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FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**CHI/29UN/LDC/2015/0021**
Property	:	**Oaklands Court, 23 Vicarage Street, Broadstairs, Kent CT10 2SG**
Applicant	:	**Silverlake Trading Limited**
Representative	:	**Mr Daniel Robinson (Director of Applicant Company)**
Respondent	:	**Miss Lucy Wood (Flat 4)**
Representative	:	**None**
Type of Application	:	**Section 20ZA Landlord and Tenant Act 1985** **Application to dispense with consultation procedure covering proposed works**
Tribunal Members	:	**R Athow FRICS MIRPM - Valuer Chair** **P A Gammon MBE BA (Lay member)**
Date of Inspection	:	**20th July 2015**
Date of Decision	:	**7th September 2015**

DECISION

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Decision

1. The Tribunal made the following determinations:

    i. A dispensation from the consultation provisions of Section 20 of the Landlord and Tenant Act 1985 ("the 1985 Act") is granted in respect of:

    1. Works under the heading "Roof" as listed in the Notice of Intention under Tab 7.
    2. The urgent works of removing and replacing the canopy.
    3. The repairs to the leaking common water mains in the cellar and the clearing of the drains.

    No costs have been assessed for these by the Tribunal.

    ii. Other work under the heading "Garden area" cannot be considered as part of this application under Section 20ZA of the Landlord and Tenant Act 1985 as it does not amount to qualifying works as defined by the Act.

    iii. Dispensation is not granted for the remaining works shown in the Notice of Intention under Tab 7.

Background

2. The subject property is detached and has been converted into six self-contained flats. The freehold is held by the Applicant and the Respondent holds a lease of Flat 4. The Applicant also owns leases on 4 flats in the block.

3. The Applicant has carried out a substantial amount of works, being the first phase of a major overhaul of the subject property, and has applied for a dispensation from the consultation provisions of Section 20 of the 1985 Act in respect of these works.

4. Directions were issued by the First-Tier Tribunal Property Chamber (Residential Property) on 12th May 2015, which stated that the application was to be determined on papers to be submitted without a hearing, in accordance with Rule 31, of the Tribunal Procedure Rules 2013 unless a party objected in writing to the Tribunal within 28 days of the receipt of those directions. No written objection to dealing with the application in that way has been received.

5. The directions required the parties to supply statements of their cases and for the Applicant to prepare a bundle of relevant documents for consideration by the Tribunal.

6. A bundle has been received which includes the statements of the parties' cases and relevant documents. A report from Carlton Associates, Chartered Surveyors, dated 31st December 2013 was included (Tab 10), but pages 16 – 40 were missing. Upon checking the list of contents at the front of the report it would appear that these pages referred to the interior of all

six flats. Also included was a letter purporting to be the "Notice of Intention" (Tab 7) being the first part of the Consultation requirements under S20 of the 1985 Act, as amended.

7. The service charge costs are shared equally between the 6 flats. The result of this is that any works undertaken in excess of £1,500 including VAT need to go through the Section 20 consultation process if the landlord is to recover the full cost. Failure to do this will result in the landlord being able to recover a maximum of only £250 from each flat in this block for that work. There is within the Act and its Regulations a section which sets out a procedure for Dispensation under certain circumstances.

Inspection

8. On 20th July 2015, the Tribunal inspected the exterior and internal communal areas of the subject property. Also present was Mr Robinson and Miss Wood. Mr Robinson explained that he, together with Mr Christoph Pfundstein, were the business partners trading as Silverlake Trading Limited. He was the builder and dealt with the structural aspect and on-site matters, whilst Mr Pfundstein dealt with the administrative side of the company, including the serving of the Section 20 Notices and the application to the Tribunal.

9. Mr Robinson stated that he had not seen all of the papers in the bundle, whilst Miss Wood stated that she had only received her bundle on Friday 17th July.

10. The Tribunal explained the reason for the inspection and that, as laid out in the Directions, the matter would be dealt with as a paper determination because nobody had requested a Hearing. As a result the Tribunal would not be able to receive submissions or arguments from either party at the inspection and would rely solely on the papers submitted.

11. Upon inspecting the property the Tribunal noted that, when compared with the photographs in Carlton Associates' report in 2013, some work had been carried out to the property. For example the canopy had been removed, some areas of render had been repaired, some areas of external paintwork had been removed, the communal hall, stairs and landing had been decorated, 4 fence panels had been erected, and some trees had been felled and/or lopped. The Applicant offered to provide access to the roof area via a scissor lift hoist to enable this area to be seen, but as there was no appropriate safety equipment available on site the Tribunal declined the offer on the grounds of Health and Safety.

12. During the course of the inspection both parties explained what works had been carried out and tried to put forward evidence and opinions on the work. The Tribunal reminded the parties of the restrictive nature of this Application and inspection. It reminded them that this Application could not deal with the quality or suitability of the work undertaken, or the reasonableness of it. These matters must be the subject of discussion

between the parties and if they were unable to resolve their differences, either party could make an appropriate application to the Tribunal on these matters.

13. The Applicant stated that there was a report from a structural engineer, but accepted that this was not included in the bundle. The Respondent had not been sent a copy.

14. The Respondent stated that the Section 20 Notice of Intention was defective as it referred to windows to be repaired. Some of these windows were her responsibility under the terms of the lease. She stated that she had written to the Applicant informing them of this and asking for a revised Notice of Intention to be served. This did not happen and as a result the Notice is defective.

15. The Applicant stated that the items in the section of the Notice of Intention headed "Hallway" were being paid for solely by the Applicant company and would not be charged to the service charge account.

16. The Applicant stated that they had not obtained any formal quotes from outside contractors, but merely obtained verbal 'ball park' figures.

17. The Applicant stated in its written submission that Mr Robinson had purchased a cherry picker crane for £2,350 to enable the work to be undertaken more cheaply than having to hire scaffolding. The Tribunal queried the cost shown in the invoice at Tab 7 which referred to "crane" and was for £587.50 on 4 separate occasions. Mr Robinson said he knew nothing about this, but confirmed it was not related to the cherry picker.

18. Miss Wood stated that she was concerned about the prejudice and loss that she had suffered. She had addressed these points in her written statement, contained within the bundle (Tab 4).

19. Additionally she stated that she had owned her flat for 7 years and until the last year had not suffered significant damp problems in the flat. However, dampness had become evident and things had deteriorated last year, after the outside paint had been scraped off, to such an extent that her tenants moved out and she lost rental income as a result. She will also have the extra cost of redecorating once the damp has been eradicated. She was concerned that it was taking an unnecessarily long time to redecorate the exterior of the block. Had the Applicant complied fully with the Consultation requirements and obtained competitive quotes for all of the work, other contractors could have undertaken the work in a shorter period of time and she would not be suffering for such a long period.

20. From what was being stated by both parties, both trying to put forward new evidence and arguments, there were matters that concerned the Tribunal and so it withdrew from the parties to consider the situation. The Tribunal reminded itself of the restrictive nature of the Application. It decided that nothing would be gained if the matter were adjourned and a full Hearing take place on this particular point. The parties had been happy

to proceed to this point with a paper determination. As a result the Tribunal resumed the inspection and reported their decision to the parties. The parties were reminded that the Directions were clear on what papers were required to be included in the bundle, and that evidence and arguments could not be put forward at this inspection.

21. During the resumed inspection the papers in the bundle were referred to and Mr Robinson stated that Silverlake accepted that they had made a mistake in not carrying out the full and correct Section 20 consultation process. They had however borne in mind the fact that they owned two thirds of the flats in the block and were trying to keep the costs to a minimum.

Further Directions

22. As a result of the inspection further issues arose, in particular the failure of both parties to address the impact of the decision of the Supreme Court in the case of **Daejan Investments Ltd v Benson & Ors** in relation to relevant prejudice. The Tribunal made further Directions requiring both parties to address this aspect.

23. Both parties responded in writing but they did not expand on their earlier submissions to any useful or significant degree.

The Law

24. The statutory provisions primarily relevant to these applications are to be found in S.20ZA of the Landlord & Tenant Act 1985 as amended (the Act).

25. Section 20ZA (1) of the Act states:

'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.'

26. In Section 20ZA (4) the consultation requirements are defined as being:

'Requirements prescribed by regulations made by the Secretary of State'. These regulations are The Service Charges (Consultation Requirements) (England) Regulations 2003 ('the Regulations').

27. In Section 20(2) of the Act 'qualifying works' in relation to a service charge, means works (whether on a building or on any other premises) to the costs of which the tenant by whom the service charge is payable may be required under the terms of his lease to contribute by the payment of such a charge.

28. If the costs of any tenant's contribution exceed the sum set out in section 6 of the Regulations (which is currently £250) the Landlord must comply with the consultation requirements. The relevant requirements applicable to this application are those set out in Part 2 of Schedule 4 of the Regulations.

29. The Tribunal may make a determination to dispense with some or all of the consultation requirements but it must be satisfied it is reasonable to do so. The Tribunal has a complete discretion whether or not to grant the application for dispensation and makes its determination having heard all the evidence and written and oral representations from all parties and in accordance with any legal precedent.

30. The matter has been considered in the leading case of **Daejan Investments Ltd v Benson & Ors [2013] UKSC 14** in which three main questions of principle arose, and needed to be answered, before deciding how to resolve that appeal. Those questions were:

(i) The proper approach to be adopted on an application under section 20ZA(1) to dispense with the compliance with Requirements;
(ii) Whether the decision on such an application must be binary, or whether the LVT can grant a section 20(1)(b) dispensation on terms;
(iii) The approach to be adopted when prejudice is alleged by tenants owing to the landlord's failure to comply with the Requirements.

31. The outcome of that case was that the Supreme Court overturned the decisions of the lower Courts as it decided that the Applicant had gone through all processes of consultation except for the final stage, but had taken part in discussions relating to the proposed works. In other words, they felt that the Applicant had undertaken a sufficient amount of consultation to result in there being insufficient prejudice to the Respondents.

This case has created the precedent under which Tribunals must now work.

32. The Judgement accepts that there are many circumstances under which a section 20ZA(1) application can be made and as a result it does accept that any principles that can be derived should not be regarded as representing rigid rules.

The Applicant's case

33. The Applicant bought the property, completing the purchase on 11th April 2014, having had a survey carried out in December 2013. It was aware that the structure had been neglected and poorly maintained by the previous freeholder and began to put together a programme of works. Mr Robinson was a builder specialising in the refurbishment of old buildings and could carry out the works at cost wherever he could complete the works himself.

34. The Respondent was given prior written notice as to the necessity of the works by the serving of the Notice of Intention together with a list of the intended works (Tab 6).

35. The Applicant believed it was not appropriate to go through the full consultation procedure and set out its reasons in its submissions (Tab 3) of the bundle. They are, in summary:

i. The lessee did not suffer relevant prejudice, she did not pay more than would be appropriate.
ii. Prior to commencing the work they had spoken to construction firms to verify the price for certain parts to ensure they chose the most cost efficient solution.
iii. For the second stage of the works they would be conducting a tender process.

36. It believed that some of the work was urgent for the reasons of health & safety.

i. The surveyor's report was cited, in particular the canopy over the entrance area which was at risk of collapse and needed immediate attention.
ii. The ground floor bay structures had moved and required careful repair; urgent attention should be given to the repairs.

37. There was no benefit to the Landlord. This was the first time the Applicant had to go through the Section 20 process and neither Mr Pfundstein nor Mr Robinson had any experience in the matter. Neither have legal experience. They were undertaking the work themselves at cost wherever possible and so this had a financial benefit to the other lessees in the block.

38. The Applicant believed that there would be benefits to both parties by their carrying out some of the necessary and urgent repairs immediately, and that everybody had been treated as fairly as possible with no party paying more than was appropriate.

39. The Applicant stated that the lessee did not suffer relevant prejudice because she did not need to pay more than would be appropriate. It pointed out that it carried out the work on a cost only basis. It had spoken with firms to verify that it was doing the work in the cheapest way it could. It was going to embark on a tendering process for the second stage of works.

The Respondent's case

40. The Applicant failed to comply with its obligations to the Respondent under Section 20 of the 1985 Act.

41. She acknowledges that a Notice was served upon her. The Applicant's bundle has annotated in handwriting "sent week of 7 July 2014", but she

states in her submission in Tab 4 that she received a copy of that letter dated 25th March 2014.

42. There was a defect in the Notice. It included under the External section "Replace front windows". These are the responsibility of the individual lessees. As a result the list of proposed works is over-stated.

43. When the defect in the Notice of Intention was referred back to the Applicant it was not rectified.

44. No formal detailed specification was prepared, merely a shopping list of intended works.

45. No further Consultation Notices were served.

46. Work had commenced before the Notice of Intention had been served.

47. The proposed works as set out in the Notice of Intention have taken an unnecessarily long time and still they are nowhere near finished.

48. She has suffered prejudice on the following grounds as set out in detail at Tab 4 of the bundle:

a. The notice of Intention had a list of proposed works that was inaccurate. Any quotes obtained would therefore be inaccurate. She might be charged for work to windows for which she had no liability under the lease. In spite of requesting a revised list of works this was not forthcoming. As a result she was unable to assess whether the works were necessary or appropriate.
b. The Applicant had unilaterally decided upon its choice of contractor, namely itself, with no time-scale put forward. No other contractor was considered for the work as a whole. As a result there was no opportunity for comparison of prices or other aspects relative to the works. She therefore would not be able to assess the full extent of the works or if they would be carried out at the most appropriate cost. Another contractor might have been able to undertake the work more cheaply and in a shorter period of time, thus reducing her financial loss.
c. The work has taken too long and she has been inconvenienced by this.
d. Because of the long term of this project she has lost rental income from her flat due to it being uninhabitable because of the damp ingress. Her last tenant vacated because they would not live in the damp conditions that existed due to the failure to maintain the fabric of the building.
e. Because of the failure to go through the full Consultation process she had not been given the opportunity to assess the full financial implications that would be imposed upon her under the terms of her lease.
f. The Applicant had relied on certain elements of the surveyor's report which had highlighted that some works were of an urgent

nature, but had failed to separate them out from the rest of the works. In the report that she had received and was included within the bundle pages 15 – 41 were omitted. As a result she was not permitted to review those parts, especially those relating to Flat 4 which was likely to contain reference to the structural integrity of the front bays at ground and first floor level. There was no evidence that she could see within her flat (which was situated above Flat 4) of any defect. She had not seen any report from a Structural Engineer relating to this. This aspect was the first of the items (and one of the two most important items) in the conclusion to the Report. She felt that the report should have been sent to her to help explain the necessity of the proposed works. As a result she was unable to assess whether the extent of the proposed works was appropriate or overstated.

49. The failure to obtain competitive quotes from unconnected contractors has meant that the Respondent is at the mercy of the Applicant and its building team. This point was referred to by the Respondent during the inspection and that she would have liked the opportunity to consider appointing a contractor who could have undertaken the work more quickly. As a result she has suffered financially by loss of rent caused by the inability to keep a tenant in the flat.

Consideration

50. All the documents included in the bundle have been considered together with the written submissions subsequently received after the further directions, and the Tribunal made findings of fact on a balance of probabilities.

51. The further submissions received contained conflicting statements which were not useful to the Tribunal.

52. The Tribunal firstly considered the implications of the *Daejan Investments Limited v Benson and others* decision and the implications it places on this case.

53. In that case it was agreed by all parties that all Consultation Notices had been complied with up until the final phase. Indeed, the Respondents' preferred Contract Administrator had been appointed by the landlord, the specification was published and the Respondents' preferred contractor (Rosewood) had been asked to tender. Four quotes had been received and an analysis of these had been issued to the lessees together with the Applicant's preferred contractor (Mitre) being nominated. What had not been included in the papers published was the detailed priced tender from Rosewood although the priced tender from Mitre was included. The Respondent asked to have a copy of Rosewood's tender but failed to obtain one in spite of repeated requests.

54. In the course of discussions it became clear that Mitre were the Applicant's preferred contractor but discussions continued between the

parties on various aspects. After the end of the Stage 3 period of Consultation the Applicant informed the Respondent that they had awarded the contract to Mitre. There was further discussions and eventually Mitre were formally contracted to undertake the work.

55. In the meantime the Respondents had made an application to the LVT (now the First-Tier Tribunal Property Chamber (Residential Property)). There were many heads of claim and eventually part of the application became the topic of this case. It was a closely related section 20ZA(1) Application that led to the matter being decided firstly by LVT on 8th August 2008. This was the subject of appeals by the Applicant to the Upper Tribunal, then to the Court of Appeal. All of these courts found for the Respondent.

56. The matter was then appealed to the Supreme Court who looked at specific elements of the case and gave their decision which clearly set out the way that Tribunals should look at such cases in the future. The Supreme Court considered that "relevant" prejudice should be given a narrow interpretation; it means whether non-compliance with the consultation requirements has led to unreasonable costs being incurred in the provision of services or in the carrying out of the works, which fell below a reasonable standard and thus led to the tenant being prejudiced. This Tribunal has considered the decision of the Supreme Court fully.

57. It acknowledged in paragraph 42 of its judgement;

"Further, the circumstances in which a section 20ZA(1) application is made could be almost infinitely various, so any principles that can be derived should not be regarded as representing rigid rules." In other words, the factual matrix of an individual case is determinative of whether prejudice has resulted from the actions of the landlord.

Reasons for the Decision

58. For the sake of clarity the Tribunal has not considered the matters of reasonableness, suitability or standard of the works undertaken to date. Any disputes on these aspects are dealt with by an application under Section 27a of the Landlord and Tenant Act 1985.

59. It was clear from the documents supplied that the full consultation procedure under Section 20 of the 1985 Act had not been carried out. This was accepted by both parties. Only The Notice of Intention had been issued and the Applicant accepted that it was inaccurate. The Applicant accepted that it had not complied with the remaining Consultation process at the appropriate time. It is noted from the Applicant's latest submissions that there has been a new Section 20 Consultation process undertaken on the remaining works, but the Tribunal has not seen any of this paperwork.

60. Firstly the Tribunal considered the validity of the Notice of Intention. There is some confusion on the date of service of the Notice. There is no original date typed within the Notice. The Applicant states the Notice was

"sent the week commencing 7th July 2014"as indicated in pen, but the Respondent states that she received a copy dated 25th March 2014. The Tribunal observes that the Notice states "the consultation period will end on 13th August 2014". The 30 day consultation period required therefore makes the Notice valid, whichever date is correct. The Tribunal considers it unlikely that the Notice was dated 25th March 2014 as the Applicant had not completed the purchase of the property by that date. If it had been served on that date it would not have been a valid Notice as the letter and Notice claim Silverlake as being the landlord, when it was not yet in that role.

61. The Applicant acknowledged it had no experience of the Consultation requirements. It acknowledged it had not prepared a full specification of works, merely relying on the "shopping list" of works that was included with the Notice of Intention.

62. There is an obligation upon a landlord to maintain the structure of the building, but legislation requires dialogue between them and the lessees about any major works they intend to undertake.

63. The RICS Code of Management Practice is the Government approved guidance that Tribunals refer to as this sets recommended standards and obligations for the person managing the block. In this instance it is the Landlord who performs this role. This immediately compromises the position of the landlord, especially in this instance where it also holds four flats on leases. The effect is that it has a two-thirds majority say in any Consultation process. The fact that the landlord is also intending to undertake the work puts an even greater responsibility on its shoulders. To this end it should ensure that all parts of the Section 20 Consultation process takes place, unless there are special circumstances not to do so. In this case such special circumstances could be the need to undertake work in the case of emergency. Indeed in the Supreme Court decision reference is made in paragraph 109 of such cases being envisaged and the Regulation draft consultation took this into account in its drafting.

64. As a result the Applicant should have borne in mind the potential for various conflicts of interest, even though it had the intention of carrying out the works as cost-effectively as it could. It might be that another contractor may have been able to undertake the work either more cost-effectively and/or more quickly.

65. In a complex refurbishment project such as this, it is best practice to appoint a qualified building surveyor who is experienced in this type of work and would prepare a fully detailed specification, with each item separately listed and priced. Where there are items that cannot be fully exposed or evaluated it is normal practice to have a provisional sum set aside for that item, which can only be utilised with the supervising surveyor's written approval. Additionally, and because there is always additional work found to be needed in this size of contract, the surveyor will set a contingency sum to be included in the contract. Once again this can only be utilised with the approval of the supervising surveyor. He should also supervise the contract.

66. The Tribunal is of the opinion that the current conflict is probably not due to any sharp practice by the Applicant or the contractor/builder, but appears to have come about innocently from the Applicant's perspective, due mainly to the naivety of the Applicant and its lack of knowledge of the Consultation requirements.

67. The Applicant failed to obtain competitive quotes for the contract as a whole. It should have obtained quotes from unconnected firms as required under the Consultation Regulations. The Applicant assumed that, by doing the work itself at cost, nobody else would be able to carry out the work more cheaply. This action compromised its position of impartiality. As a result it was not in a position to guarantee that it was the most cost effective method of undertaking the works. The only written evidence provided was restricted to a quote for scaffolding the building. The Applicant had purchased a scissor lift and assumed that this was the most cost-effective way of gaining access to higher levels including the roof. There are alternative methods of gaining access to higher levels of a building other than scaffold and another contractor may have used a different method of access which could have been more cost-effective.

68. The Tribunal decides that the Notice of Intention was valid in itself, but the list of proposed works was incorrect. However, this does not invalidate the Notice because the Applicant could have corrected that aspect. As it happens, it would appear it ignored the Respondent's request to correct it. This has the effect of over-stating the amount of work to be undertaken. It is this failure to correct the list of works that has prejudiced the Respondent's position. There was uncertainty whether or not she would be charged for works undertaken for which she bore no financial liability under her lease. The Tribunal notes that this fact was not included in the Respondent's written submissions but, because it goes to the heart of the case, this information was accepted at the Inspection. It would undoubtedly have cost implications had the specification of works been fully and accurately prepared and estimates obtained therefrom.

69. Had there been a full specification of works and competitive tenders obtained she could have checked to see if there were any items she felt were unnecessary or could have been done more quickly. Under these circumstances her position has been compromised.

70. The Tribunal finds that this failure to engage in the majority of the Consultation process including the provision of an appropriately detailed specification has severely compromised the Respondent's position. She has not had the opportunity of considering any alternative quotes.

71. The Respondent has not had the opportunity to make any observations on the detailed proposed works. She has not had the opportunity of considering anyone who could carry out the work more quickly. She has failed to prove to the Tribunal's satisfaction that she has suffered financially by loss of rent caused by the inability to keep a tenant in the flat due to penetrating damp.

72. The Tribunal makes special note that it has not seen the Structural Engineer's report, and also that a large part of the list of proposed works specified in the Notice of Intention still remains to be undertaken as follows;

a. rebuilding of the canopy,
b. replacement of the front windows,
c. rebuild front bay lateral supports,
d. preventative measures for damp ingress,
e. render South-West wall,
f. complete redecoration.

73. The list of works under heading "Garden Area" in the Notice of Intention should not have been included in the Notice as they were not part of the "building or on any other premises" as defined in the Act. For clarity's sake the Tribunal finds that these are therefore not subject to this consultation process, but should be shown under a separate heading when preparing the annual service charge accounts.

74. Included under this heading is work in relation to the leaking common water mains in the cellar and the clearing of the drains. These should have been included in part of the main structural repairing schedule. Because they are fundamental services to the building we grant dispensation on these items.

75. The roof performs an essential function in keeping the building waterproofed. From the evidence supplied by the Applicant it is clear that urgent work needed to be done to this area to maintain its integrity and to prevent further deterioration to the building. Therefore the Tribunal grants dispensation of all items under the heading "Roof" in the Notice of Intention.

76. The Applicant informed the Tribunal that the cost of renovation and redecoration of the hallway as listed in the Notice of intention under the heading "Hallway" is not being charged to the lessees and therefore does not form part of our consideration.

77. On the basis of the evidence provided by the parties, the Tribunal is satisfied on a balance of probabilities that the canopy was in a dangerous condition and should have been removed as a matter of urgency. The Tribunal decides that dispensation should be granted in respect of the work involved in the removal and subsequent rebuilding of the canopy.

78. This leaves the remaining items in the Notice of Intention under the heading "External" namely:

a. Replace front Windows
b. Rebuild front bay lateral supports
c. Preventative measures for damp ingress
d. Render South-west wall

e. Complete redecoration.

79. At the time of the Tribunal's inspection these works had not been undertaken, although some preparatory work had commenced. From the latest submissions the Applicant states that the Section 20 Consultation process for the second and final phase of the works has been concluded. The Tribunal has not seen any papers relating to this latest Consultation process and as a result is unable to state what is contained therein. This is an unsatisfactory situation but the Tribunal finds that on the balance of probabilities these remaining items are likely to have been included in this latest consultation process. As a result the Tribunal does not grant dispensation for these remaining items.

80. This case differs from the Daejan case inasmuch as, in this particular case, the Consultation process has been minimal and the list of proposed works inaccurate. However, the Respondent has failed to demonstrate that she has suffered a relevant prejudice as defined in the Daejan case. Any prejudice has to be the direct consequence of the failure to consult on the part of the Landlord. Whilst the Respondent has suffered some losses the Tribunal finds that there is not a direct causal link between the failure to consult and the apparent detriment to the Respondent.

R Athow (Valuer Chairman)

Dated 7th September 2015

Appeals

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include, together with the application for permission to appeal, a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not, to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.