



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

<b>Case Reference</b>	:	<b>LON/00AF/LDC/2022/0012</b>
<b>Property</b>	:	<b>Glebe Knoll, 5 Beckenham Lane, Bromley, BR2 0DA</b>
<b>Applicant</b>	:	<b>5 Beckenham Lane Management Company Limited</b>
<b>Representative</b>	:	<b>Acorn Estate Management</b>
<b>Respondent</b>	:	<b>The 16 leaseholders listed in the application</b>
<b>Representative</b>	:	<b>Not Known</b>
<b>Type of Application</b>	:	<b>An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works</b>
<b>Tribunal Members</b>	:	<b>Mr I B Holdsworth FRICS MCI Arb</b>
<b>Date and venue of Hearing</b>	:	<b>Remote hearing on 4<sup>th</sup> May 2022</b>
<b>Date of Decision</b>	:	<b>4<sup>th</sup> May 2022</b>

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**DECISION**

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## **Decisions of the Tribunal**

The Tribunal determines that retrospective dispensation should be given from the consultation requirements in respect of the works undertaken to fell a large beech tree, (defined as the “Tree Works”) at Glebe Knoll, 5 Beckenham Lane, Bromley BR2 0DA as required under s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for the reasons set out below.

**This application does not concern the issue of whether any service charge costs will be reasonable or payable. The leaseholders will continue to enjoy the protection of Section 27a of the Act.**

The Tribunal directs the Applicant to send a copy of this Decision to the leaseholders and to display a copy in the common parts of the buildings.

## **The application**

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to retrospectively dispense with the statutory consultation requirements associated with carrying out necessary and essential tree felling works, (the “**Tree Works**”) at Glebe Knoll, 5 Beckenham Lane, Bromley BR2 0DA (the “**property**”).
2. An application was received by the First-tier Tribunal dated 4<sup>th</sup> January 2022 seeking dispensation from the consultation requirements. Directions were issued on the 3<sup>rd</sup> March 2022 to the Applicant. These Directions required the Applicant to advise all Respondents of the application and provide them with details of the completed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

## **The hearing**

4. This matter was determined by written submissions. The Applicant submitted a bundle of relevant materials to the Tribunal.
5. No submissions are received from the Respondents.

## **The background**

6. The property which is the subject of this application comprises 16 self-contained flats located in two blocks. The Mansion House with 6 flats and Manor House containing 10 flats. The flats are accessed along a driveway and alongside this access was a substantial beech tree. This

tree was deemed to be unsafe, and the tribunal are told posed a risk to the adjacent property, Peter House and the residents of the property, Glebe Knoll.

7. Acorn Estate Management the Applicants representative and managing agent, explain in their Statement of Case that the hazard posed by the beech tree was reported to them in September 2021. They instructed Howden Tree Care to inspect the beech tree and report on the stability and any appropriate remedial works.
8. The report prepared by Howden Tree Care dated 11<sup>th</sup> November 2021 is submitted to tribunal at page 27 of the bundle. The report confirms the tree suffered from a decayed centre stem and advised removal to ground level. A further report at page 29 prepared by RG Tree Consultancy dated 19<sup>th</sup> November 2021 corroborates the advice given by Howden Tree Care Ltd.
9. Following the arboricultural advice Acorn Estates sought approval from Bromley Borough Council for the tree felling. This permission was granted on 22<sup>nd</sup> December 2021.
10. The managing agent advised all residents of the proposed Tree Works by letter delivered to residents on 23<sup>rd</sup> December 2021. This letter also explained their intension to seek dispensation from S20 consultation procedure.
11. The managing agents, Acorn Estates obtained two quotes for the Tree Work from specialist tree contractors, namely Oxleas Tree Care Ltd at £4,941 plus vat and Howden Tree Services at £ 4,790 not subject vat.
12. Howden Tree Services were selected and instructed to carry out the Tree Work which the tribunal are told was completed in January 2022. Details of the contractor reports, quotes received, and the final cost of the works is contained in the Applicants submission.
13. The Statement of Case confirms that due to the concern about the hazard posed by the dangerous tree to the residents the Tree Works were undertaken prior to further consultation.
14. The Applicant contends that the Tree Works were needed urgently for the following reasons:
  - The arboriculturist report on the beech tree had identified it as unsafe and advised felling. Any delay heightened the health and safety risk to the property occupiers;

- Any delay in undertaking the works also posed a hazard to the occupants of the adjacent premises Peter House; and
  - Further delay would have increased the probability of consequential damage from falling branches.
15. This determination relies upon a bundle of papers which included the application, the Directions, Application, a Statement of Case and copy of a specimen lease.
16. The only issue for the tribunal to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the Tree Works. **This application does not concern the issue of whether any service charge costs are reasonable or payable.**

### **The determination**

17. The tribunal have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly.
18. There was a demonstrated need to carry out the works urgently to obviate the risk to residents at the property and adjacent property from a tree which was deemed unsafe after inspection by a qualified and experienced arboriculturist. Also, an early start on the works was likely to mitigate the extent of consequential damage to the building and residents from falling branches.
19. It is for these reasons the tribunal is satisfied it is appropriate to retrospectively dispense with the consultation requirements for the Tree Works.
20. **It is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the Application.**
21. **This decision does not affect the right of the Respondents to challenge the costs, payability or the standard of work should they so wish.**

**Valuer Chairman:** Ian B Holdsworth

**Date:** 4th May 2022

## **Appendix of relevant legislation**

### **Section 20 of the Act**

- (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 leasehold valuation 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 or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenant’s being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

## **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).