



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

**Case reference** : **BIR/47UD/LDC/2023/0007**

**Properties** : **Block 9 - 12 Felton Close Matchborough  
East Redditch B98 0AQ**

**Applicant** : **Redditch Borough Council**

**Representative** : **Sue Solomon (ref: Tenant Liaison  
Officer)**

**Respondents** : **Mrs Julie Lockwood and Mr Colin  
Lockwood (1)  
Mrs Jebusomma Ngozi Juwah (2)  
Mr Adam Robertson (3)  
Mr C A Collins (4)**

**Representative** : **None**

**Type of application** : **An application under section 20ZA of  
the Landlord and Tenant Act 1985 for  
dispensation of the consultation  
requirements.**

**Tribunal member** : **Judge C Goodall  
Regional Surveyor V Ward FRICS**

**Date and place of  
hearing** : **Paper hearing**

**Date of decision** : **16<sup>th</sup> August 2023**

---

**DECISION**

---

## **Background**

1. Redditch Borough Council (“the Council”) is the lessor of 4 flats numbered 9-12 Felton Close in Matchborough, East Redditch. The lessees are the four Respondents named above. Each has a lease for 125 years from the early 1980’s.
2. The Council’s case is that under the leases, the Respondents are each responsible for paying twenty five percent of the costs of works that the Council is obliged to undertake under the leases. The works the Council say are required are the removal of asbestos in the utility cupboards relating to the flats.
3. The Council has obtained an estimate of the cost of the works, which is £3,529.20. The proportionate share for each Respondent is therefore £882.30 (but shown as £882.25 on the Council’s notification letters dated 8 March 2023).
4. The Council have not consulted on the works under section 20 of the Landlord and Tenant Act 1985. Instead, they made an application to this Tribunal dated 9 March 2023 for dispensation from consultation. We understand that the works have already been carried out as the Council considered the health and safety risk required them to be carried out urgently.
5. The Tribunal issued directions dated 14 June 2023 setting out the process leading to a Tribunal decision. The Council was required to send copies of the application to each Respondent together with a statement explaining the purpose of the application, the reason why dispensation is being sought, and brief details of the procurement process. The Tribunal has seen the statement provided to the Respondents, dated 20 July 2023, purporting to comply with this requirement. Each Respondent was then given the opportunity to inform the Tribunal whether they agreed with or objected to an order for dispensation from consultation being granted. The directions indicated that the Tribunal would deal with the application without a hearing unless any Respondent objected.
6. The Tribunal has not received any responses from any Respondents either objecting to the application for dispensation or requesting a hearing. We have therefore considered the application on the basis of the application form, copies of the leases, and copies of correspondence from the Council to the Respondents which have been provided to us. This document sets out our decision.

## **Law**

7. The law on the requirement to consult, and a landlord’s right to request dispensation from that requirement is contained in sections 20 and 20ZA of the Act. Section 20 provides:

**Section 20 Limitation of service charges: consultation requirements**

- (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.
8. The relevant contribution is the amount a tenant may be required to contribute under his lease (sub-section (2)).
9. Sub-sections (6) and (7) of section 20 limit the tenants “relevant contribution” to an “appropriate amount”, which is currently £250 (see SI 2003/1987, reg 6).
10. Section 20ZA provides (in so far as is relevant):

**Section 20ZA Consultation requirements: supplementary**

- (1) 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 ..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
11. The consultation requirements are contained in the Service Charges (Consultation Requirements) (England) Regulations 2003. Regulation 7 and the various schedules to the regulations set out the requirements. Schedule 3 applies where qualifying works are to be carried out under a long-term qualifying agreement. Schedule 4 applies where there is no qualifying long term agreement in place. Under both schedules, the Respondents must be given a notice of intention to carry out works. The recipients have a right to make observations and the Council must take those into account. Schedule 4 has additional more onerous and time consuming obligations.
12. The Council’s letter to the Respondents dated 20 July 2023 is not clear on how the procurement process for the works was carried out, or whether consultation, had it been carried out, would have been under schedule 3 or 4 of the Consultation Requirements.
13. The Supreme Court case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854 (hereafter *Daejan*) sets out the current authoritative jurisprudence on section 20ZA. This case is binding on the Tribunal. *Daejan* requires the Tribunal to focus on the extent to which the leaseholders would be prejudiced if the landlord did not consult under the

consultation regulations. It is for the landlord to satisfy the Tribunal that it is reasonable to dispense with the consultation requirements; it is for the leaseholders to establish that there is some relevant prejudice which they would or might suffer, and for the landlord then to rebut that case.

### **Discussion**

14. This decision relates only to whether it is reasonable to dispense with the consultation requirements identified in paragraph 11 above. The Council say it is, as consultation would take too long and the need for the works is urgent, as the existence of asbestos poses a health and safety risk.
15. No Respondent has challenged the application. There is therefore no evidence available to us that any Respondents allege prejudice as a result of the application. The Tribunal therefore accepts the case put forward by the Council and considers that there is a reasonable justification for dispensing with the consultation requirements in this case. We therefore grant the application.
16. All parties should note that this decision is not to be taken as confirmation that the works are covered within the service charge provisions in the leases, nor that the cost of the works will have been reasonably incurred, particularly as only one quote was obtained. We have not inspected the property, and cannot confirm that works to the meters were not possible without removal of asbestos, or that there was a health and safety risk if the works were not carried out urgently.

### **Appeal**

17. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall  
Chair  
First-tier Tribunal (Property Chamber)