



FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference : MAN/OOCM/LDC/2024/0063

Property : 22-25, Warkworth Close, Oxclose,
Washington, Tyne & Wear, NE38 0JL

Applicant : Gentoo Group

Respondents : The Residential Long Leaseholders

Type of Application : Dispensation with statutory
consultation requirements under
s.20ZA Landlord and Tenant Act 1985

Judge : Tribunal Judge James-Stadden
Tribunal Member Ian Jefferson

Date of Decision : 22 May 2025

DECISION

Decision of the Tribunal

- (1) Dispensation is granted pursuant to section 20ZA of the Landlord and Tenant Act 1985.

The Application

1. The application is brought by Gentoo Group ("the Applicant"), the landlord of 22-25 Warkworth Close, Oxclose, Washington, Tyne & Wear, NE38 0JL ("the Premises"). It is dated 13 August 2024. A supporting statement of case was submitted, dated 08 April 2025.
2. The Premises is described in the application as a purpose-built block of four two-bedroomed flats, one of which is rented by a social housing tenant and the other three of which are subject to long leaseholds.
3. The Respondents to the application are the 3 long leaseholders, Mr & Mrs Oxberry (No.22), Ms Living (No. 23) and Mr Pattinson (No. 24).
4. The Applicant seeks dispensation pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the Act") in respect of consultation requirements in relation to certain qualifying works within the meaning of the Act ("the Application").
5. The qualifying works the subject of the application are the replacement of the existing roof of the Premises.
6. According to the application and statement of case, the upper flat at the Premises, No. 25, has suffered ongoing water ingress. Patch repairs have previously been attempted, but seemingly without long term success. Scaffolding was accordingly erected to enable investigations to be carried out.
7. It had originally been intended that the roof would be replaced during a programme of roof works, which programme the Applicant states was fully consulted on and which eventually commenced on 01 April 2025. During investigations, however, the Applicant was advised that the roof to the Premises would not last until the commencement of that programme of works. That being so, the Applicant determined to proceed with the works while the scaffolding (erected for the investigations) was already in place.
8. The Applicant states that no consultation was entered into at this time as this would have delayed matters by several months and, in the meantime, there was ongoing water ingress to No. 25. Furthermore, the Applicant states that proceeding with the works whilst the existing scaffolding was in place avoided the additional cost that would have been caused by having the scaffolding dismantled and re-erected at a later date whilst also removing health and safety risks presented by leaving it in place for an unnecessarily extended period.

9. The order for the works was raised on 08 April 2024, and completed by Tegula Roofing North East Ltd, which is described in the Applicant's statement of case as "part of a framework for responsive repairs for roofing that was procured under the Public Contract Regulations 2015".
10. The works were completed by 29 May 2024, at a cost of £13,800, including VAT.
11. The only issue for the Tribunal to determine is whether it is reasonable to dispense with the statutory consultation requirements.

Paper Determination

12. Directions were issued by David Higham, Legal Officer, on 27 March 2025. Copied were sent by the Tribunal by email to the Applicant and each of the Respondents on that date.
13. Those directions provided, amongst other things, that the Applicant must within 14 days of the date of the directions, send to the Tribunal, with a copy to each Respondent, a bundle of documents consisting of:
 - a. a copy of the application form;
 - b. a full statement of case explaining why the application had been made;
 - c. any correspondence sent to the leaseholders in relation to the works;
 - d. detailed reasons for the urgency of the works and the consequences upon the leaseholders of any delay;
 - e. any quotes or estimates for the proposed works and relevant reports; and
 - f. copies of any other documents the Applicant sought to rely on in evidence.
14. The directions further provided for any Respondent who opposed the Application within 14 days of receipt of the documents referred to at paragraph 12 above to send to the Applicant and to the Tribunal any statement in response to the Applicant's case, including any documents upon which they sought to rely in evidence.
15. The directions thereafter provided that the Applicant may within 7 days from the expiry of the date specified for the filing of responses by the Respondents provide any final statements in reply to both the Tribunal and all participating Respondents.
16. The directions further stated that the Tribunal would deal with the Application by a determination on the papers received, unless any party requested a hearing. Any party wishing to make representations at an oral hearing before the Tribunal was directed to inform the Tribunal office of this in writing within 28 days of the date of the directions.
17. The Applicant filed a bundle in accordance with the directions under cover of a letter dated 08 April 2025, which confirmed that a copy had that day been issued to each of the Respondents by email and post.

18. On 25 April 2025, the Tribunal notified each of the Respondents by post that the application would be determined on 22 May 2025 in the absence of the parties, no request for a hearing having been received.
19. To date, no opposition to the application has been received from any of the Respondents.
20. The Application has been determined by the Tribunal on the papers in the absence of any request for an oral hearing by any of the parties.
21. As expressly stated in the directions dated 27 March 2025, at paragraph 2, the only issue for the Tribunal to consider is whether or not it is reasonable to dispense with the consultation requirements. The Application does not concern the issue of whether any service charge costs resulting from any such works are reasonable or indeed payable.

The Law

22. Section 20ZA(1) of the Act provides that:

'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.'
23. The Supreme Court in the case of *Daejan Investments v Benson and others* [2013] UKSC 14 set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of sections 19 to 20ZA of the act was to ensure that tenants are protected from paying for inappropriate works and from paying more than would be appropriate, went on to state:

'it seems to me that the issue on which the [Tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements'.

Findings of Fact

24. The Tribunal is satisfied:
 - a. that the application was properly brought and is in proper form;
 - b. that the Applicant has complied with the directions issued on 27 March 2025, by sending a copy of the required documents in a bundle to each of the Respondents on 08 April 2025; and
 - c. that no responses to the Application have been received.
25. The Applicant seeks dispensation from the consultation requirements as:
 - a. the works are qualifying works;

- b. the works were required by virtue of the Applicant's legal obligations to the Respondents as landlord pursuant to the terms of the Respondents' leases (at paragraph 5 of the Sixth Schedule) to (inter alia) maintain, repair and renew the structure of the Premises and, in particular, the roof.

26. The Tribunal is satisfied on the evidence provided that:

- a. the works are qualifying works and were required by virtue of the Applicant's legal obligations as landlord to the Respondents;
- b. the Applicant was advised that the works were necessary;
- c. the works were urgent, by reason of:
 - i. the ongoing water ingress into the Premises, specifically No. 25;
 - ii. the risk of further damage to the Premises, absent the works being undertaken;
 - iii. the fact that patch repairs had been attempted previously but had not provided a long-term solution to the issue;
 - iv. delaying the works would have necessitated incurring additional costs in having the scaffolding (which was already in place) dismantled and re-erected; and
- d. the Applicant:
 - i. had originally intended to include the roof to the Premises in a full programme of roof repairs, to be undertaken at a later date;
 - ii. had consulted regarding that programme of repairs;
 - iii. issued the work order for the repairs to a company that formed part of a framework for responsive roofing repairs that had been procured under the Public Contract Regulations 2015.

27. Dispensation from the consultation requirements of section 20 of the Landlord and Tenant Act 1985 may be given where the Tribunal is satisfied that it is reasonable to dispense with those requirements. Guidance on how that power may be exercised is given in Daejan (referred to at paragraph 23 above), which states that leaseholders must demonstrate that they have suffered some prejudice by not being consulted.

28. Based on the Tribunal's findings, as set out above, and in the absence of any submissions from any Respondent objecting to the works or to the application, or contending that granting the application would result in prejudice, the Tribunal finds no evidence that the Respondents would suffer prejudice in the event that the Application for dispensation from the consultation requirements were granted.

Determination

29. In the circumstances as set out above, the Tribunal considers it reasonable to dispense with the consultation requirements. Dispensation is thus granted pursuant to section 20ZA of the Landlord and Tenant Act 1985.

30. This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act as to the

reasonableness and standard of the work and/or whether any service charge costs are reasonable and payable.

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).