



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

**Case Reference** : **BIR/44UB/LDC/2025/0007**

**Property** : **Winterdene 275 Kenilworth Road Balsall Common  
Coventry CV7 7EL**

**Applicant** : **Retirement Lease Housing Association**

**Representative** : **Lizzie Walkenshaw**

**Respondents** : **The leaseholders of Winterdene as set out in the  
attached schedule.**

**Type of Application** : **An application under section 20ZA of the Landlord  
and Tenant Act 1985 for dispensation of the  
consultation requirements in respect of qualifying  
works**

**Tribunal Member** : **V Ward BSc Hons FRICS – Regional Surveyor**

**Date of Decision** : **11 December 2025**

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**DECISION**

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## **Background**

1. The Applicant seeks dispensation from all or some of the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 (“the Act”).
2. Section 20 of the Act, as amended by the Commonhold and Leasehold Reform Act 2002, sets out the procedures landlords must follow which are particularised, collectively, in the Service Charges (Consultation Requirements) (England) Regulations 2003. There is a statutory maximum that a lessee has to pay by way of a contribution to “qualifying works” (defined under section 20ZA (2) as works to a building or any other premises) unless the consultation requirements have been met. Under the Regulations, section 20 applies to qualifying works which result in a service charge contribution by an individual tenant in excess of £250.00.
3. The only issue for the Tribunal to determine under this application is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.
5. The Tribunal directed that the Respondents be notified of the application for dispensation. Confirmation from the Applicant that this direction had been complied with, was provided to the Tribunal on 4 April 2025. In those directions, Respondents were asked to complete a form indicating whether they agreed with the application, and if not to explain their reasons. The form contained an option to indicate whether any Respondent wished the Tribunal to hold a hearing to determine the application.
6. Two Respondents returned Reply Forms. Both indicated support for the grant of dispensation and neither required an oral hearing. The reasons for our determination appear below.

## **Law**

7. The Act imposes statutory controls over the amount of service charge that can be charged to long leaseholders. If a service charge is a “relevant cost” under section 18, then the costs incurred can only be taken into account in the service charge if they are reasonably incurred or works carried out are of a reasonable standard (section 19).
8. Section 20 imposes another control. It limits the leaseholder’s contribution towards a service charge to £250 for payments due for “works on a building” unless “consultation requirements” have been either complied with or dispensed with. There are thus two options for a person seeking to collect a service charge for works on a building costing more than £250. The two options are: comply with “consultation requirements” or obtain dispensation from them. Either option is available.

9. To comply with consultation requirements a person collecting a service charge has to follow procedures set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (see section 20ZA(4)). For qualifying works on a building not subject to public notice requirements, those procedures are set out in Schedule 4 of those regulations.
10. To obtain dispensation, an application has to be made to the Property Chamber of the First-tier Tribunal who may grant it if it is satisfied that it is reasonable to dispense with the consultation requirements (section 20ZA(1) of the Act).
11. The Tribunal's role in an application under section 20ZA is therefore not to decide whether it would be reasonable to carry out the works, but to decide whether it would be reasonable to dispense with the consultation requirements.
12. The Supreme Court case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854 (hereafter *Daejan*) sets out the current authoritative jurisprudence on section 20ZA. This case is binding on the Tribunal. *Daejan* requires the Tribunal to focus on the extent to which the leaseholders would be prejudiced if the landlord did not consult under the consultation regulations. It is for the landlord to satisfy the Tribunal that it is reasonable to dispense with the consultation requirements; it is for the leaseholders to establish that there is some relevant prejudice which they would or might suffer, and for the landlord then to rebut that case.
13. The general approach to be adopted by the Tribunal, following *Daejan*, has been summarised in paragraph 17 of the judgement of His Honour Judge Stuart Bridge in *Aster Communities v Chapman* [2020] UKUT 0177 (LC) as follows:

“The exercise of the jurisdiction to dispense with the consultation requirements stands or falls on the issue of prejudice. If the tenants fail to establish prejudice, the tribunal must grant dispensation, and in such circumstances dispensation may well be unconditional, although the tribunal may impose a condition that the landlord pay any costs reasonably incurred by the tenants in resisting the application. If the tenants succeed in proving prejudice, the tribunal may refuse dispensation, even on robust conditions, although it is more likely that conditional dispensation will be granted, the conditions being set to compensate the tenants for the prejudice they have suffered.”

## **The Works**

14. The justification for the application provided by the Applicant is as follows:

*A recent survey of the main drainage system at Winterdene Estate has revealed a critical issue with the external manhole located underneath the walkway of the apartment building. The manhole lid is lifting under pressure, resulting in the*

*expulsion of foul water and waste into the surrounding area. This poses significant health and safety risks to residents and visitors.*

*Urgency of Repairs: Immediate action is required to address this issue to prevent further health hazards and potential damage to the property. The repairs should focus on: 1. Securing the manhole lid to prevent it from lifting under pressure. 2. Ensuring the drainage system is functioning correctly to avoid future occurrences. 3. Cleaning and sanitizing the affected area to mitigate health risks.*

15. The Applicant provided a report from a drainage contractor which set out two options to deal with the problem. The estimate for the first set of works was £2,001.60, for the second, £4,740.00. The contractor stated that the first set of works would deal with the immediate problem, but the second option would deal with the issue for the foreseeable future. The Applicant advised that due to the nature of the development – retirement dwellings – they opted for the more comprehensive works.

## **Discussion**

16. The Tribunal's task is to determine whether to grant dispensation from the consultation requirements. Broadly, we should grant dispensation unless to do so would result in leaseholders suffering prejudice.
17. No leaseholders have responded to this application, and we cannot see that any are likely to have suffered prejudice as a result of not being consulted on the Works. Accordingly, we grant dispensation from consultation for the Works.
18. Our decision does not preclude any Respondent from applying for a determination that the cost of the Works was not reasonably incurred or not of a reasonable standard under section 27A of the Act. This determination only deals with whether the consultation requirements in the Act have been complied with.

## **Appeal**

19. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

V Ward BSc Hons FRICS  
First-tier Tribunal (Property Chamber)

## Schedule of Respondents

<b>Name</b>	<b>Property</b>
The Estate of Mrs E J Balmforth	1 Winterdene
Mrs Veronica Williams	2 Winterdene
The Late Estate of Mrs J Ridings	3 Winterdene
Mr M Niven	4 Winterdene
The Estate of Mrs A Whittaker	5 Winterdene
Mrs S Pender	6 Winterdene
Mr G & Miss V Taylor	7 Winterdene
Mrs B Tasker	8 Winterdene
The Estate of the late Mrs J Astill	9 Winterdene
Mrs P Fennell	10 Winterdene
Mr and Mrs Redfern	11 Winterdene