



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

Case reference	:	CAM/42UH/LDC/2024/0600
Property	:	Wedgewood Court, North Parade, Lowestoft, NR32 4PB
Applicant	:	Wedgewood Court Residents Association Ltd
Representative	:	Sam Lapworth, East Block Group
Respondent	:	All leaseholders/tenants of dwellings at the Property who may be liable to contribute towards the costs of relevant works
Representative	:	None
Type of application	:	Section 20ZA Landlord and Tenant 1985 – To dispense with the requirement to consult leaseholders about the works
Tribunal member(s)	:	Judge Adcock-Jones
Venue	:	Decided on the papers at 197 East Road, Cambridge, CB1 1BA
Date of decision	:	7 April 2025

DECISION

Decision of the Tribunal

The Tribunal grants an order dispensing with the consultation requirements imposed under section 20 of the Landlord and Tenant Act 1985 in respect of works relating to alarm/detection, fire door and fire stopping works required by a Prohibition Notice dated 9 August 2024 served at the Property.

The Application

1. The Applicant seeks an order pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for a dispensation of the consultation requirements imposed under section 20 of the 1985 Act and set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the 2003 Regulations”) in respect of works relating to alarm/detection, fire door and fire stopping works required by a Prohibition Notice dated 9 August 2024 served at the Property..

Hearing

2. The parties did not request a hearing and so the matter was dealt with on the papers.

Background

3. The Property comprises of a listed building constructed circa 1850 that has been converted into 19 flats.
4. The Applicant is the management company which owns the freehold and is managed by East Block Group Ltd.
5. The Applicant claims that the works were urgently required as the Property has been served by with a Prohibition Notice dated 9 August 2024 issued by Suffolk Fire Service following an inspection on 24 July 2024. This resulted in all 19 flats being evacuated. The works are required to lift the Prohibition Notice.
6. The Application states that the alarm needs upgrading, heat detectors need to be installed in each flat, fire door inspection and fire stopping are also required. All leaseholders have been informed about the necessary works and the Applicant has kept the leaseholders regularly updated regarding the associated costs, timelines, and their obligation to contribute towards the safety work.
7. The first stage of the Section 20 process has commenced insofar as a Notice of Intention to the leaseholders has been sent.
8. The Prohibition Notice was served for the following reasons:-
 - a) Inadequate means of escape from the premises;
 - b) Inadequate fire separation between the flats;
 - c) Inadequate means of detecting and raising alarm in the event of a fire.
9. The leaseholders are not allowed to live in the Property until the work is works are carried out and the Prohibition Notice lifted.

Directions

10. The Tribunal issued directions on 21 January 2025 providing for service of the Application, directions, description of the relevant works for which dispensation is sought, estimate of the costs of the relevant works and any other evidence relied upon on the Respondents being the leaseholders of dwellings at the Property who may be liable to pay a service charge to contribute towards the costs of the relevant works.
11. Provision was further made for the Respondents to be given an opportunity to respond to the Application and the Tribunal did not receive any responses from the leaseholders.

Inspection

12. The Directions issued did not provide for an inspection of the Property and no request for an inspection was made by the Parties. The Tribunal did not consider an inspection to be necessary or proportionate to the issue.

The Applicant's Case

13. The Applicant's case is set out in the application dated 17 September 2024. No further documents other than a sample lease dated 12 May 1983 were provided. Upon the Tribunal's request, evidence of the documents served upon the leaseholders in accordance with the directions were provided on 07 April 2025. For future reference, it assists the Tribunal for such documents to be filed in advance of the hearing rather than in response to a request from the Tribunal.
14. The Applicant has provided the following invoices for works undertaken to the Property:

<u>Invoice</u>	<u>Item</u>	<u>Cost</u>
Advanced Protection Fire and Security – 27 September 2024	Works carried out and additional detection equipment	£10,834.06 plus VAT
Element Passive Fire Protection Specialists	Fire Compartmentation Works	£5,345.84 plus VAT

15. The sample lease provides at clause 6(1) the landlord's covenant to "maintain repair decorate renew...(extract)" and onwards the structure of the Property and under clause 6(3) to insure against third party risks and to keep insured the Property against, amongst other risks, damage by fire.

16. Clause 2(2) provides for leaseholders to contribute towards the costs of such works by way of a service charge within the lease in performing and carrying out the obligations specified in the Fourth Schedule.

The Respondent's Case

17. The Tribunal is satisfied of the evidence provided in respect of the email of 23 January 2025 that the Application, Directions and requested information were served upon the Respondents. Whilst the Directions invited representations from the Respondents, no representations have been received.

The Law

18. Section 20 of the 1985 Act provides that:

(1) Where this section applies to any qualifying works....., 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 leasehold valuation tribunal.*

19. The effect of section 20 of the 1985 Act is that the relevant contributions of tenants to service charges in respect of "qualifying works" are limited to an amount prescribed by the 2003 Regulations unless either the relevant consultation requirements have been complied with in relation to those works or the consultation requirements have been dispensed with in relation to the works by (or on appeal from) the tribunal.

20. "Qualifying works" are defined in s.20ZA of the 1985 Act as "works on a building or any other premises", and the amount to which contributions of tenants to service charges in respect of qualifying works is limited (in the absence of compliance with the consultation requirements or dispensation being given) is currently £250 per tenant by virtue of Regulation 6 of the 2003 Regulations.

21. Section 20ZA of the 1985 Act provides:

(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.

22. The basis on which this discretion is to be exercised is not specified.

23. The consultation requirements for qualifying works are set out in Schedule 4 of the Service Charges (Consultation Requirements) (England) Regulations 2003.

The Tribunal's Decision

24. The Tribunal referred to the authority of *Daejan Investments Limited v Benson et al* [2013] UKSC 14 which sets out the Tribunal's jurisdiction to dispense with the consultation requirements and the principles upon which that jurisdiction should be exercised.
25. The scheme of the provisions is designed to protect the interests of leaseholders, and whether it is reasonable to dispense with any particular requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose.
26. The purpose of the consultation requirements is to ensure that leaseholders are protected from paying for works which are not required or inappropriate, or from paying more than would be reasonable in the circumstances.
27. The Tribunal needs to consider whether it is reasonable to dispense with the consultation process. Bearing in mind the purpose for which the consultation requirements were imposed, the most important consideration being whether any prejudice has been suffered by any leaseholder because of the failure to consult in terms of a leaseholder's ability to make observations, nominate a contractor and or respond generally.
28. The burden is on the Applicant in seeking a dispensation from the consultation requirements. However, the factual burden of identifying some relevant prejudice is on the leaseholder opposing the application for dispensation. The leaseholders have an obligation to identify what prejudice they have suffered because of the lack of consultation.
29. The Tribunal is satisfied that the works are qualifying works to which the provisions of section 20 of the 1985 Act and the 2003 Regulations apply.
30. The Tribunal noted the contents of the Description of Relevant Works Needed as prepared by East Block Group and served upon the leaseholders. The Tribunal notes that it would have been beneficial to have been provided with the Notice of Intention as had been served on the leaseholders and as referred to in the Application.
31. The Tribunal is satisfied that the works are for the benefit of and in the interests of both landlord, Applicant and leaseholders of the Property given that the works provide for their safety in the event of a fire. The Tribunal again records that no response to the Directions from the

Respondents was received and therefore none of the leaseholders objected to the grant of dispensation.

32. The Tribunal considered any financial prejudice suffered by the leaseholders due to the failure to consult. The Tribunal has not been informed whether an independent report from an expert was obtained and has only been provided with the invoices referred to above that refer to earlier quotations. The Tribunal noted that the leaseholders have not had the chance to nominate a contractor of their choice, and the works had not been put out to tender.
33. The Tribunal has taken into consideration that the leaseholders have not had the opportunity to be consulted under the 2003 Regulations. However, the works are urgent given the contents of the Prohibition Notice served and to ensure the safety of the leaseholders in the Property against fire risks. The Tribunal also notes that the works will be required to facilitate the insurance of the Property.
34. In circumstances where a Prohibition Notice has been issued and leaseholders are unable to return to their flats until the works are carried out and the Prohibition Notice lifted, the Tribunal is satisfied that whilst the leaseholders were not given an opportunity to make comments on the works or nominate a contractor and have lost the opportunity to make observations and to comment on the works or to nominate a contractor, they do not appear to have suffered any significant prejudice. The Tribunal notes if the works are not carried out, and the Prohibition Notice is not lifted then the potential prejudice to the leaseholders would be significant.
35. Accordingly, the Tribunal having considered the evidence, is satisfied that it is reasonable to dispense with the consultation requirements as requested by the Applicant. The Tribunal therefore makes an order that the consultation requirements are dispensed with in respect of the alarm upgrading, heat detectors installed in each flat, fire door inspection and fire stopping required.
36. This application relates solely to the granting of dispensation. If, when they are charged, the relevant leaseholders wish to contest the reasonableness of the costs, or challenge any service charge, then they retain the right to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

Name: Judge Adcock-Jones

Date: 7th April 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).