



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

Case Reference : **BIR/00CS/LDC/2024/0624**

Property : **Goldfield Court, Dartmouth Street,
West Bromwich, West Midlands B70 8GH**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Housing 21.org.uk attn of Nadine McCann**

Respondents : **Leaseholders of Goldfield Court listed in the
application**

Type of Applications : **To dispense with the requirement to consult
lessees about major works section 20ZA of
the Landlord and Tenant Act 1985**

Tribunal Members : **Judge D. Barlow**

Date of Decision : **8 September 2025**

DECISION

DECISION

- (1) The Tribunal grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985 in respect of Qualifying Works to instal a new Appello digital emergency call system in Goldfield Court.
- (2) In granting dispensation, the Tribunal makes no determination as to whether any service charge costs referable to the Appello works are payable or reasonable.

BACKGROUND

1. Goldfield Court was constructed in 2012. It has a total of 93 apartments which comprise of 17 one-bedroom apartments and 76 two-bedroom apartments. The properties are a mixture of those available for rent or as part of a shared ownership agreement. There are 66 rental apartments and 27 shared owner apartments, with a communal laundry room and scooter store.
2. The Applicant seeks dispensation under Section 20ZA the 1985 Act from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act. The application, received on 1 December 2024, relates to 'Qualifying Works' to replace the current emergency call system which is unreliable and difficult to maintain and service due to the increasing obsolescence of parts. It is an analogue system within a technology that is now increasingly digital. BT are proposing to total switch off analogue services completely during 2025.
3. Consequently, there is an urgent need for the unreliable analogue system, which is prone to repeated failings, to be replaced. The Applicant has chosen the Appello Smart Living Solutions System as the replacement service. The unreliability of the current system is such that the Applicant wishes to commission the work urgently but is unable to procure alternative quotes because currently Appello is the only contractor that can provide a fully digital emergency call system that uses secure encryption to authenticate and encrypt both data and speech. There are a limited number of other digital systems that offer general functionality comparable to the old analogue systems, but they all have limited health and safety features in comparison to the Appello system.
4. All aspects of the Appello connectivity are digital using Voice Over IP (VOIP) and the British Standard BS8521-2 which is the BS for signalling alarm calls to the monitoring centre over digital networks. Other systems use elements

of analogue to digital conversion technology to get alarm calls successfully delivered to monitoring centres but do not provide the safety enhancements seen in the Appello system. It is crucial that the system is capable of handling simultaneous calls. Traditional analogue systems will only allow 1 call to be made at any one time with any subsequent calls forming a queue. Furthermore, if a fire alarm is activated traditional equipment may delay the fire call being received by the monitoring centre. Hybrid digital systems will allow 2 simultaneous calls, whereas the Appello system will allow unlimited calls raised and handled concurrently from any site. This is of particular importance on the Applicant's Extra Care sites where up to 10,000 calls per month can be made from any one site.

5. Dispensation is sought because there are no comparable systems currently on offer that have the significant enhancements and digital capabilities that are essential to supporting the safety of the residents.
6. Directions issued on 9 January 2025 provided for service by the Applicant on each of the lessee Respondents a copy of the application and the directions and for the Applicant to confirm to the Tribunal that this had been done. The directions also provided for the lessees to confirm if they consented to or objected to the application by 7 February 2025.
7. The Applicant confirmed on 20 January 2025, that the application and directions had been sent to each of the lessee Respondents on 16 January 2025.
8. The Tribunal has only received one response from a lessee consenting to the application. No objections have been received and no request made for an oral hearing. The application is therefore determined on the papers received in accordance with Rule 31 of the Tribunal's procedural rules.
9. The only issue for the Tribunal is whether it is reasonable to dispense with any statutory consultation requirements. This decision does not concern the issue of whether any service charge costs relating to the proposed works will be reasonable or payable.

THE LAW

10. The relevant section of the Act reads as follows:

20ZA Consultation requirements:

Where an application is made to a ... 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.

11. The matter was examined in some detail by the Supreme Court in the case of *Daejan Investments Ltd v Benson* [2013] 1 WLR 854. In summary the Supreme Court noted the following:
 - i. The main question for the Tribunal when considering how to exercise its jurisdiction in accordance with section 20ZA (1) is the real prejudice to the tenants flowing from the landlord's breach of the consultation requirements.
 - ii. The financial consequence to the landlord of not granting a dispensation is not a relevant factor. The nature of the landlord is not a relevant factor.
 - iii. Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
 - iv. The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms are appropriate.
 - v. The Tribunal has power to impose a condition that the landlord pays the tenants' reasonable costs (including surveyor and/or legal fees) incurred in connection with the landlord's application under section 20ZA (1).
 - vi. The legal burden of proof in relation to dispensation applications is on the landlord. The factual burden of identifying some "relevant" prejudice that they would or might have suffered is on the tenants.
 - vii. The court considered that "relevant" prejudice should be given a narrow definition; it means whether non-compliance with the consultation requirements has led the landlord to incur costs in an unreasonable amount or to incur them in the provision of services, or in the carrying out of works, which fell below a reasonable standard, in other words whether the non-compliance has in that sense caused prejudice to the tenant.
 - viii. The more serious and/or deliberate the landlord's failure, the more readily a Tribunal would be likely to accept that the tenants had suffered prejudice.
 - ix. Once the tenants had shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.

Evidence

12. The Applicant's case is as set out at paragraph 1-9 above.

Determination

13. I accept there is an urgent need to provide a reliable and sustainable emergency call system to Goldfield Court to ensure the safety of its vulnerable residents. No lessee has objected to the proposed works or the application for dispensation in relation to the consultation process. I therefore have no reason to speculate on the possibility that there may be comparable systems offered by other contractors from whom alternative quotes could be obtained.
14. The test that I must apply in determining whether dispensation may be given is that set out by the Supreme Court in the *Daejan* decision referred to above. It is clearly to the lessees' long-term advantage that the current unreliable analogue call system is replaced with a digital system that is capable of reliably providing an essential service for the foreseeable future. No lessee has objected, and the Tribunal is not therefore satisfied that any would be prejudiced by granting dispensation.
15. The Tribunal therefore grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985 in respect of the proposed contract with Appello for the installation of a new digital emergency call system.
16. In granting dispensation, the Tribunal makes no determination as to whether any service charge costs referable to the works are reasonable or payable.

D Barlow
Deputy Regional Judge

8 September 2025

Rights of Appeal

- A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpmidland@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
- 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.
- 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.

- 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.