



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

Case Reference : HAV/00ML/LDC/2025/0704

Property : 50 Buckingham Road, Brighton, BN1 3RQ

Applicant : 50 Buckingham Road Residents Ltd

Representative : Austin Rees Ltd

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 : 26 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 new repairs identified to the rear main pitched roof as set out in paragraph 6 below, conditional upon the Applicant providing a copy of this decision to each and every leaseholder.**
2. **The Tribunal's decision to grant dispensation is limited to the additional works and additional costs to be incurred following the original Section 20 notice and as identified in the Application and at paragraph 6 below.**
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.

5. The property is described as a:

Converted mid-terrace property of brick, block and mortar construction with wooden floors and stairs. Building appears to be under 11 meters [sic] when measured from the lowest ground level. Owned by 50 Buckingham Road Residents Ltd .

6. The Applicant explains that the works required are described as,

Whilst contractors were on site completing works to the rear high level flat roof which were consulted for in full, they have discovered further works relating to the rear main pitched roof. The Top Floor Flat is suffering with considerable water ingress, therefore the following works are urgently required to protect the building and residents from further damage and risk of harm:

Scaffolding

- Adapt existing scaffolding erected for the rear flat roof renewal to access the rear pitched roof slope / firewall elevation – £250.00

Remedial Roofing Works

- ITEM – Carefully remove existing ridge tiles and roof tiles to rear pitched roof slope between dormer cheek and firewall/chimney stack elevation and set aside for reuse.

- ITEM – Carefully remove existing roof tiles to vertical dormer cheek as required and set aside for reuse.
- ITEM – Carefully remove existing roof battens, underfelt and flashing kit to Velux window and clear away all debris.
- ITEM – Carefully grind through existing render to firewall/chimney stack elevation, remove existing lead cover flashings and clear away all debris.
- ITEM – Supply and fix new breathable underfelt to previously exposed roof section and new treated timber battens to match existing roof gauge as closely as possible.
- ITEM – Supply and fix a new flashing kit to perimeter of Velux window.
- ITEM – Supply and weld in situ a new code 4 lead sleeve to boiler flue pipe projection.
- ITEM – Replace previously set aside roof tiles, making up any deficit with new Redland 49 roof tiles to match existing as closely as possible.
- ITEM – Supply and fix new code 4 lead cover flashings to firewall/chimney stack elevation and to base of dormer cheek.
- ITEM – Re-form new 2 coat render to base of firewall chimney stack elevation, prime with bitumen primer and form new torch applied felt weathering to same, including to grind out new chases to chimney stack elevation and for installing a new code 4 lead cover flashing to same.
- ITEM – Replace previously set aside plain tiles to vertical dormer cheek, making up any deficit with new plain tiles to match existing as closely as possible.
- ITEM – Re-bed previously set aside ridge tiles in 4:1 sand and cement mortar, making up any deficit with new ridge tiles to match existing as closely as possible – £3610.00

TOTAL (+vat)

£3860.00

Full Section 20 consultation has already taken place for the rear high level flat roof, however this did not include the rear main pitched roof. Following commencement of the project and initial investigative works at high level, repairs to the rear main pitched roof were found to be required.

We have not completed full consultation for the additional works to the rear main pitched roof as it had only become apparent that this is required, with roofers on site making use of the existing scaffold. Due to the urgency of the required repairs, we have obtained two quotes for the work, to ensure they are of a reasonable and competitive level, and we intend to proceed with the cheaper of the two, without full consultation having been completed, subject to the outcome of this application. All Freeholders are in agreement having had sight of the two quotes obtained, and are happy to proceed and we have also written to the remaining Leaseholder in the building, to explain why additional works are required and set out the costs relating to this. Should dispensation be granted, we will continue to liaise with all Freeholders and Leaseholders to ensure they are kept updated on the status of these works being completed.

Dispensation has been sought to

- 1) Firstly to prevent damage to the Top Floor Flat, and wider building and avoid any risk to residents relating to damaged plaster/ceiling material that could occur if repairs are not completed.
- 2) To avoid considerable costs being applied to leaseholders if we are unable to make use of the scaffold that is existing. We expect a minimum cost of £1500 to the building, if we are not able to make use of the existing [sic] scaffold, and have to instruct new.
- 3) To enable the additional funds to be raised formally through the Service Charge fund.
- 4) To safeguard the property against further water damage, ensuring water tight for the Winter months ahead.

The works are deemed urgent because:

It is essential that works are able to proceed whilst the scaffold is in situ to avoid significant damage to the Top Floor Flat, and escalating costs to leaseholders considerably. The works in question relate to the pitched roof which is allowing water ingress in to the top floor flat and causing significant damage, the scaffold is still in situ for works that have been separately consulted for, but cannot stay there for the length of time required if another full Section 20 consultation process were to be entered into. It is therefore pivotal that we can proceed foregoing full consultation, in the interests of the building, residents and leaseholders. The Freeholders are in agreement for the application to be dealt with on a Fast Track basis.

7. The Tribunal gave Directions on 29 August 2025 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any.
8. 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.
9. **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

10. 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.
11. 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.
12. 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.
13. 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.
14. 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).
15. 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.
16. 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.
17. 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.

18. If dispensation is granted, that may be on terms.
19. 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

20. 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.
21. Respondents for all the affected Flats have returned the reply form, confirming their agreement to the application.
22. 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.
23. The reason why dispensation from consultation requirements is said to be required is due to the urgency to continue the roof works already commenced and address the new repairs required to the rear main pitched roof whilst the existing scaffolding is in place, thus saving time and preventing an increase in the costs associated with the repairs. 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.
24. There has been no objection to the dispensation of the consultation requirements from any of the Lessees.
25. 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.
26. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.
27. 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.
28. 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 6. 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.

- 29.** 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

30. 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.