FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/OOBE/LDC/2025/0790**
Property	**:**	**103 Rotherhithe Street, London SE16 4NG**
Applicant	**:**	**Bombay Wharf Management Ltd**
Representative	**:**	**Colman Coyle (Solicitors)**
Respondent	**:**	**Kelechi Chika Eseonu – Flat 1** **Sophie Emily Delvin – Flat 2** **David Jarman Evans – Flat 3** **Patricia Anne Rodenburg – Flat 4** **Timothy William Hall – Flat**
Representative	**:**	**LCF Law**
Type of application	**:**	**Application for dispensation from the consultation requirements of s20 under section 20ZA of the Landlord and Tenant Act 1985**
Tribunal member	**:**	**Mr A Harris LLM FRICS FCIArb**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of decision	**:**	**28 October 2025**

DECISION

Decision of the tribunal

1. The tribunal exercises its discretion to grant dispensation from the consultation requirements of s20ZA for removal of a crane control box (the box) which had become detached from its fixings in high winds and was the subject of a dangerous structures notice. The tribunal also grants dispensation for the storage of the box for a period in excess of one year which becomes a qualifying long term agreement while the future of the box is decided.

The application

2. The Applicant seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") in respect of the removal and storage of a crane observation box from the external elevation**.** The works were said to be urgent because elements of the crane structure had pulled loose of their fixings in high winds and were hanging dangerously over areas used by the public at varying times**.** Additionally the subsequent need to store the box for potential reuse is the second element of the application with storage of the box for in excess of a year deemed to constitute a qualifying long-term agreement.

3. The repairs cannot wait for a three-month consultation period due to the danger caused by the failures. No formal notice was given under s20 of the Landlord and Tenant Act 1985 but leaseholders have been notified of the works and that this application would be made. In view of the urgency of the it was not proposed formally consult. The likely cost of the works is above the threshold for consultation under section 20 of the 1985 Act. Representations were received from the leaseholders solicitors.

4. Directions were made on 16 September 2025 for a paper determination in the week commencing 27 October 2025. The only issue for the tribunal is whether it is reasonable to dispense with the statutory consultation requirements.

5. **This decision does <u>not</u> concern the issue of whether any service charge costs will be reasonable or payable**.

The hearing

6. A written application was made by the freeholder.

7. A copy lease has been provided. The case was decided on paper and no appearances were made. The tribunal considered the written application form, copy letters to the leaseholders, and the specimen lease included in the bundle and the respondents submissions.

8. The respondents state that the application is deficient or inadequately particularised as it gives no information or details of the qualifying works beyond a brief description, names of contractors or costs. There is limited information on the qualifying long term agreement relating to storage or the amounts payable under such an agreement.

9. The respondents accept in principle that the costs of removal of the crane control box together with associated costs of any PLA licence scaffolding and structural engineers advice are ones where it may be reasonable to grant dispensation subject to the condition that the applicant bears its own costs without recovery of the costs through the service charge and also to pay for the respondents costs of the application due to the applicant's failure to provide proper information.

10. The respondents also contend that any order granting dispensation in relation to qualifying works should not extend to undefined costs which are stated to be incidental to or in contemplation of the removal of the control box. This will also apply to undefined costs relating to the QLTA.

11. In reply, the applicant says it has provided all the information it currently has. What is ultimately required is uncertain depending on the outcome of the Local Authority's decision as to whether the applicant is obliged to reinstate the crane control box. No evidence of financial prejudice has been provided by the leaseholders.

12. The applicant notes the respondent agrees the box had to be removed as an emergency but as it formed part of a listed building it needed to be stored pending a decision as to its future and whether it needed to be repaired and reinstated. There was no point moving it again as that would incur further costs.

13. There is currently no application under section 20C of the Landlord and Tenant Act or paragraph 5 of schedule 11 of the Commonhold and Leasehold Reform Act 2002.

The background

14. The property is part of the Bombay Wharf estate consisting of warehouses built around 1850 which were converted to flats about 20 years ago. The application relates to a building overlooking the River Thames which has an early 20th-century lattice-jibbed crane mounted on the northern elevation with a housing and control box at parapet level.

15. The estate is owned by a freeholder with the applicant management company between the freeholder and leaseholders. Each flat is held on long lease which requires the landlord to provide services and the

tenant to contribute towards their costs by way of a variable service charge.

16. An inspection was not requested and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues.

17. The lease shows the scope of the works is within the service charge provisions of the lease. The tribunal directed the applicant to provide copies of the application and directions to the lessees. Confirmation was sent to the tribunal that the application had been provided to the leaseholders.

18. Reasonableness and payability of the service charge is not within the scope of this application.

The Law

s20ZA of the Landlord and Tenant Act 1985

Service charges

20ZA Consultation requirements: supplementary

(1)Where an application is made to the appropriate 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.

(2)In section 20 and this section—

"qualifying works" means works on a building or any other premises, and

"qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3)The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a)if it is an agreement of a description prescribed by the regulations, or

(b)in any circumstances so prescribed.

(4)In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.

(5)Regulations under subsection (4) may in particular include provision requiring the landlord—

(a)to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,

(b)to obtain estimates for proposed works or agreements,

(c)to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d)to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and

(e)to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(5A)And in the case of works to which section 20D applies, regulations under subsection (4) may also include provision requiring the landlord—

(a)to give details of the steps taken or to be taken under section 20D(2),

(b)to give reasons about prescribed matters, and any other prescribed information, relating to the taking of such steps, and

(c)to have regard to observations made by tenants or the recognised tenants' association in relation to the taking of such steps.

(6)Regulations under section 20 or this section—

(a)may make provision generally or only in relation to specific cases, and

(b)may make different provision for different purposes.

(7)Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

19. The applicable case law is Daejan Investments Ltd v Benson [2013] UKSC 14, 1 WLR 854 where the Supreme Court held that the relevant test is whether the leaseholders have suffered prejudice by the failure to consult. Where the extent, quality and cost of the works were unaffected by the landlord's failure to comply with the consultation requirements, an unconditional dispensation should normally be granted.

The tribunal's decision

20. The tribunal exercises its discretion to grant dispensation from the consultation requirements of under s20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003

Reasons for the tribunal's decision

21. The works were necessary to remove a dangerous part of the building.

22. The tribunal is satisfied that the leaseholders were aware of the application and have made representations.

23. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:

    "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*" (emphasis added).

24. The Tribunal understands that the purpose of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable. The test laid down by the Supreme Court in Daejan v Benson is whether the leaseholders would suffer prejudice if the application were to be granted and a full consultation not carried out.

25. The tribunal considers that there is no prejudice to the leaseholders in granting dispensation as the works were urgently required to alleviate an immediate danger. The current storage arrangements avoids the incurring of additional costs involved in moving the box.

26. The tribunal is satisfied the works were urgent and that dispensation should be granted.

27. The granting of dispensation is not concerned with the cost and recoverability of service charges for the works which are dealt with under section 27A of the Act.

28. Costs are a matter for any s27A application.

Name: A Harris **Date:** 28 October 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).