



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

Case Reference	: HAV/29UL/LDC/2025/0695
Property	: The Morehall, 284 Cheriton Road, Folkestone CT19 4DW
Applicant	: The Morehall Management Company Ltd
Representative	: Smith Woolley
Respondent	: The Leaseholders
Representative	:
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	: Deputy Regional Judge Skinner
Date of Decision	: 17 September 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 the timber replacement works to the front elevation of the property conditional upon the Applicant sending a copy of this decision to all leaseholders.**
2. **The Tribunal's decision to grant dispensation is limited to the works specified in the Application, that being the works specific to the Timber replacement and front elevation works set out in the quote dated 25th July 2025 from John Williams and Company.**
3. **The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**

Background

4. 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. The application was received on 6 August 2025.
5. The property is described as a:

A converted property housing eight self-contained residential flats. The property is low rise split between four floors from the basement to the second floor height c. 6m. Constructed originally c.1940 and converted c.2015. The building is constructed of concrete, brick and breeze block materials. There is a car park to the side of the block for the use of residents. Flats 1,2,3 & 4 are accessed externally and do not share any internal communal areas within the property,
6. The Applicant explains that:

Scope of works - external repair and re-decoration works to include: -
Scaffolding
re-pointing front elevation
external decoration to front, side and rear elevations
works to timber windows front elevation /ground floor
decorating to remaining areas - doors, joinery, ender/brick work,
metal work (handrails, rear balcony, railings and downpipes.
gutters, downpipes, hopperheads, etc
PVCu/plastic cleaning
Work commenced 7/7/25

Section 20 Notice of Intention issued 14/10/2024

Statement of Estimates issued 29/4/2025 outlining tenders obtained from the surveyor Iain McMillan.
Statement of Estimates observation period ended 4/6/25
Lowest tender submitted was £28,447.50 inclusive of VAT and surveyor fees (not VAT Rated)
Demands issued to all leaseholders.
£2,500 used from accrued service charge funds towards contract sum.
All leaseholders sent invoice for major works for 12.5% contribution over 8 flats - each demand £3,243.44
All money collected start date of 7/7/25 agreed.

no external work carried out on this building for 10 years and was previously self-managed. When timber stripped for painting it was found the front elevation gable was rotted in some sections of timber. Required to be replaced for safety and using scaffolding whilst in place, but funds not available for this in money collected.

Quotation sought for this work by surveyor and contractor quote is £4,434.00 plus VAT - £5,320.80. With omissions, contract value has reduced and cost for additional work would require additional demand of £474.00 per flat to replace timber joints.

Work is near completion and need to use scaffolding to replace the timbers. To avoid additional scaffolding costs can use current scaffold. Other work identified, and this will be dealt with separately under new S.20 consultation.

7. The Tribunal gave Directions on 12 August 2025 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any.
8. The Directions required the Applicant to provide written authority from the Applicant appointing the Representative to act on their behalf by 19 August 2025. The Tribunal did not receive such written authority and therefore sent a further request on 1st September 2025 for the written authority to be supplied by 4pm on 5 September 2025.
9. On 2nd September 2025, the Tribunal received written authority from the Applicant appointing the Representative to act on their behalf.
10. On 13th August 2025, the Tribunal received an enquiry from the leaseholder of Flat 4 enquiring why they had been sent a copy of the Directions. The Tribunal confirmed the same day that as a named Leaseholder, they had the right to set out any objections they may have to the Applicants application and that if no further communication was received the Tribunal would assume that there were no objections from that Leaseholder.
11. The Directions stated that Tribunal would determine the application on the papers received unless a party objected in writing to the Tribunal

within 7 days of the date of receipt of the Directions. No party has objected to the application being determined on the papers.

12. **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 application or effect of the Building Safety Act 2022. 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

13. 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 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.
14. 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.
15. 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.
16. 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.
17. 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).

18. 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.

19. 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.
20. 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.
21. If dispensation is granted, that may be on terms.
22. 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

23. The Directions attached a reply form for the Respondents to complete to confirm whether they agreed with the application or not and if opposed, to provide a statement setting out why they oppose.
24. Respondents for Flats 1, 2, 5 and 6 have all returned the reply form, confirming their agreement to the application. Replies were not received from the remaining flats.
25. 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.
26. The reason why dispensation from consultation requirements is said to be required is due to the need to complete the additional works that were discovered upon stripping the timber and discovering sections of rotten timber that required replacement in order to ensure the safety of the property. This work needs to be completed whilst the existing scaffolding is in place to save time and cost. Given the nature of the works and the fact that it related to the safety and welfare of the building and its occupants, I am satisfied that the qualifying works are of an urgent nature.
27. There has been no objection to the dispensation of the consultation requirements from any of the Lessees.

28. 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 and potential problems.
29. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.
30. The Tribunal consequently finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the major works to the building as described in this Decision.
31. 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 2. 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.
32. 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

33. 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
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.