



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

Case Reference : **MAN/00BY/LDC/2024/0606**

Property : **35 Fossgate, York YO1 9TF**

Applicants : **Riverside (York) Management Company Limited**

Representative : **Pure Block Management Ltd**

Respondents : **The Residential Leaseholders**

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

Tribunal Members : **Judge J Stringer
Tribunal Member J O’Hare, MRICS**

Date of Decision : **19th December 2025**

DECISION

1. The requirement to consult with the Respondents in accordance with section 20 of the Landlord and Tenant Act 1985 is dispensed with in relation to external decoration and associated scaffolding works at 35 Fossgate, York, YO1 9FT pursuant to section 20ZA Landlord and Tenant Act 1985, subject to a condition that the Applicant meet the costs to the Respondents of instructing an expert to advise them on the works, including whether they were unnecessary and/or too costly. The cost of the expert evidence is limited to £750 plus VAT.

REASONS

Preliminary Matters

1. The Applicant is the registered freehold owner (and lessor) of the Property. This application dated 15th January 2025 has been submitted on behalf of the Applicant by Pure Block Management Ltd (“the Representatives”), Management Company for the Landlord of the Property. The application is for dispensation from the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 (‘the Act’).
2. The only issue for the Tribunal to consider is whether or not it is reasonable to dispense with the consultation requirements.
3. The Applicant in the application notice agreed to the appeal being considered on the papers without an oral hearing. Having reviewed the written evidence and noted the Applicant’s consent, and the absence of any (in time) 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.
4. 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

5. The Property is a Grade II Listed mixed-use building, comprising 2 commercial units, 11 apartments and 4 townhouses. It is situated within a conservation area adjacent to the River Foss, York.
6. The Respondents to the application are set in Schedule 2 to this decision.
7. The Applicant seeks dispensation for (according to the Grounds in the Leasehold 5 Application Form) “External Decoration to include but not limited to windows, soffits, fascias, doors and external ironworks”; however, in the Applicant’s Statement of Case at paragraph 2.1 “The dispensation sought relates to external decoration and scaffolding works at [the Property]”.
8. The dispensation is sought by the Applicant on the following basis (in the Applicant’s “Statement of Case” document) – “2.1 A Scheme of works to the property was instigated in late 2024 to enable eradication of dry rot, undertake roof works and complete areas of repointing to the property. The final element of the scheme was the decoration of the property to include access equipment. 2.2 Due to scaffolding permits being extended previously for the aforementioned works, the council set a stringent timeframe for the removal of the scaffolding...3.1 The standard Section 20 consultation process could not be fully complied with due to the requirement to remove the scaffolding to the

front elevation as per the requirements of City of York Council...3.2 The Applicant has obtained urgent quotations from reputable contractors to undertake the decoration...3.3 At the time of the works the windows were in urgent need of decoration...4.1 The Applicant has notified leaseholders of the issue and the intention to carry out external decoration workers as per the Notice of Intention, stage 1 of the Section 20 Consultation, issued on 20th November 2024...4.2 A full tendering process was undertaken...4.3 The purpose of the application for Dispensation from Section 20 procedures was to mitigate any additional charges to Leaseholders in removing the scaffolding, applying for additional permits and having additional charges in reinstating the scaffolding to complete the works. As the scaffolding was in situ this would have been an additional unnecessary cost to Leaseholders.”

Issues

9. 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?

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 material/evidence submitted in relation to the application is :
 - a. A 91 page Applicant bundle;
 - b. Response letter from Respondent leaseholders of Flats 5 and 10;
 - c. Response letter from Respondent leaseholder of Flat 7;
 - d. A 51 page bundle from representative of Respondent leaseholder of Flat 2 (“Mr Simpson”);

- e. Applicant's "Final Statement" bundle – 14 pages;
- f. Further submissions/evidence from Mr Simpson – 3 pages.

14. The Tribunal has carefully considered all the available written evidence.

Relevant Evidence and the Tribunal's Conclusions on the Issues

15. The correspondence from the Respondent leaseholders of Flats 5, 10 and 7 objects to the granting of dispensation on the basis that they were "not informed or consulted prior to the application being made", but no evidence is provided as to any prejudice to those Respondents by reason of the lack of consultation or information, or any prejudice which would arise to those Respondents if dispensation were to be granted.
16. The submissions/evidence from Mr Simpson (as set out in his Statement of Case and supporting evidence) are, in summary:
- a. Full scaffolding was erected in October 2024, before "any mention of external decoration work/s pursuant to the section 20 consultation process", and the scaffolding was not required at that time for the other (roof and dry rot works);
 - b. If the external decoration work was contemplated at the time the scaffolding was erected, there had been no consultation in respect of the additional scaffolding which was erected for the purposes of the external decoration;
 - c. The consultation procedure was not complied with in relation to the increased cost of the scaffolding (from £4,000, an element of the roofing quotation, to £39,945 for scaffolding alone;
 - d. Full scaffolding (that is, at all elevations) was not needed, and at all times for which there was full scaffolding erected, and the cost of the scaffolding was increased by reason of this extended or unnecessary scaffolding hire;
 - e. There is a lease covenant (clause 4(a)) for external redecoration every 4 years – this clearly anticipated time for consultation; further, there was an implied or express obligation to consult in this clause which had not been complied with;
 - f. The quality of the external decoration work is queried given that the works were completed at an inappropriate time of year (in winter) and the leaseholders are potentially at risk of enforcement action for potential environmental breaches if the work was carried out in breach of "salmonid river" regulations and restrictions;
 - g. There is a lack of evidence as to the urgency of the need to remove the scaffolding, given the failure to disclose evidence of steps taken to extend the Council permits.
17. Mr Simpson alleges that he has consequently been prejudiced by the lack of consultation, in that:

- a. As the owner of a scaffolding company, he could have made observations on the scaffolding quotations/invoices, both in relation to scope and cost;
 - b. He could have obtained a surveyor's report or alternative quotes in relation to scope and/or cost;
 - c. There was prejudice more generally as a result of the Applicant's conduct, as detailed at paragraph 38 of Mr Simpson's Statement of Case;
 - d. The consultation process, such as it was, is tainted by reason of the matters detailed in the "Further Evidence/Submissions" (that is, by reason disclosure of the full quote of GNR with the contractor, MHL Cassanell).
18. The Applicant's response, by way of its "Final Statement of Case" is that notice of all the works was given at a meeting on 24th April 2024 (although the "minutes" (in fact a letter), in the context of redecoration, refers only quotes potentially being obtained for "re-decoration to communal areas"), that "full wraparound scaffolding was required to complete the works as noted within the dispensation application...", three redecoration quotes were obtained, timing of the redecoration works was considered but delay would have resulted in additional scaffolding costs, and some non-urgent aspects of the riverside work were postponed to comply with regulatory requirements, and the work was required by the covenant at clause 4(a) of the leases.
19. The Tribunal finds that the Respondents have suffered prejudice as a result of the failure of the Applicant to comply with the consultation process.
20. The failure to comply with the full consultation process in relation to the external redecoration is admitted; the Tribunal are not satisfied that the Applicant has provided sufficient evidence of urgency in the absence of further evidence as to the communication with the Council; the external redecoration was in any event a known contractual obligation and that mitigates against dispensation; the Tribunal is also satisfied that there has been a failure to comply with the consultation requirements in relation to the cost of scaffolding, generally, in relation to any increase, and, specifically, as a significant cost associated with the external redecoration.
21. The Respondents have been prejudiced by these failures in that they have been deprived of the opportunity to query the cost or scope of the external redecoration work (in particular, the associated scaffolding costs), to obtain alternative quotes, or to obtain evidence as to the required scope, standard or timing of the work.
22. In the absence of any specific evidence as to any financial prejudice the Tribunal is not satisfied that it is reasonable or appropriate to refuse the application for dispensation (and limit the recoverable costs to the statutory cap).

23. The Tribunal is, however, satisfied that the alternative remedy suggested by Mr Simpson is reasonable and proportionate, that is, to grant the dispensation on condition that the Applicant meet the costs to the Respondents of instructing an expert to advise them on the works, including whether they were unnecessary and/or too costly. The cost of the expert evidence is limited to £750 plus VAT.
24. There is no application that any costs incurred by the Respondents should be met by the Applicant and, in any event, in the absence of evidence of specific financial prejudice to the Respondents as a result of the failure to comply with the consultation requirements the Tribunal makes no such costs order. The Tribunal notes that there is no current application by the Respondents for an order pursuant to section 20C of the Landlord & Tenant Act 1985.

J Stringer

Tribunal Judge

19th December 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.

Schedule 2

List of Leaseholders

- 1 Paul Smith**
- 2 Glyn Simpson and S Bradram**
- 3 Richard Pratt and Jianping Pratt**
- 4 Richard Pratt and Jianping Pratt**
- 5 Mr P and Mrs Lundie A Dilaveris Koromilias**
- 6 Paul Smith**
- 7 Inge Knight**
- 8 Paul Smith**
- 9 Paul Smith**
- 10 Mr P and Mrs Lundie A Dilaveris Koromilias**
- 11 Vicky Lawton**
- 12 Nick Tait**
- 13 Laura Howcroft and M J Sheridan**
- 14 SEF York Ltd**
- 15 Shop Mr David and Mrs Valerie Smith**