



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

**Case Reference** : **LON/00AM/LDC/2020/0123P**

**HMCTS code** : **P: Paperremote**

**Property** : **Baker House, Handcroft Road,  
Croydon CR0 3LE**

**Applicant** : **Optivo (“the Landlord”)**

**Representative** : **Optivo Legal Services Team**

**Respondents** : **All leaseholders of the Property  
 (“the Leaseholders”)**

**Representative** : **N/A**

**Type of Application** : **For dispensation from the  
consultation requirements under  
section 20ZA Landlord & Tenant  
Act 1985**

**Tribunal Member** : **Tribunal Judge Dutton**

**Date of Decision** : **1 June 2021**

---

**DECISION**

---

**This has been a remote determination on the papers, which has not been objected to by the parties. A face-to-face hearing was not held because it was not practicable and all issues could be determined on papers before me, as was requested by the applicant in its application. The documents that I was referred to are in a bundle of some 156 or so pages, the contents of which I have noted.**

### **Decision**

- (1) I determine that dispensation should be granted from some of the consultation requirements under s20 of the Landlord and Tenant Act 1985 (the Act) and the Service Charges (Consultation Requirements)(England) Regulations 2003 for the reasons we have stated below. An Initial Notice has been served and a compliant tendering process has been followed. The leaseholders have been kept informed throughout.**
- (2) I make no determination as to the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.**

### **The application**

1. The applicant landlord sought dispensation from some of the consultation provisions in respect of roofing works to the property at Baker House, Handcroft Road, Croydon CR0 3LE (the Property). The Property is a four storey purpose built block of 22 flats, in four blocks. Seven of the flats are held on long leases and the list of leaseholders was annexed to the application. Directions were issued on 16 April 2021.
2. I am told that the Applicant commissioned a report from Garland Company Limited (the Report) on the condition of the roofs at the Property following an inspection in December 2019. A witness statement of Mr David Holgado of Optivo sets out the history and the problems highlighted in the Report, which I have noted, and has with it a number of exhibits, including the Report, the specification of works and letters to the Leaseholders. A Notice of Intention was sent to the Leaseholders of the Property on 21 January 2021, to which no response was received.
3. Further investigations were undertaken the following month showing continuing and worsening problems with the roofs. A tendering process for a wider scheme was undertaken, and five companies participated, initially for the works to start at the end of March 2021. Due to the worsening

condition of the roofs the work have been brought forward to 8 March, with completion, it is hoped, of the works to the Property and others by 23 April 2021. The chosen contractor appears to be Amber Construction Services Limited.

4. On 19 February 2021, the Leaseholders were written to giving full details of the works, with reasons and costs. There were no responses to this letter. In addition, a further letter was sent on 23 April 2021 confirming that works were underway with an estimated cost for the Property of £156,767.27. This letter also complied with the directions requiring information to be passed to the Leaseholders.
5. By an email dated 9 May 2021 to the tribunal we were told that the directions had been complied with, with photographic evidence to support and again confirming that there had been no response from the Leaseholders.
6. It was not considered that an inspection of the Property was necessary, nor would it have been proportionate to the issues in dispute.
7. The only issue for me is whether it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

### **Findings**

8. In making its decision I have borne in mind that there does not appear to have been any objection to the works by the Leaseholders.
9. The Law applicable to this application is to be found at s20ZA of the Act. The decision of the Supreme Court in Daejan Investments Limited and Benson and others [2013] UKSC 14 has been considered by me in reaching my decision. There has not been any allegation of prejudice to the Leaseholders as set out in the Daejan case.
10. It is clear to me, based on the statement of Mr Holgado and the exhibits attached thereto, that the roof required swift attention to maintain the Property and to prevent further internal damage. I therefore find that it is reasonable to grant dispensation from some of the consultation requirements required under s20 of the Act, considering that an Initial Notice has been served and a tendering process followed.

11. My decision is in respect of the dispensation from the provisions of s20 of the Act only. Any concern that a Leaseholder has as to the standard of works, the need for them and costs will need to be considered separately.

*Andrew Dutton*

**Name: Tribunal Judge  
Dutton**

**Date: 1 June 2021**

### **ANNEX – RIGHTS OF APPEAL**

- 1. 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 at the Regional Office which has been dealing with the case.**
- 2. 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.**
- 3. If the application is not made within the 28-day time limit, such application must include a request to 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.**
- 4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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**