



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

Case Reference : HAV/40UD/LDC/2025/0642

Property : 31-50 Cavalier Way, Wincanton, BA9 9ED

Applicant : Proxima GR Properties Limited

Representative : Residential Management Group

Respondents : Mrs J Myatt – 39
Mr A Ray – 40
Ms A E H Cooke – 41
Ms C Miller – 42

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

**Tribunal
Member(s)** : Tribunal Judge H Lumby
Mr P Smith FRICS
Ms P Gravell

Date of Hearing : 4 September 2025

Date of Decision : 5 September 2025

DECISION

Decision of the Tribunal

- (1) The Tribunal grants the application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (Section 20ZA of the same Act) in relation to roof repairs to Block 39 – 42 Cavalier Way.
- (2) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the tribunal proceedings may be passed to the Respondents as lessees through any service charge.
- (3) The Tribunal makes an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 in favour of the Respondents that none of the costs incurred by the Applicant in connection with these proceedings can be charged direct to the Respondents as an administration charge under the Respondents' leases.

The background to the application

1. The Applicant seeks 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. This application was received on 25 April 2025.
2. The Property is described as a development of five detached blocks, each containing four flats, estimated to have been constructed before 1991.
3. The Applicant is the landlord of the Property and the Respondents comprise the leaseholders of the affected block, 39 – 42 Cavalier Way.
4. The application relates to moisture reported inside the roof of the affected block, which was causing damage to the building and was initially attributed to roof leaks.
5. The works were said to be urgent as a result of the need to prevent further damage.
6. The Applicant sought to obtain quotes from five contractors, of whom only three provided a response in November 2024. Quotations ranged from £49,204 plus VAT to £11, 225.50 plus VAT with the lowest bidder (Hearn Group Limited) accepted. The Respondents objected to this selection, being concerned that it did not have the correct expertise. They proposed that a quote be obtained from Kavanagh Roofing Limited but they were initially considered unsuitable by the Applicant.
7. As a result of the urgency, the Applicant considered that there was insufficient time to carry out a statutory consultation, although the

Respondents were informed of the tender process it had carried out. As a result, the Applicant has applied for dispensation instead.

8. Three of the Respondents objected to the application for dispensation, principally because of the acceptance of the Hearn Group quotation and the exclusion of Kavanagh Roofing Limited. Concerns were also raised at the lack of inspections and that a proper consultation should have been carried out.
9. The Applicant subsequently obtained a quote from Kavanagh Roofing Limited, who on 11 June 2025 submitted a quotation for £7,215.73 plus VAT. This was accepted, with the agreement of the Respondents, and the objections to the dispensation were withdrawn.
10. The Tribunal did not inspect the Property as it considered the documentation and information before it in the set of documents prepared by the Applicant enabled the Tribunal to proceed with this determination.

Hearing

11. The hearing took place online, using the Tribunal's CVP system. Mr Yaasir Jamalkhan appeared for the Applicant together with Mr Bart Longier. Mr James House appeared for the Respondents, with Mr A Ray and Ms C Miller also in attendance.
12. The Tribunal had been provided with a bundle from the Applicant comprising 159 pages together with three witness statements. The Respondents provided a bundle running to 18 pages. The contents of all these documents were noted.
13. The Applicant argued that because there were no objections, there was no evidence of any relevant prejudice to the Respondents and so dispensation should be given. They confirmed that no costs of the proceedings would be charged to the Respondents and were happy to have an order giving effect to this. They acknowledged that there had been failings in the consultation process but contended this should not affect the outcome.
14. Mr House on behalf of the Respondents highlighted various failings by the Applicant's managing agents, including a lack of survey leading to the works being over specified. He explained that the Respondents had no objection to dispensation being granted but wanted nonetheless to put their dissatisfaction with the process on the record. This was said to have caused a loss of trust in Residential Management Group.

The issues

15. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works. 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 as service charges, including the possible application or effect of the Building Safety Act 2022, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

16. The Tribunal notes that the Respondents have a separate application for the appointment of a manager in relation to the Property (with reference HAV/40UD/LMD/2025/0001). It makes no comment on those proceedings.

Law

17. Section 20 of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) and the Service Charges (Consultation Requirements) (England) Regulations 2003 require a landlord planning to undertake major works, where a leaseholder will be required to contribute over £250 towards those works, to consult the leaseholders in a specified form.
18. Should a landlord not comply with the correct consultation procedure, it is possible to obtain dispensation from compliance with these requirements by an application such as this one before the Tribunal. Essentially the Tribunal must be satisfied that it is reasonable to do so.
19. The Applicant seeks dispensation under section 20ZA of the 1985 Act from all the consultation requirements imposed on the landlord by section 20 of the 1985 Act.
20. Section 20ZA relates to consultation requirements and provides as follows:

“(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.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

....

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

- (a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
- (b) to obtain estimates for proposed works or agreements,
- (c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
- (d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
- (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

Findings

21. In the case of *Daejan Investments Limited v Benson* [2013] UKSC 14, by a majority decision (3-2), the Supreme Court considered the dispensation provisions and set out guidelines as to how they should be applied.
22. The Supreme Court came to the following conclusions:
 - a. The correct legal test on an application to the Tribunal for dispensation is: ^[11:11]~~SEP:SEP~~“Would the flat owners suffer any relevant prejudice, and if so, what relevant prejudice, as a result of the landlord’s failure to comply with the requirements?”
 - b. The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.
 - c. In considering applications for dispensation the Tribunal should focus on whether the leaseholders were prejudiced in either respect by the landlord’s failure to comply.
 - d. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.
 - e. The factual burden of identifying some “relevant prejudice” is on the leaseholders. Once they have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
 - f. The onus is on the leaseholders to establish:
 - i. what steps they would have taken had the breach not happened and
 - ii in what way their rights under (b) above have been prejudiced as a consequence

23. Accordingly, the Tribunal had to consider whether there was any “relevant prejudice” that may have arisen out of the conduct of the Applicant and whether it was reasonable for the Tribunal to grant dispensation following the guidance set out above.

Consideration

24. Having read the evidence and submissions from the parties and listened to the submissions made at the hearing, the Tribunal determines the dispensation issues as follows.
25. It is accepted that a proper consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether the Respondents have suffered any relevant prejudice, and if so, what relevant prejudice, as a result of that lack of consultation by the landlord. In doing so, the Tribunal needed to focus on whether the leaseholders have been prejudiced by paying for inappropriate works or paying an inappropriate amount as a result of the lack of consultation.
26. The Applicant believes that the roof repair works to Block 39 - 42 Cavalier Way needed to be carried out urgently to prevent further damage to the building and so there was insufficient time for any proper consultation.
27. The Tribunal noted that the works were originally tendered on the assumption that there was water ingress to the roof and was concerned at the Respondents’ contentions that only Kavanagh Roofing Limited (the Respondents’ nominated contractor) had inspected the Property. It also noted that Kavanagh Roofing Limited had tendered on the basis of a different scope of work and that the other tenderers were not invited to re-submit their tenders on the same basis. However, notwithstanding the unusual estate management approach taken by the Applicant’s managing agents, it agrees that the moisture in the roof space meant there was an urgency to progress the works. Accordingly, and on the evidence before it, the Tribunal agrees with the Applicant’s conclusion to proceed with the works without consultation.
28. The Tribunal is of the view that, taking into account that all three objections to this application from the Respondents have been withdrawn, it could not find prejudice to any of the leaseholders of the Property by the granting of dispensation relating to the roof repair works to Block 39 -42 Cavalier Way.
29. As a result, the Tribunal believes that it is reasonable to allow dispensation in relation to the subject matter of the application.
30. Accordingly, the Tribunal grants the Applicant’s application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 in relation to the roof repair works to Block 39 -42 Cavalier Way.

31. The Applicant shall place a copy of the Tribunal's decision on dispensation together with an explanation of the leaseholders' appeal rights on its website (if any) within 7 days of receipt and shall maintain it there for at least 3 months, with a sufficiently prominent link to both on its home page. It should also be posted in a prominent position in the communal areas. In this way, leaseholders who have not returned the reply form may view the Tribunal's eventual decision on dispensation and their appeal rights.

Costs

32. The Respondents had not applied for cost orders under section 20C of the Landlord and Tenant Act 1985 ("Section 20C") and under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("Paragraph 5A"). The Tribunal nonetheless invited submissions on the issue. The Applicant stated that it did not intend to recover the costs of the application from the Respondents in any event and that it was happy for this to be formalised through appropriate Tribunal orders.
33. The relevant part of Section 20C reads as follows:-
- (1) "A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before ... the First-tier Tribunal ... are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant..."
34. The relevant part of Paragraph 5A reads as follows:-
- "A tenant of a dwelling in England may apply to the relevant ... tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs"
35. A Section 20C application is therefore an application for an order that the whole or part of the costs incurred by the Applicant in connection with these proceedings cannot be added to the service charge of the Respondents or other parties who have been joined. A Paragraph 5A application is an application for an order that the whole or part of the costs incurred by the Applicant in connection with these proceedings cannot be charged direct to the Respondents as an administration charge under their respective Leases.
36. In this case, there have been shortcomings in the consultation process, which the Applicant acknowledged at the hearing. The Tribunal does not consider it equitable for a party to be charged for the costs of proceedings necessitated by the other party's decision not to carry out a consultation. In addition, the Applicant will not suffer any prejudice from the making of such orders as it has stated it does not intend to recover its costs from the Respondents in any event. The Tribunal therefore determines that it is just and equitable in the circumstances for an order to be made under

section 20C of the 1985 Act. The Tribunal accordingly makes an order in favour of the Respondents that none of the costs incurred by the Applicant in connection with these proceedings can be added to the service charge.

37. For the same reasons as stated above in relation to the Section 20C cost application, the Respondents should not have to pay any of the Applicant's costs in bringing the application. The Tribunal therefore makes an order in favour of the Respondents that none of the costs incurred by the Applicant in connection with these proceedings can be charged direct to the Respondents as an administration charge under their leases.

Rights of appeal

1. 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 rpsouthern@justice.gov.uk
2. 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.
3. 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.
4. 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.