FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/43UE/LDC/2025/0629
Property	**:**	Clarendon Mews, Parkers Lane, Ashtead, Surrey, KT21 2AL
Applicant	**:**	Clarendon mews Management Company Limited
Representative	**:**	In Block management
Respondent	**:**	The leaseholders of Clarendon Mews
Representative	**:**	N/A
Type of Application	**:**	To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985
Tribunal	**:**	Tribunal Judge Mohabir
Date of Decision	**:**	17 July 2025

DECISION

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1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 ("the Act") for *retrospective* dispensation with the consultation requirements in respect of roof works at the property known as Clarendon Mews, Parkers Lane, Ashtead, Surrey, KT21 2AL ("the property"), which is described as being a three storey purpose built residential block of flats constructed of brick and a tiled roof.

2. The Applicant is the management company of the property. It is a party to the Respondents' tripartite leases. Each leaseholder is a member of the management company, which is responsible for the external repair and maintenance of the property.

3. It is the Applicant's case that, as a result of water ingress from the roof into one of the flats in 14-24 Clarendon Mews, roofing contractors were instructed to investigate the cause of the leak. It was advised significant works would be required to the roof and needed to be completed swiftly to avoid any further damage to the property. This included replacing the battens, installing a continuous section of felt/lead, installing tilting fillets behind the fascia board as well as several other repairs.

4. The Tribunal was not provided with a specification for the remedial work or a copy of the final invoice setting this out or the final cost of the work. However, these are not strictly relevant to the consideration of this application because, as stated below, the scope and final cost of the remedial work can potentially be challenged by the Respondents.

5. The contractor was instructed to commence the necessary remedial work on 30 January 2025, which was completed on 21 February 2025.

6. Apparently, at the time this application was made, the leaseholders were due to be informed of when the roof repairs had been completed, and the cost incurred.

7. The application to the Tribunal was received on 12 March 2025. On 23 May 2025, the Tribunal issued Directions requiring the Applicant to serve the Respondents with a copy of the application, which apparently was done on 29 May 2025. The Respondents were directed to respond to the application stating whether they objected to it in any way.

8. None of the Respondents have objected to the application.

Relevant Law

9. This is set out in the Appendix annexed hereto.

Decision

10. As directed, the Tribunal's determination "on the papers" took place on 17 July 2025 and was based solely on the documentary evidence filed by the Applicant. As stated earlier, no objections had been received from any of the Respondents, nor had they filed any evidence.

11. The relevant test to the applied in an application such as this has been set out in the Supreme Court decision in ***Daejan Investments Ltd v Benson & Ors*** [2013] UKSC 14 where it was held that the purpose of the consultation requirements imposed by section 20 of the Act was to ensure that tenants were protected from paying for inappropriate works or paying more than was appropriate. In other words, a tenant should suffer no prejudice in this way.

12. The issue before the Tribunal was whether dispensation should be granted in relation to the requirement to carry out statutory consultation with the leaseholders regarding the overall external works. The Tribunal is not concerned about the actual cost that has been incurred.

13. The Tribunal granted the application for the following main reasons:

    (a) The Tribunal was satisfied that the Respondents had been served with the application and the evidence in support and there has been no objection from any of them. The Tribunal attached significant weight to this.

    (b) The Tribunal was satisfied that the remedial roof works to prevent further water ingress to the affected flat in 14-24 Clarendon Mews was required on an urgent basis. This assertion by the Applicant was not challenged by any of the Respondents.

    (c) The Tribunal was also satisfied that if the Applicant had carried out consultation in relation to the remedial roof work, it would have resulted in delay resulting in a loss of amenity in the affected flat, potentially a health and safety risk to the occupant(s) and additional cost to the leaseholders from further damage thereby causing further financial prejudice.

    (d) Importantly, the real prejudice to the Respondents would be in the cost of the additional work and they have the statutory protection of section 19 of the Act, which preserves their right to challenge the actual costs incurred by making a separate service charge application under section 27A of the Act.

14. The Tribunal, therefore, concluded that the Respondents were not being prejudiced by the Applicant's failure to consult, and the application was granted as sought.

15. It should be noted that in granting this part of the application, the Tribunal makes no finding that the scope and cost of the repairs are reasonable.

Name: Tribunal Judge Mohabir **Date:** 17 July 2025

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).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 20

(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) the appropriate 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 tenants 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.

Section 20ZA

(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 or qualifying long-term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.