



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

<b>Case Reference</b>	: CAM/00ME/LDC/2025/0620
<b>Property</b>	: High Peak Sunningdale Heights Sunningdale Ascot SL5 0BF
<b>Applicant</b>	: High Peak (Sunningdale) Management Company Ltd (“RMC”)
<b>Representative</b>	: Jenna Skal – acting on behalf of Anthem Management Ltd
<b>Respondent</b>	: All leaseholders of dwellings at the property.
<b>Representative</b>	: None
<b>Type of Application</b>	: To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985
<b>Tribunal Member</b>	: I R Perry FRICS
<b>Date of Decision</b>	: 8 <sup>th</sup> May 2025

---

**DECISION**

---

## Summary of the Decision

1. **The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the Landlord by Section 20 of the 1985 Act in relation to roof repairs. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**

## Background

2. On 10<sup>th</sup> March 2025 the Applicants Agent applied for dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act.
3. The property is described as a modern block of 9 apartments with leasehold interests being owned by 7 parties. It is 4 stories high having been built in 2017 and has the benefit of NHBC guarantees.
4. A severe leak of water into flat 7 was reported on 8<sup>th</sup> September 2024. Due to the severity of the leak water also entered flat 4 which is below flat 7.
5. The two Directors of the Resident Management Company authorised the Agent to arrange for a contractor to attend and investigate the source of the leak.
6. Further leaks were reported over the next two months into flat 9 with further leaks then occurring into flats 3, 6 and 8.
7. The Agent had some difficulty in sourcing a contractor equipped and prepared to assist with the work but eventually the Agent obtained a commitment from Keay Roofing.
8. Due to the height of the structure and the number of leaks the contractor advised that scaffolding would be required. Due to the urgency of the situation the directors authorised the scaffolding of the building which was approved at the time in a meeting with available owners. The scaffolding was then erected to facilitate a full investigation of the water ingress.
9. The scaffolding costs amounted to £10,524.00. The management company had reserve funds of £39,131.99 available.
10. It was also agreed that the Management Company should commission a surveyor's inspection and report which incurred a further £3,300.
11. The initial quote for remedial works to address the leaks and other defects was just below a further £30,000. Following consultation with the owners and Directors it was decided that this was too large a sum to spend on defect repairs which should be covered by the developer/NHBC.

12. Keay Roofing were instructed to carry out temporary repairs which were completed at a cost of £7,188.00. These works were completed by 21<sup>st</sup> February 2025 and scaffolding removed.
13. The NHBC attended on 7<sup>th</sup> April 2025 and have erected their own scaffolding with investigations due to start on 10<sup>th</sup> April 2025.
14. The leaseholders and Directors of RMC state that they will be pursuing legal proceedings against the developer/NHBC.
15. The Agent explains that there was no time to complete s20 consultation before the works were commissioned and has now applied on behalf of RMC for dispensation of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985.
16. On 9<sup>th</sup> April 2025 the Agent wrote to all the owners within the property explaining the process of applying for this dispensation explaining how any owner could object to this application if they so wished. No objection has been received.
17. **The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. This application is not about the proposed costs of the works, and whether they are recoverable from the leaseholders as service charges or the possible legal proceedings against the developer/NHBC. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the Landlord and Tenant Act 1985 to determine the reasonableness of the costs, and the contribution payable through the service charges.**

### **The Law**

18. Section 20 of the Landlord and Tenant Act 1985 (“the Act”) and the related Regulations provide that where the lessor undertakes qualifying works with a cost of more than £250 per lease / to enter into a Long Term Qualifying Agreement being an agreement of 12 months or more with a cost of more than £100 per annum per lease the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement has been dispensed with by the Tribunal. An application may be made retrospectively.
19. The relevant section of the Act reads as follows:

#### **S.20 ZA Consultation requirements:**

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.

20. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of *Daejan Investment Limited v Benson et al* [2013] UKSC 14.
21. The leading judgment of Lord Neuberger explained that a Tribunal should focus on the question of whether the lessee will be or had been prejudiced in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor to comply with the regulations. The requirements were held to give practical effect to those two objectives and were a means to an end, not an end in themselves.
22. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if able to engage in a consultation process. If the lessee advances a credible case for having been prejudiced, the lessor must rebut it. The Tribunal should be sympathetic to the lessee(s).
23. Where the extent, quality and cost of the works were in no way affected by the lessor's failure to comply, Lord Neuberger said as follows:

I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be- i.e. as if the requirements had been complied with.
24. The main, indeed normally, the sole question, as described by Lord Neuberger, for the Tribunal to determine is therefore whether, or not, the lessee will be or has been caused relevant prejudice by a failure of the Applicant to undertake the consultation prior to the major works and so whether dispensation in respect of that should be granted.
25. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges of works arising or which have arisen.
26. If dispensation is granted, that may be on terms.
27. There have been subsequent Decisions of the higher Courts and Tribunals of assistance in the application of the Decision in *Daejan* but none are relied upon or therefore require specific mention in this Decision.

### **Consideration**

28. Having considered the application and, prior to undertaking this determination, I am satisfied that a determination on the papers remains appropriate, given that the application remains unchallenged.
29. The reason why dispensation from consultation requirements is said to be required is due to the urgency dealing with water ingress which has affected a number of the flats within the building.

30. I am satisfied that the qualifying works were of an urgent nature.
31. The Applicant states that there has been no objection to the dispensation of the consultation requirements from any of the Lessees and none of the Lessees have contacted the Tribunal office.
32. None of the Lessees have therefore asserted that any prejudice has been caused to them. The Tribunal finds that nothing different would be done or achieved in the event of a full consultation with the Lessees, except for the potential delay causing even greater damage.
33. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.
34. The Tribunal consequently finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the works to the building as described in this Decision.
35. This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works as outlined at paragraph 4. The Tribunal has made no determination on whether the costs are payable or reasonable. If a Lessee wishes to challenge the payability or reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
36. In reaching my decision I have taken account of the fact that no party has objected to the application. The leaseholders have had opportunity to raise any objection, and they have not done so. I do however **Direct** that the dispensation is conditional upon the Applicant or their agent sending a copy of this decision to all the leaseholders so that they are aware of the same.

### **RIGHTS OF APPEAL**

37. 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 by email at [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk)
29. 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.
30. If the person wishing to appeal does not comply with the 28- day time limit, the person shall include 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.

31. 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.