



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

Case Reference	: HAV/43UL/LDC/2025/0689
Property	: Flats 1-5 Milford House, Portsmouth Road, Milford, Godalming, GU8 5HJ
Applicant	: Milford St James Residents Company Limited
Representative	: Warwick Estates
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	: Regional Surveyor J Coupe FRICS
Date of Decision	: 13 November 2025

DECISION

Summary of the Decision

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 carrying out repairs to a fixed ladder from which access is gained to the basement. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.

Background

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. The application was received on 24 July 2025.
2. The Property is described in the application as a detached period building, converted around 1998 into five leasehold apartments. The building is approximately 14.7m in height, with a pitched and tiled, and part flat, roof. An electricity cupboard serving the apartments is located in the basement and is accessed by a ladder that is the subject of this application.
3. The Applicant explains that an inspection of the ladder identified remedial works necessary in order to meet safety specifications.
4. Pursuant to Section 20 of the Landlord and Tenant Act 1985, the Applicant served a Notice of Intention on 15 July 2025 on the leaseholders in regard to the proposed remedial work to the ladder.
5. The Applicant obtained two quotations for the proposed work:
 - i. HSQE – dated 8 April 2025 – **Option 1** – to effect full ladder removal and replacement – estimated Quote £1,560 + VAT. **Option 2** – to effect reinforcement with additional brackets – estimated Quote £1,690 + VAT.
 - ii. Xtra Maintenance – dated 4 July 2025 – to effect repairs to the existing ladder – Quote £1,552.85 + VAT.
6. The Applicant stated that their intention is to award the contract to HSQE, with a commencement date of 7 August 2025.
7. The Applicant states that the works are necessary to restore safe access to the electricity meters for reading, upgrades and electrical inspections.

8. The Tribunal gave Directions on 31 July 2025 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any.
9. 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.
10. **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

11. 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.
12. 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.
13. 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.
14. 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.

15. 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).
16. 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.
17. 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.
18. 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.
19. If dispensation is granted, that may be on terms.
20. 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

21. 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.
22. Two replies were received by the Tribunal. The first from Alison Gisvold of Flat 1, and the second from Helen Searle of Flat 5. Both replies were dated 3 August 2025, and indicated support of the application and agreement to the matter being determined on the papers. No objections to the application were received.
23. On 11 August 2025, the Applicant's representative confirmed that they had not received any objections to the application from the Respondents.
24. 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.

25. The reason why dispensation from the statutory consultation requirements is said to be required is that during an inspection of the access ladder to the basement, damage was identified thereby rendering use of the ladder unsafe. The ladder provides access to the basement where electricity meters are housed. In the circumstances, I am satisfied that safe access to the basement is an urgent requirement.
26. Two leaseholders have indicated support of the application and no leaseholders have objected to the dispensation of the consultation requirements.
27. 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 potential delay.
28. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process. Furthermore, that the leaseholders were aware of the proposed works through the Notice of Intention served.
29. The Tribunal consequently finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the works described.
30. This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of repairs to the ladder providing access to the basement. 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.
31. 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.
32. The Applicant is required to send a copy of this decision to all leaseholders.

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
31. 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.
32. 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.
33. 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.