FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/29UP/LDC/2025/0660
Property	**:**	Leybourne Park, 29-32 Eaton Place, Larkfield, Aylesford, ME20 7GF
Applicant	**:**	Sanhall GR Limited
Representative	**:**	Residential Management Group Ltd
Respondent	**:**	The Leaseholders
Representative	**:**	n/a
Type of Application	**:**	To dispense with the requirement to consult lessees about major works, section 20ZA Landlord and Tenant Act 1985
Tribunal Member(s)	**:**	Judge D Gethin
Type of Hearing	**:**	On the papers
Date of Decision	**:**	21 October 2025

DECISION

Summary of the Decisions of the Tribunal

1. **The Tribunal determines that those parts of the consultation requirements provided for by s.20 of the Landlord and Tenant Act 1985 ("the Act") which have not been complied with are to be dispensed with in relation to emergency works to repair loose ridge tiles on the roof of 29-32 Eaton Place.**

2. **The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**

The Application

3. 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 retrospective application was received on 28 May 2025.

4. The Property is described in the application as:

> Leybourne Park is a development located in the Tonbridge and Malling area, in Southeast region of England. It comprises 114 flats within eight separate buildings.
>
> The buildings are located on an open estate and have been constructed within the last 15-20 years. The buildings have pitched hipped and tiled roofs and main walls of cavity type construction, partially clad with render and plastic shiplap panels.
>
> Openings are spanned by concrete lintels with concrete sub-cills beneath. Fenestration consists of PVCu framed double glazed casement windows and French doors opening onto steel framed Juliet and cantilevered balconies.
>
> Internally, communal areas consist of boarded ceilings and plastered and painted walls with concrete carpeted floors and staircases with timber veneered doors to each flat.
>
> Externally, each building has brick paviour car park spaces and concrete block paved pathways with brick-built bin stores.

5. The Applicant explains that:

> 22 August 2024, the Applicant was made aware that some roof tiles, on the 29-32 Eaton Place block, had slid down. The Applicant instructed the site out of hours contractor Xtra Maintenance Ltd to investigate. The contractor discovered that some ridge tiles had fallen, and urgent

repairs were necessary due to the ridge tiles overhanging the gutter. The contractor explained that attempting to remove the bottom ridge would cause all 10 tiles to fall. The contractor's recommendation was to erect an emergency scaffolding to remove the tiles, as the parked cars in the car park prevented the use of a cherry picker to access the roof section. The Applicant agreed to the scaffolding and instructed Xtra Maintenance to install a temporary cover the roof area and make the area safe.

27 August 2024, the Applicant instructed Xtra Maintenance to carry out a thorough inspection of the roof. It was reported that the ridge tiles from top to bottom had come loose and advised on remedial works including removal of the tiles, re-bedding the roof with sand and cement, pointing and resetting the tiles. Additionally, extending the scaffolding to the next gutter joiner was necessary to complete the works. Xtra Maintenance Ltd submitted a quote of £6,572.51 including VAT.

02 September 2024, the Applicant sent a NOI to the Leaseholders to alert them of the works.

The Applicant tested the market and obtained additional quotes from GI Landscapes (£1,020.00 including VAT) and Griffin Bespoke Homes (£7,055.22 including VAT). The quote from GI Landscapes appeared lower, however it did not account for the scaffold extension and the additional work on the other corner of the roof.

The Applicant measured the urgency and the potential impact of any delays carrying out the works. From a Health & Safety perspective, the Applicant aimed to prevent any accidents that could injure residents or pose a risk to life, as well as to avoid additional scaffold costs. The Applicant remained in an urgent position to progress the works. Such urgency constituted the Applicant to break the nature of s20 consultation. The Applicant appointed Xtra Maintenance Ltd to carry out the remedial works.

03 September 2024, the Applicant sent a letter to the Leaseholders providing them with further information relating to the works.

The works commenced and completed on the same day. The works were completed to satisfaction. No Leaseholders objected to the works.

We are satisfied for this application to stand alone and be represented as a whole on the condition that there are no objections from the Respondents. The Applicant reserves the right to submit a statement of case.

The total sum of the works was £6,572.51 including VAT. For clarity, the sum includes Xtra Maintenance Ltd.'s 2 attendances and the cost of the scaffolding hire as they are considered as one set of works.

6. Dispensation is sought as:

> Our understanding of prejudice is that this would occur if the works resulted in an unreasonable financial cost to the leaseholder because the works:
> - were unnecessary or inappropriate
> - were carried out to an inappropriate standard
> - have resulted in an unreasonable amount of costs
>
> The works were necessary and urgent, as recommended by the contractor, Xtra Maintenance Ltd.
>
> The Applicant appointed Xtra Maintenance Ltd, who is a reputable contractor, holds a repair maintenance contract on site and who submitted the most competitive tender. The Applicant is confident that the contractor has completed works of a good standard and the costings were fair and reasonable.
>
> The Applicant considered all the relevant factors and determined it is reasonable to break the full s20 consultation and carry out the works immediately. The Applicant acted within a reasonable conduct.
> It is held that there was not any prejudice to the leaseholders, and that it is reasonable to dispense with the consultation requirements.

7. The lease of Plot 205 dated 2 April 2007 has been provided ("the Lease"). It is understood that other leases in the buildings on the estate are on broadly similar or the same terms.

8. The Applicant has various obligations under the Lease, including those set out in clause 6.2 and paragraph 3 of the Fifth Schedule:

> *3. To keep the Reserved Property and all fixtures and fittings therein and additions thereto in a good and substantial state of repair condition and decoration including the renewal and replacement of all worn and damaged parts and including (without prejudice to the generality of the foregoing)*
>
> *3.1 The main structure and exterior of the Building including the foundations and the roof thereof with its gutters and rainwater pipes and the structure of the Balcony (if any) (but not the floor covering)…*

9. The lessee is required to contribute to the costs and expenses of the Applicant complying with its obligations pursuant to clause 5.2 and paragraph 2 of Part II of the Fourth Schedule.

10. The works fall within the responsibility of the Applicant and may be chargeable as service charges.

11. The Tribunal gave Directions on 13 August 2025 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any. The Applicant provided written authority appointing the representative to act on its behalf on 14 August 2025, although this was not received by the Tribunal until 29 August 2025.

12. 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. The matter is therefore determined on the papers in accordance with Rule 31 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

13. 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 lessees through the service charge, or the possible application or effect of the statutory protections for lessees including the Building Safety Act 2022. The Lessees 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 Hearing

14. The matter was determined by way of a paper hearing which took place on 21 October 2025.

Particulars of the Application

15. The Applicant has applied for dispensation from the statutory consultation requirements in respect of works to.

16. The works which have been carried out consist of installing emergency scaffolding and removing the loose tiles and installing a temporary cover over the roof, inspecting and undertaking remedial works to ridge tiles that had come loose as advised. This comprised removal of the tiles, re-bedding the roof with sand and cement, pointing and resetting the tiles, and extending the scaffolding to the next gutter joint. The cost was £6,572.51 including VAT. The works were commenced after the Notice of Intention but prior to the completion of the consultation process

because the works were necessary and urgent. There was said to be a risk of roof tiles falling and injuring occupiers and visitors.

17. The Applicant had sought three quotes for the works, one from GI Landscapes (£1,020.00 including VAT) and another from Griffin Bespoke Homes (£7,055.22 including VAT). The quote from GI Landscapes did not account for the scaffold extension and the additional work on the other corner of the roof

18. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. **This application did not concern the issue of whether any service charge costs will be reasonable or payable.**

19. No notice was received from any of the Respondents opposing the application. There is no suggestion of any prejudice arising from the failure to carry out the statutory consultation process

The Law

20. Section 20 of the Landlord and Tenant Act 1985 ("the Act") and the related Regulations provide that where the lessor undertakes qualifying works (as in this case) 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.

21. Dispensation is dealt with by s.20ZA of the Act which provides:

> *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.*

22. 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.

23. Lord Neuberger pointed out, at [40], that s.20ZA provides little guidance on how the dispensing jurisdiction is to be exercised, other than that the tribunal must be "*satisfied that it is reasonable to do so*".

24. He continued, at [41]:

> "*However, the very fact that s.20ZA(1) is expressed as it is means that it would be inappropriate to interpret it as imposing any fetter on the LVT's exercise of the jurisdiction beyond what can be gathered from the 1985 Act itself, and any other relevant admissible material. Further, the circumstances in which a s.20ZA(1) application is made could be almost infinitely various, so any principles that can be derived should not be regarded as representing rigid rules.*"

25. Having identified the purpose of the consultation provisions as being the protection of tenants from (i) paying for inappropriate works or (ii) paying more than would be appropriate, Lord Neuberger explained, at [44]-[45], that the issue on which tribunals should focus when determining an application under s.20ZA(1) was "*the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements*". If "*the extent, quality and cost of the works were in no way affected by the landlord's failure to comply with the requirements*" dispensation should normally be granted, because, "*in such a case the tenants would be in precisely the position that the legislation intended them to be – ie as if the requirements had been complied with*".

26. Lord Neuberger considered, at [46]-[47], that it would not be right to focus on the seriousness of the breach of the consultation requirements; the only relevance of the extent of the landlord's oversight was "*in relation to the prejudice it causes*". The overarching question was not whether the landlord had acted reasonably but was whether the tribunal was satisfied that it was reasonable to dispense with compliance.

27. In assessing the prejudice to the tenants if dispensation was granted Lord Neuberger explained, at [65], that it was necessary to take account only of the sort of prejudice which s.20 was intended to protect against: "*… the only disadvantage of which they could legitimately complain is one which they would not have suffered if the requirements had been fully complied with, but which they will suffer if an unconditional dispensation were granted.*"

28. Lord Neuberger concluded that dispensation could be granted on conditions. One such condition of dispensation could be to require that the landlord compensate the tenants for any costs they may have incurred in connection with the application under s.20ZA. At [64], Lord Neuberger considered that a landlord seeking dispensation was in a similar position to a party seeking relief from forfeiture, in that they were

"*claiming what can be characterised as an indulgence from a tribunal at the expense of another party*".

29. Summarising his conclusions, at [71], Lord Neuberger said that: "*Insofar as the tenants will suffer relevant prejudice as a result of the landlord's failure, the LVT should, at least in the absence of some good reason to the contrary, effectively require the landlord to reduce the amount claimed as service charges to compensate the tenants fully for that prejudice. That outcome seems fair on the face of it, as the tenants will be in the same position as if the requirements have been satisfied, and they will not be getting something of a windfall.*"

30. The effect of *Daejan* has been considered by the Court of Appeal in *Aster Communities v Chapman & Others* [2021] EWCA Civ 660, which considered whether the Tribunal was entitled to impose a condition which reflected the relevant prejudice suffered by the lessees in responding to the landlord's application.

31. There have been other Decisions of the higher Courts and Tribunals of assistance in the application of the Supreme Court decision in *Daejan*, but none are relied upon or therefore require specific mention in this Decision.

The Objections

32. 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.

33. No objections were sent to the Tribunal and on 29 August 2025 the Applicant wrote to the Tribunal also confirming that no objections had been received.

The Decision

34. 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.

35. Given the nature of the works and the potential of further damage and disruption to the occupants, the Tribunal is satisfied that the qualifying works were of an urgent nature.

36. There has been no objection to the dispensation of the consultation requirements from any of the Lessees.

37. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.

38. The Tribunal consequently finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the qualifying works to the building as described in this Decision.

39. This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works for the repairs to the roof tiles outlined at paragraph 5.

40. 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.

41. In reaching my decision I have taken account of the fact that no party has objected to the application. The Lessees have had opportunity to raise any objection, and they have not done so.

42. I therefore grant dispensation from the consultation requirements under s.20 of the Landlord and Tenant Act 1985.

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 to the First-tier Tribunal at the Regional office which has been dealing with the case.

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. Where possible you should send your further application for permission to appeal by email to **rpsouthern@justice.gov.uk** as this will enable the First-tier Tribunal to deal with it more efficiently.

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.