FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/29UN/LDC/2025/0763
Property	**:**	103-105 High Street, Ramsgate, Kent, CT11 9RH
Applicant	**:**	Southern Land Securities Limited
Representative	**:**	Together Property Management
Respondent	**:**	Anne Grubb – Flat 1 Louise Emma Wibberley – Flat 2 Christopher Webb – Flat 3 Diane Lupini – Flat 4
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 Judge Whitney
Date of Decision	**:**	6 January 2026

DECISION

This is a formal order of the Tribunal which must be complied with by the parties.

Communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.

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 emergency works required to the chimney stack. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**

Background

2. 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 27 November 2025.

3. The Property is described in the application as:

> Residential premises- Building of 4 flats. No. of floors 4 Ground, 1st 2nd & 3rd.
>
> XIX Century brick built terraced property with a single staircase. The building at sometime has been converted into four flats. All the flats are accessed directly from the main staircase

4. The Applicant explains that:

> We are currently going through the Section 20 consultation process for the external repairs and redecorations however it has been brought to our attention that there are emergency works required to the chimney stack as the building in question has been deemed structurally dangerous with potentially causing injury to the public as the actual damaged structure boarders a public right of way.
>
> We would like to request a dispensation of Section 20 due to the health and safety aspects associated if the work is not carried out there could be potential injury caused to the public.

5. The Tribunal gave Directions on 8 December 2025 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any.

6. 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.

7. **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

8. 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.

9. 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.

10. 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.

11. 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.

12. 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).

13. 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.

14. 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.

15. 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.

16. If dispensation is granted, that may be on terms.

17. 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

18. 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.

19. The leaseholder of Flat 4 has returned the reply form, confirming her agreement to the application. Replies were not received from the remaining flats.

20. 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.

21. The reason why dispensation from consultation requirements is said to be required is due to the health and safety aspects associated if the work is not carried out. Given the nature of the works and the potential for injury to be caused to the occupants or to the public, I am satisfied that the qualifying works are of an urgent nature.

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

23. 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.

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

25. 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.

26. This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works for the emergency work to the chimney stack as outlined at paragraph 4. 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.

27. 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.

28. The Tribunal will send a copy of this Decision to each of the Respondents.

RIGHTS OF APPEAL

29. 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

30. 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.

31. 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.

32. 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.