



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

Case Reference : **CAM/26UD/LDC/2025/0639**

HMCTS : **Paper**

Property : **1 – 85 Broadmeads, Ware, Hertfordshire
SG12 9HT**

Applicant (Landlord) : **Broadmeads (Ware) Management
Limited**

Representatives : **Management Company Services (Daniel
Hay, Property Manager)**

Respondents : **The Leaseholders of 1 – 85 Broadmeads,
Ware, Hertfordshire SG12 0PT**

Type of Application : **To dispense with the consultation
requirements referred to in Section 20 of the
Landlord and Tenant Act 1985 pursuant to
Section 20ZA**

Tribunal : **Judge JR Morris**

Date of Application : **22 May 2025**
Date of Directions : **29 July 2025**
Date of Decision : **10 November 2025**

DECISION

© CROWN COPYRIGHT 2025

Decision

1. The Tribunal is satisfied that it is reasonable to dispense with compliance with all the consultation requirements of Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987).

2. The Applicant or its Representative shall serve a copy of the Tribunal's decision on dispensation, together with the relevant appeal rights attached, to the Leaseholders.

Reasons

The Application

3. On 22 May 2025 the Applicant's Representative, who is the Applicant's Managing Agent, applied for dispensation from the statutory consultation requirements in respect of qualifying works.
4. The Property is an Estate of 85 flats or maisonettes and garages divided into 8 separate blocks. The qualifying works are to repair the flat roof of Block 2 containing Flats 9 – 22.
5. It was apparent from the Application Form and other documents received that a section 20 procedure was carried out for the replacement of the roof on Block 2 of the Property. These qualifying works were at a cost of £57,000.00 which divided between 85 flats came to more than £250.00 per unit therefore requiring a section 20 consultation. It subsequently became apparent that additional unforeseen works costing a further £12,000.00 were required as part of the roof replacement. A further section 20 was not considered to be practical due to the urgency of the roofing works generally and therefore a dispensation application was made.
6. Directions were issued on 29 July 2025 which stated that the Application would be determined on or after 9 September 2025 based on written representations and without an inspection, unless either party made a request for an oral hearing by 19 August 2025.
7. The Directions required the Applicant's Representative by 6 August 2025 to:
 - a) Send to each of the Respondent Leaseholders and to any recognised residents' association, by email, hand delivery, or first-class post copies of:
 - i. The application form (excluding any list of Respondents' names and contact addresses);
 - ii. The Directions;
 - iii. A clear concise description of the relevant works for which dispensation is sought;
 - iv. An estimate of the cost of the relevant works including any professional fees and VAT; and
 - v. Any other evidence relied upon; and
 - b) File with the Tribunal a letter confirming this had been done and stating the dates on which this was done.
8. If the Respondent Leaseholders wished to oppose the Application the Directions required them to do so via an attached reply form by 19 August 2025.

9. The Tribunal was informed that this was not done until 9 September 2025 due to the annual leave of the Property Manager of the Applicant's Managing Agents.
10. Clearly Direction 3, which required any Respondent Leaseholder who opposed the application to do so by 19 August 2025, and Directions 4 and 5, which required the Applicant's Managing Agent to prepare two copies of a bundle and deliver it to the Tribunal with a copy to each Respondent Leaseholder who opposed the application by 26 August 2025, could not be complied with in the specified time. Therefore, on 26 September the Tribunal amended the Directions which were sent to the Leaseholders by 1 October 2025 as follows:
 3. Those respondents (leaseholders/tenants) who oppose the application shall by 13 October 2025:
 - a) Complete the attached reply form and send it to the Tribunal; and
 - b) Send to the applicant a statement in response to the application, with a copy of the reply form. They should send with their statement copies of any evidence and other documents upon which they wish to rely.
 4. The applicant shall prepare a bundle of documents in accordance with the annexed guidance.
 5. By 17 October 2025, the applicant shall deliver two copies of the bundle to the Tribunal and one copy to each respondent who opposes the application.

The Decision was then to be made after 20 October 2025.

11. The Applicant's Managing Agent complied with amended Directions and no request was received from either party for a hearing and no forms or representations were received from the Leaseholders.

The Law

12. Section 20 of the Landlord and Tenant Act 1985 limits the relevant service charge contribution of tenants unless the prescribed consultation requirements have been complied with or dispensed with under section 20ZA. The requirements are set out in The Service Charges (Consultation Requirements) (England) Regulations 2003. Section 20 applies to qualifying works if the relevant costs incurred in carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.
13. The consultation provisions appropriate to the present case are set out in Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987) (the 2003 Regulations). The Procedure of the Regulations are summarised in Annex 2 of this Decision and Reasons.

14. Section 20ZA allows a Landlord to seek dispensation from these requirements, as set out in Annex 2 of this Decision and Reasons and this is an Application for such dispensation.
15. The terms “tenant”, “leaseholder” and “lessee” are synonymous as are “landlord”, and “lessor”.

Submissions & Evidence

16. The Applicant’s Representative provided the following documents which included:
 - A copy of the Lease, the covenants of which are understood to be common to all the Leases;
 - The Application to the Tribunal;
 - The Tribunal Directions,
 - The Applicant’s Managing Agents’ correspondence regarding compliance with Directions;
 - Service Orders from the Applicant’s Managing Agents to ML Roofing and UPVC Specialists for the qualifying works;
 - A letter to Leaseholders informing them of the qualifying works dated 12 September 2025 to the leaseholders providing further information about the qualifying works;
 - 4 Invoices from ML Roofing and UPVC Specialists for the qualifying works.

These together set out the Applicant’s case.

8. A copy of a Lease was provided dated 14 June 1983 between Broadmeads (Ware) Housing Society Limited (the original Lessor) and the original Leaseholder at the time of Flat 54, for a term of 125 years from 25 March 1983. Over time the Lessor has assigned the reversion or been renamed, some or all the Leaseholders have assigned their leases. The parties are now, the current Landlord and Freeholder and the current Leaseholders. The covenants of the Lease provided are understood to be common to all the Leases. The relevant covenants in brief are as follows:

- a) Clause 2
This clause sets out the covenants of the Tenants. At paragraph (xviii) the Tenant covenants:
To pay to the Lessor in respect of the services and other things hereinafter covenanted to be performed by it...the total payment to be made in each year by the Tenant up to one eighty fifth of the total of the said costs and expenses incurred by the Lessor

b) Clause 4

The clause sets out the covenants of the Lessor. At paragraph (a) the Lessor covenants:

To keep in good repair and condition the structure foundations roof gutters drains sewers and exterior ...

9. The Application Form and Directions are referred to above.
10. The Service Orders from the Applicant's Managing Agents to ML Roofing and UPVC Specialists for the qualifying works which were based upon the quotations from the contractor were provided. These set out the works and their cost. There were two Orders the first dated 7 April 2025 based on the original assessment for what was required to replace the roof and the second dated 6 May 2025 which was for the additional works which were found to be necessary.
11. Service Order dated 7 April 2025 stated as follows:

We have been instructed by the directors at Broadmeads to accept the following quote for the replacement of the flat roof on Block 2:

Price includes:-

- Erect scaffold hand rail around the property, also a scaffold tower for access and materials to take up, also includes skips and rubbish removal.
- Strip up all old felt back to the original boards supply and fit new 18 mm osb boards where needed.
- Supply and fit new 100mm insulation boards down with a 10mm osb board on top for substrate
- Supply and fit 3 layer SUPRIMAR high performance torch on flet system giving 20 year manufacturing warranty and 15 year workmanship warranty.

All parapet walls will be capped.

£57,000.00

12. Order dated 6 May 2025 stated as follows:

This Service Order is to cover the additional works to the flat roof of Block 2 whereby the whole roof will have to come back to the original batons and all straw insulation removed and bagged, additional boarding will be required across the whole roof, to cover the cost of additional skips for waste and also extra labour time involved

£12,000.00

13. The Invoices provided were as follows:

- 1) Invoice number 6215 dated 13 June 2025
Half the roof is stripped, boarded and vapour barriered
Part payment £3,500.00
- 2) Invoice number 6216 dated 19 May 2025
All the roof is stripped, boarded and vapour barriered and by the end of the week should also be insulated.
Part Payment £28,000.00
- 3) Invoice number 6217 dated 28 May 2025
The roof is 90% complete. The main top roof will be finished on Thursday then we will be dropping down to the little side roofs lower level.
Part Payment £3,250.00
- 4) Invoice number 6218 dated 31 May 2025
All of the works have been completed, the scaffolders have been notified to take away the scaffold. Site left clean and tidy, skip to be removed and they have been notified
Final Payment £20,000.00

14. The Applicant's Representative provided a copy of a letter sent to all Leaseholders dated 20 October 2025 and stated as follows:

"As managing agents for Broadmeads (Ware) Management Limited we are writing to all Leaseholders to advise that MCS have applied for dispensation from the First Tier Tribunal due to unforeseen works associated to the roof replacement works on Block 2.

These works included an asbestos survey to the roof material, the removal of the straw insulation underneath the felt and also additional skips to clear the waste.

We have applied to the FTT for dispensation as a Section 20 Notice was issued to the Leaseholders but costs went over and above the original quoted works. These works were classed as urgent in order to make the roof safe for the contractors to work and also ensure the roof and building were watertight.

If you have any questions in relation to this letter please feel free to contact..."

Findings

15. The Tribunal finds from the Lease that the Applicant is obliged to make repairs to the roof and that these are chargeable to the Leaseholders through the Service Charge.
16. The Tribunal agrees that if it had been possible to foresee the additional works, which the Tribunal appreciates it was not, then they should and would have been included in the section 20 consultation procedure carried out for the replacement of the roof of Block 2. To remedy this the Applicant would need to carry out a second section 20 consultation procedure or apply for dispensation.
17. The Applicant through its Managing Agents has decided to apply for dispensation. The Tribunal finds that this was an appropriate decision. The roof works had been commenced and the additional works were required before the Property could be made watertight making them urgent. It also appeared reasonable to instruct the same contractor to carry out the work.
18. The Tribunal found that the Leaseholders were able to make representations to the Agent as a result of the letter and to the Tribunal in relation to the Dispensation Application had they felt prejudiced and wished to do so. No representations have been received.
19. Therefore, the Tribunal finds that the Leaseholders have not suffered any relevant prejudice by the failure to carry out the consultation procedure in respect of the additional works.

Determination

20. In making its decision the Tribunal had regard to the decision of the Supreme Court in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14. In summary, the Supreme Court noted the following:
 - 1) The main question for the Tribunal whether the landlord's breach of the section 20 consultation requirements resulted in the leaseholders suffering real prejudice.
 - 2) The financial consequence to the landlord of not granting a dispensation is not a relevant factor.
 - 3) The nature of the landlord is not a relevant factor.
 - 4) Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
 - 5) The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms are appropriate.
 - 6) 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.

- 7) 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.
 - 8) The Supreme 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.
 - 9) 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.
 - 10) Once the tenants had shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
21. The Tribunal is satisfied that it is reasonable to dispense with compliance with all the consultation requirements of Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987).
 22. The Leaseholders should note that this is not an application to determine the reasonableness of the works or their cost. If, when the service charge demands in respect of these works are sent out, any Leaseholder objects to the cost or the reasonableness of the work or the way it was undertaken, an application can be made to this Tribunal under section 27A of the Act. A landlord can also seek a determination as to the reasonableness of the cost of the work.
 23. The Applicant shall serve a copy of the Tribunal’s decision on dispensation, together with the relevant appeal rights attached, to all Leaseholders.

Judge JR Morris

Annex 1 – Right of Appeal

1. 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.
2. 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.
3. 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.

4. 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.

Annex 2 – The Law

1. Section 20 of the Landlord and Tenant Act 1985 limits the relevant service charge contribution of tenants unless the prescribed consultation requirements have been complied with or dispensed with under section 20ZA. The requirements are set out in The Service Charges (Consultation Requirements) (England) Regulations 2003. Section 20 applies to qualifying works if the relevant costs incurred in carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.
2. The consultation provisions appropriate to the present case are set out in Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987) (the 2003 Regulations). The Procedure of the Regulations and are summarised as being in 4 stages as follows:

A Notice of Intention to carry out qualifying works must be served on all the tenants. The Notice must describe the works and give an opportunity for tenants to view the schedule of works to be carried out and invite observations to be made and the nomination of contractors with a time limit for responding of no less than 30 days. (Referred to in the 2003 Regulations as the “relevant period” and defined in Regulation 2.)

Estimates must be obtained from contractors identified by the landlord (if these have not already been obtained) and any contractors nominated by the Tenants.

A Notice of the Landlord’s Proposals must be served on all tenants to whom an opportunity is given to view the estimates for the works to be carried out. At least two estimates must be set out in the Proposal and an invitation must be made to the tenants to make observations with a time limit of no less than 30 days. (Also referred to as the “relevant period” and defined in Regulation 2.) This is for tenants to check that the works to be carried out are permitted under the Lease, conform to the schedule of works, are appropriately guaranteed, are likely to be best value (not necessarily the cheapest) and so on.

A Notice of Works must be given if the contractor to be employed is not a nominated contractor or is not the lowest estimate submitted. The Landlord must within 21 days of entering into the contract give notice in writing to each tenant giving the reasons for awarding the contract and, where the tenants made

observations, to summarise those observations and set out the Landlord's response to them.

3. Section 20ZA allows a Landlord to seek dispensation from these requirements, 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.
 - (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
if it is an agreement of a description prescribed by the regulations, or in any circumstances so prescribed.
 - (4) to (7)... not relevant to this application.