions in the lease.

21. Counsel explained why it was reasonable for the works to be carried out, drawing on the expert reports provided in the bundle. The Applicant commissioned reports by Bailly Garner LLP in 2013 and 2016 which concluded that the roofs of the Blocks had reached the end of their serviceable lives and that it was uneconomical to repair them. Counsel also referred to the expert report of Mr Roger de Boehmier of Rikmus at pages 806 -903 of the bundle.

22. Mr de Boehmier concluded

> In conclusion, the combined policy decision to renew roof coverings was underpinned by various technical assessments confirming that these three roofs had reached their "end of life" condition stage. The parapet gutter waterproofing to the roofs was over 90 years old, had been patch repaired multiple times and yet remained a primary route for rainwater leaks - and so this major roof element had no remaining functional life and could not reasonably be resolved by a further patch repair approach."

23. The Applicant therefore submits that the decision to carry out the works was reasonable having regard to the reasonableness test imposed by section 19 of the Landlord and Tenant Act 1985. Drawing on the authorities he argued that it is not the role of the FTT to substitute its decision for that of the Applicant.

24. As a result of the proven need for the works, the Applicant entered into a qualifying long-term agreement for the provision of planned maintenance works with Chas Berger and Son Ltd.

25. It then commissioned Chas Berger and Son Ltd to carry out works under the terms of the Agreement to replace the roofs of the Blocks.

26. The works also included the following associated works.

(i) Installation of new dormer window insulation and zinc coverings;

(ii) Remedial repairs to the chimney stacks;

(iii) Renewal of the existing guardrail system to the roofs;

(iv) Lightening Conductor renewal;

(v) Brickwork repairs to chimney stacks;

(vi) Cable management within the roof space;

(vii) Fire compartmentation to the loft space areas;

(viii) Remedial and renewal works to the lightening conductor systems on each block;

(ix) Cyclical decorations and other associated works to various parts of the Blocks.

(x) Guano (pigeon) cleaning.

27. At the time of the issue of the s.27A Application, the Applicant only had estimated costs.

28. A final account has now been produced by Chas Berger which is at page 1041 of the hearing bundle.

29. The Applicant explains that the cost of the Works has come in marginally higher than the estimate. The primary reason for this is that the full extent of the fire compartmentation works could not be ascertained until the Works began and the cost of this element of the works exceeded what was budgeted for.

30. The total cost of the works excluding VAT and management fees is £6,636,006.86. The Applicant provided a breakdown of the final costs of the Works per Block (including VAT and the 5% management fee)

(i) Malvern House: £3,266,510.51 including VAT and Southern's 5% management fee.

(ii) Quantock House: £3,181,610.80 including VAT and Southern's 5% management fee.

(iii) Wicklow House: £1,913,247.33 including VAT and Southern's 5% management fee

(iv) Therefore the total cost of works including VAT and management fee is £8, 361,368.64

31. The Applicant submits that the actual costs of the works are reasonable having regard to the test of reasonableness imposed by section 19 of the Landlord and Tenant Act 1985.

32. Counsel refers the tribunal to the Works Procurement & Cost Review carried out by Mr James Thomas of Rikmus at pages 882 – 904 of the bundle.

33. Mr Thomas is a Chartered Quantity Surveyor and a Fellow of the Royal Institution of Chartered Surveyors. He has experience in procurement, tender evaluation, estimating, contract administration, and the valuation of construction works, variations, claims and final accounts. He specifically has experience as a quantity surveyor for a national tier 1 contractor on affordable housing projects where he was responsible for delivering maintenance and remedial construction work to local authority housing under a Private Finance initiative. 75. Mr Thomas carefully explains in his report the process by which the Works were procured and priced. He ultimately concludes that the costs of the Works charged by Chas Berger are reasonable.

The tribunal's decision

34. The tribunal determines that the amount payable in respect of the roof works and associated works is £8, 361,368.64 and the Respondents are liable to pay their share of those costs as set out in their respective leases.

Reasons for the tribunal's decision

35. The tribunal has considered all of the evidence provided and accepts the submissions of the Applicant.

Consultation/dispensation

36. The Applicant argues that all requirements for consultation under s.20 of the 1985 Act have been met.

37. The Applicant complied with EU procurement regulations and consulted with the leaseholders on the estate in 2016 prior to entering into the QLTA with Chas Berger as required by Schedule 1 of the Service Charge (Consultation Requirements) Regulations 2003.

38. The Notice of Intention dated 24th June 2016 set out the planned proposed works

39. The Applicant sent a Notice of Proposal to leaseholders in March 2017. The Notices were served on the leaseholders in compliance

with s.196 Law of Property Act 1925 and in accordance with the terms of their leases.

40. In compliance with Schedule 3, the consultation on the works commenced on 4th March 2024 when the Applicant sent letters to the leaseholders giving them a full outline of the proposed qualifying works, details of costs with breakdown and any issues for consideration. The Applicant informed the leaseholders that the proposed works would be done under the QLTA. The leaseholders were also given an opportunity to inspect the estimates.

41. Further to the letter, the Applicant has conducted consultation meetings and sent further written correspondence.

42. On 26th April 2024 the Applicant explained why the roof had to be replaced rather than patch repaired. The Applicant provided a breakdown of the repairs to each of the three blocks. In this document the Applicant explained the purpose of the QLTA, the consultation process that had taken place and the purpose of the QLTA, ie to replace components including roofs. The Applicant explained that Schedule 4 part 2 did not apply and that the leaseholders had been consulted in 206 and 20 7 prior to the QLTA.

43. In the alternative the Applicant argues that there is no relevant financial prejudice to the Respondents in failing to follow the consultation requirements, in line with *Daejan Investments Limited v Benson and others* [2013] UKSC 14.

(i) The works were done under a QLTA and the costs of these have undergone a stringent tender process which ensures competence and value for money

(ii) Consultation had taken place on the QLTA in 2016 and 2017 and the leaseholders did not make any objections to the QLTA at that time.

(iii) The works provide value for money and their contribution would not have been any different if they had been coonsulted

(iv) The Applicant has provided regular monthly updates

The tribunal's decision

44. The tribunal determines that all the consultation requirements have been complied with.

Reasons for the tribunal's decision

45. The tribunal has considered the documentation provided and the submissions made on the basis of the evidence and argument determines that the Applicants have complied with the requirements to consult under Schedule 3 of the Act. It therefore does not need to make a determination on the application to dispense which was made by the Applicant as a precaution.

Name: Judge H Carr **Date:** July 14th 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).