FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/21UD/LDC/2025/0669 HAV/21UD/LDC/2025/0670
Property	**:**	Sandrock Hall, The Ridge, Hastings TN34 2RB
Applicant	**:**	Sandrock Hall RTM Company Limited
Respondents	**:**	The leaseholders of the Property
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(s)	**:**	Tribunal Judge H Lumby Mr J Reichel BSc MRICS
Date of Hearing	**:**	2 December 2025
Date of Decision	**:**	9 December 2025

DECISION

Decision of the Tribunal

(1) The Tribunal grants the application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (Section 20ZA of the same Act) in relation to water ingress prevention works at the Property.

(2) The Tribunal grants the application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (Section 20ZA of the same Act) in relation to fire compartmentation works to the basement of the Property.

The background to the application

1. The Applicant has made two applications seeking dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (the 1985 Act) from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act. These applications were received on 19 June 2025, with duplicate applications received on 5 August 2025.

2. The Property is described as a conversion into twelve flats of a large building built in the 1800s.

3. The Applicant is an RTM company, having acquired the Right to Manage the Property in April 2024. Its directors comprise five of the leaseholders of the Property, including Mrs Jennifer Evans who submitted the applications. The Respondents comprise the Property's leaseholders. The freehold is vested in Colin Caldwell and Magali Ridley; they also own four flats, one of which has been repossessed. Mr Caldwell has objected to the applications.

4. The first application relates to the prevention of water ingress into the basement of the Property which was identified by Mrs Evans as causing electrical safety issues due to its vicinity to the electricity meters and fuse boxes; we refer to these works as the water ingress works. There was said to be an urgency to carry out these works due to the health and safety risks of water ingress into the electricity supply.

5. The second application relates to fire compartmentation works to the basement; we refer to these works as the fire compartmentation works. These had been recommended by a fire risk assessment carried out in 2022 and were said to be urgent to ensure the building was safer in the event of fire. The Applicant choose a more extensive and so more expensive option for these works, arguing that this would save money in the longer term.

6. The Applicant explained that it had not the resources to do the works before but received a cash injection following the repossession of a flat. (It was explained that some leaseholders including Mr Caldwell had not

paid service charge since 2020, leading to a substantial collection shortfall).

7. Following the receipt of the cash injection, the Applicant proceeded quickly to implement what it considered to be high priority works. These were the works the subject of the two applications. It considered that a full section 20 compliant consultation would take around six months and so decided to proceed without a consultation. As a result, the Applicant has applied for dispensation instead.

8. The actual consultation carried out was more extensive with six leaseholders but more perfunctory with the others. In the case of Mr Caldwell, he was emailed just the day before the works were scheduled to start. The Applicant said that this was an oversight but no objections from Mr Caldwell were received at the time.

9. The Applicant only obtained quotes for both sets of works from one contractor, a company called Interesting Ideas Ltd. The water ingress works cost £4,450 and the fire compartmentation works cost £8,600. The Applicant argued that it knew that contractor well, trusted them and knew them to be competitive price wise. In addition, the contractor knew the Property well and had carried out works to a good standard there previously.

10. The only one of the Respondents to object to the applications for dispensation is Mr Caldwell. He says no section 20 process was served on him and no second quote or competitive tender was carried out. As a result, he suffered prejudice by not being able to clarify or question the scope, obtain competitive quotes, propose cheaper remedies and plan staged payments.

11. The Tribunal did not inspect the Property as it considered the documentation and information before it in the set of documents prepared by the Applicant enabled the Tribunal to proceed with this determination.

Hearing

12. The hearing took place online, using the Tribunal's CVP system. The panel were together in Havant Justice Centre. Mrs Jennifer Evans, who is a director of the Applicant, appeared for the Applicant. Mr Caldwell attended from France; he did not take part in the proceedings as he did not have the necessary authority to take part from abroad.

13. The Tribunal had been provided with a bundle from the Applicant comprising 60 pages including statements of case from Mrs Evans and Mr Caldwell. The contents of all these documents were noted.

Submissions

14. The Applicant argued that both sets of works were urgent and "high priority" to protect the health and safety of residents in the Property. It contends that Mr Caldwell was notified of the works but did not respond. As a result, he cannot have suffered relevant prejudice.

15. Mr Caldwell was unable to participate in the hearing due to his location. However, in addition to his statement of objections, he filed a supplementary statement, raising various questions which the Tribunal raised with Mrs Evans at the hearing. He had also requested that, if dispensation was given, various conditions be imposed. We also requested Mrs Evans' views on these. We discuss these later in this decision.

The issues

16. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works. 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 as service charges, including the possible application or effect of the Building Safety Act 2022, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

Law

17. Section 20 of the Landlord and Tenant Act 1985 (as amended) ("the 1985 Act") and the Service Charges (Consultation Requirements) (England) Regulations 2003 require a landlord planning to undertake major works, where a leaseholder will be required to contribute over £250 towards those works, to consult the leaseholders in a specified form.

18. Should a landlord not comply with the correct consultation procedure, it is possible to obtain dispensation from compliance with these requirements by an application such as this one before the Tribunal. Essentially the Tribunal must be satisfied that it is reasonable to do so.

19. The Applicant seeks dispensation under section 20ZA of the 1985 Act from all the consultation requirements imposed on the landlord by section 20 of the 1985 Act.

20. Section 20ZA relates to consultation requirements and provides 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.
....
(4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.
(5) Regulations under subsection (4) may in particular include provision requiring the landlord—
(a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
(b) to obtain estimates for proposed works or agreements,
(c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
(d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

Findings

21. In the case of *Daejan Investments Limited v Benson* [2013] UKSC 14, by a majority decision (3-2), the Supreme Court considered the dispensation provisions and set out guidelines as to how they should be applied.

22. The Supreme Court came to the following conclusions:

a. The correct legal test on an application to the Tribunal for dispensation is: "Would the flat owners suffer any relevant prejudice, and if so, what relevant prejudice, as a result of the landlord's failure to comply with the requirements?"

b. The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.

c. In considering applications for dispensation the Tribunal should focus on whether the leaseholders were prejudiced in either respect by the landlord's failure to comply.

d. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.

e. The factual burden of identifying some "relevant prejudice" is on the leaseholders. Once they have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.

f. The onus is on the leaseholders to establish:

i. what steps they would have taken had the breach not happened and

ii in what way their rights under (b) above have been prejudiced as a consequence

23. Accordingly, the Tribunal had to consider whether there was any "relevant prejudice" that may have arisen out of the conduct of the Applicant and whether it was reasonable for the Tribunal to grant dispensation following the guidance set out above.

Consideration

24. Having read the evidence and submissions from the parties and listened to the submissions made at the hearing, the Tribunal determines the dispensation issues as follows.

25. It is accepted that a proper consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether the Respondents have suffered any relevant prejudice, and if so, what relevant prejudice, as a result of that lack of consultation by the Applicant. In doing so, the Tribunal needed to focus on whether the leaseholders have been prejudiced by paying for inappropriate works or paying an inappropriate amount as a result of the lack of consultation.

26. The Applicant believes that both the water ingress works and the fire compartmentation works needed to be carried out urgently to protect the health and safety of residents and so there was insufficient time for any proper consultation. The Tribunal agrees with the Applicant's conclusion to proceed with the works without a full consultation. The water ingress works were self-evidently urgent and the alternatives suggested by Mr Caldwell seem inadequate. In addition, the fire compartmentation works were long overdue. The lack of any enforcement notice from any competent authority, such as the local council or the fire brigade, does not change this. Indeed, it would be irresponsible at the very least to leave required health and safety works until enforcement proceedings were brought.

27. The Tribunal is of the view that, given no objections were made at the time, including by Mr Caldwell, it could not find prejudice to any of the leaseholders of the Property by the granting of dispensation relating to the water ingress works or the fire compartmentation works. Having been given the chance to comment at the time and chosen not to do so,

it is not reasonable to subsequently argue that he would have put forward alternatives if asked.

28. As a result, the Tribunal believes that it is reasonable to allow dispensations in relation to the subject matter of the applications.

29. However, Mr Caldwell should be aware that he has rights pursuant to section 27A of the 1985 Act to challenge the reasonableness and payability of the works, including in relation to the cost and quality of the works. The Applicant has offered to carry out a new fire risk assessment and to obtain another quote for the works. Both these should be carried out promptly and provided to leaseholders when available. In addition, it should provide without delay any other documents in relation to the works reasonably requested by any leaseholder.

30. The Tribunal considered whether the dispensations should be granted subject to any conditions.

31. Mr Caldwell requested the following conditions:

31.1. Independent qualified fire engineer to define and sign-off the basement compartmentation scope before any recovery.
31.2. Maintenance-first for the porch/bin-store: implement the low-cost measures above (clear pebbles, inspect/repair lining, clean gullies, address Flat 4 runoff) and only then consider any residual capital works.
31.3. Obtain at least one competing quote now or apply a cost reduction (e.g. 10–15 %) to reflect loss of competition.
31.4. Allow staged payment terms (e.g. 12 months) for leaseholders.
31.5. Require full disclosure (quotes, FRA/engineer sign-off, photos/records of maintenance actions) to all leaseholders at their proper service addresses before any demand.
31.6. Make a Section 20C direction so the Applicant's legal costs of this application cannot be recharged through the service charge.

32. The Tribunal considered of each these in turn:

32.1. Fire engineer sign off – the works have been completed and so production of a fresh scope is inappropriate and will incur further expenditure. Tying this to cost recovery is inappropriate, the leaseholders can bring a section 27A claim if they consider the works unsuitable or the unreasonable. Mrs Evans has agreed that a fresh fire risk assessment will be carried out and provided to the leaseholders; this will assist in any dispute about the appropriateness and standard of the works.
32.2. Maintenance first approach – this is an inappropriate condition for works already completed; any dispute should be pursued pursuant to section 27A.
32.3. Further quote or discount – this is again inappropriate for completed works; as referred to above, Mrs Evans has agreed to seek another quote and this will be provided to the leaseholders if it can be

obtained. Any dispute as to the amount paid to the contractor again lies pursuant to section 27A.

32.4. Staged payments – the Tribunal does not consider this an appropriate request if Mr Caldwell has not paid any service charge for five years; he has not denied this in his objections.

32.5. Full disclosure – this is not relevant to the dispensation application. The Tribunal has required relevant disclosure on request but does not agree this is a precondition to sums payable being demanded

32.6. 20C – Mrs Evans confirmed that the Applicant has not incurred any legal costs. We consider recovery of the Tribunal's fees below.

33. The Tribunal does not consider that any of the requested conditions are appropriate. It considered whether any other conditions were appropriate but did not consider any were. It therefore concludes that neither dispensation should be made subject to any conditions.

34. Accordingly, the Tribunal unconditionally grants the Applicant's applications for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 in relation to the water ingress works and the fire compartmentation works.

35. The Applicant shall place a copy of the Tribunal's decision on dispensation together with an explanation of the leaseholders' appeal rights on its website (if any) within 7 days of receipt and shall maintain it there for at least 3 months, with a sufficiently prominent link to both on its home page. It should also be posted in a prominent position in the communal areas. In this way, leaseholders who have not returned the reply form may view the Tribunal's eventual decision on dispensation and their appeal rights.

Costs

36. Mr Caldwell has applied for a cost order under section 20C of the Landlord and Tenant Act 1985 ("Section 20C").

37. The relevant part of Section 20C reads as follows:-

> (1) "A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before … the First-tier Tribunal … are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant…".

38. A Section 20C application is therefore an application for an order that the whole or part of the costs incurred by the Applicant in connection with these proceedings cannot be added to the service charge of the Respondents or other parties who have been joined.

39. The Tribunal invited submissions on the issue from Mrs Evans. She stated that the Applicant opposed the application because the dispensation applications were made on behalf of the leaseholders and the Applicant did not have funds to meet this. The only relevant costs were the Tribunal's application and hearing fees, Mrs Evans explaining that she did not charge for her time. She also commented that she did not consider it appropriate that she should be personally liable to pay.

40. In this case, the Applicant is an RTM company acting on behalf of the leaseholders. It considered it urgent to proceed with the works without carrying out a consultation and the Tribunal has agreed with that decision. The Tribunal does not consider it equitable for the successful party to be charged for the costs of proceedings necessitated by works to protect the health and safety of the other party. The Tribunal therefore determines that it is not just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act. Mr Caldwell's application is therefore refused.

Rights of appeal

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk

2. 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.

3. 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.

4. 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.