



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

Case reference : **LON/00AW/LDC/2021/0103P**

Property : **41 Longridge Road, London SW5
4SD**

Applicant : **41 Longridge Road Limited**

Representative : **Kate Wood of tlc Estate Agents**

Respondents : **The leaseholders of the Property as
listed in the application**

Type of application : **Dispensation from compliance with
statutory consultation
requirements**

Tribunal members : **Judge P Korn
Mr A Fonka**

Date of decision : **6th July 2021**

DECISION

Description of hearing

This has been a remote hearing on the papers. The form of remote hearing was **P**. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondents did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which we have been referred are in an electronic bundle, the contents of which we have noted. The decision made is described immediately below under the heading “Decision of the tribunal”.

Decision of the tribunal

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The qualifying works which are the subject of this application comprise the carrying out of remedial works after rotting plywood was found to have caused the roof to dip, thereby compromising the structure and running the risk of collapse. It appears that the works have now been carried out in full and that therefore this is a request for retrospective dispensation.
3. The Property is a townhouse consisting of 5 flats. The Respondents are the long leaseholders of the flats.

Applicant’s case

4. Due to water penetration into the basement flat, it was decided to carry out exploratory works to the terrace. It then transpired that water beneath the terrace had penetrated through the roof lining felt and had caused the plywood underneath to rot. The rotting plywood in turn had caused the roof to dip, thereby compromising the structure and leading to the risk of collapse.
5. In view of the risk of collapse the Applicant concluded that it was necessary to carry out remedial works immediately without first going through the statutory consultation process. The Applicant has also made the point that every time it rained water penetrated through the felt into the basement flat bedroom and caused further damage to the structure of the building.
6. After the exploratory works had taken place, the Applicant or its agents spoke to the leaseholders and all of them confirmed in writing that they understood that the works needed to be carried out immediately.
7. The electronic bundle includes a report from the contractor, a video of the defective roof area, supporting photographs and a copy of the invoice for the works.

Responses from the Respondents

8. There have been no objections from any of the Respondents to the application.

The relevant legal provisions

9. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
10. Under Section 20ZA(1) of the 1985 Act *“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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”*.

Tribunal’s analysis

11. We note that the Applicant has not complied with any of the formal statutory consultation requirements. However, as is clear from the decision of the Supreme Court in *Daejan Investments Limited v Benson and others (2013) UKSC 14*, the key consideration when considering an application for dispensation is whether the leaseholders have suffered any real prejudice as a result of the failure to comply with the consultation requirements.
12. In this case, there is evidence to indicate that the works were very urgent, in the sense that the Applicant – supported by the view of its contractor – considered that the building was in danger of collapsing. Furthermore, rainwater was continuing to penetrate and to exacerbate the problem. The Applicant’s submissions have not been contradicted by any of the Respondents and, importantly, none of the Respondents has objected to this application.
13. In addition, none of the Respondents has suggested that there has been any prejudice to leaseholders as a result of the failure fully to comply with the statutory consultation requirements.
14. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements, and on the facts of this case in the light of the points noted above we consider that it is reasonable to dispense with the consultation requirements.
15. As is clear from the decision of the Supreme Court in *Daejan v Benson*, even when minded to grant dispensation it is open to a tribunal to do so

subject to conditions, for example where it would be appropriate to impose a condition in order to compensate for any prejudice suffered by leaseholders. However, as noted above, there is no evidence nor any suggestion that the leaseholders have suffered prejudice in this case.

16. Accordingly, we grant unconditional dispensation from compliance with the consultation requirements.
17. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Costs

18. There have been no cost applications.

Name: Judge P Korn

Date: 6th July 2021

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.