



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

Case Reference : **MAN/36UG/LDC/2025/0634**

Property : **Flats 1-20 Kirbys, East Terrace, Whitby, YO21 3HB**

Applicant : **Kirbys (Whitby) Limited**

Representative : **Pure Block Management Limited**

Respondents : **The Residential Long Leaseholders**

Type of Application : **s.20ZA of the Landlord and Tenant Act 1985**

Tribunal Members : **I Jefferson
Ms J Jacobs**

Date of Decision : **7 January 2026**

DECISION

Compliance with the consultation requirements of s.20 of the Landlord and Tenant Act 1985 is dispensed with in relation to urgent repairs to balconies revealed at the time of undertaking other repairs which were subject to Section 20 Consultation, in connection with the premises known as Flats 1-20 Kirbys, East Terrace, Whitby YO21 3HB.

Background

1. This is understood to be a retrospective application under s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) to dispense with the consultation requirements of s.20 of the Act. These requirements (“the consultation requirements”) are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”).
2. The application dated 22 May 2025 was made in respect of Grade II listed former hotel now containing 20 apartments with internal communal areas, lift and storage rooms to basement level, and car park to the rear.
3. The applicant is Kirbys (Whitby) Limited represented by Pure Block Management, a property management company.
4. The respondents are the residential leaseholders of the flats within the premises. A specimen lease dated 4 January 1980 in respect of Flat 14, Kirbys, Whitby, North Yorkshire is enclosed with the application. A list of the Respondents is annexed to this decision.
5. The flats located within the premises are subject to long residential leases. All the leases are believed to have been granted on similar terms.
6. The only issue for the Tribunal to determine is whether it is reasonable to dispense with the consultation requirements.
7. The proposed works are “qualifying works” within the meaning of section 20ZA(2) of the Act.
8. The Tribunal issued directions on 8 October 2025.

Ground for the application

9. The applicants case is that following the commencement of a larger scheme of works of which a section 20 consultation had been completed, additional works were identified after the erection of scaffolding and commencement of the other works. The further repairs identified were an urgent requirement to repair deteriorating stonework to balconies and possibly falling materials. By expanding the scope of the section 20 works savings could be made particularly in respect of scaffolding.
The justification for proceeding with the further works without consultation is therefore twofold. First, safety concerns in respect of possible falling render and second, cost savings by utilising the scaffolding currently on site. The cost of the scaffold is £1,872.34 plus VAT per week.
10. The applicant asks the Tribunal to grant dispensation in respect of the works, which it considers to have been so urgent as to warrant avoiding the delay that compliance with the consultation requirements would have entailed, and cost savings to the leaseholders.

The Law

11. Section 18 of the Act defines what is meant by “service charge”. It also defines the expression “relevant costs” as:

the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

12. Section 19 of the Act limits the amount of any relevant costs which may be included in a service charge to costs which are reasonably incurred, and section 20(1) provides:

Where this section applies to any qualifying works ... the relevant contributions of tenants are limited ... unless the consultation requirements have been either— (a) complied with in relation to the works ... or (b) dispensed with in relation to the works ... by the appropriate tribunal.

13. “Qualifying works” for this purpose are works on a building or any other premises (section 20ZA(2) of the Act), and section 20 applies to qualifying works if relevant costs incurred in carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.00 (section 20(3) of the Act and regulation 6 of the Regulations).

14. Section 20ZA(1) of the Act provides:

Where an application is made to the appropriate Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works ... the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

15. Reference should be made to the Regulations themselves for full details of the applicable consultation requirements. In outline, however, they require a landlord (or management company) to:

- give written notice of its intention to carry out qualifying works, inviting leaseholders to make observations and to nominate contractors from whom an estimate for carrying out the works should be sought.
- obtain estimates for carrying out the works, and supply leaseholders with a statement setting out, as regards at least two of those estimates, the amount specified as the estimated cost of the proposed works, together with a summary of any initial observations made by leaseholders.
- make all the estimates available for inspection; invite leaseholders to make observations about them; and then to have regard to those observations.
- give written notice to the leaseholders within 21 days of entering into a contract for the works explaining why the contract was awarded to the preferred bidder if that is not the person who submitted the lowest estimate.

Reasons for the Decision

16. The Tribunal must decide whether it is reasonable for the works to proceed without the Applicant first complying in full with the s.20 consultation requirements. These requirements ensure that leaseholders are provided with the opportunity to know about the works, the reason for the works being undertaken, and the estimated cost of those works. Importantly, it also provides leaseholders with the opportunity to provide general observations and nominations for possible contractors. The landlord must have regard to those observations and nominations.
17. The Tribunal had regard to the principles laid down in *Daejan Investments Ltd. v Benson [2013] I WLR 854* upon which its jurisdiction is to be exercised.
18. The consultation requirements are intended to ensure a degree of transparency and accountability when a landlord decides to undertake qualifying works. It is reasonable that the consultation requirements should be complied with unless there are good reasons for dispensing with all or any of them on the facts of a particular case.
19. It follows that, for the Tribunal to decide whether it was reasonable to dispense with the consultation requirements, there needs to be a good reason why the works should and could not be delayed. In considering this, the Tribunal must consider if any prejudice had been caused to leaseholders by not undertaking the full consultation while balancing this against the risks posed to leaseholders by not taking swift remedial action. The balance is likely to be tipped in favour of dispensation in a case in which there was an urgent need for remedial or preventative action, or where all the leaseholders consent to the grant of a dispensation.
20. In the present case there is no doubt that the works were necessary and pressing for the occupiers of the apartments. The Tribunal finds that it was reasonable for the works to proceed without the Applicant first complying in full with the s.20 consultation requirements. The balance of prejudice favoured permitting such works to proceed without further delay.
21. The Tribunal record that the Statement of Case put forward by the Applicants Representative were clear, precise, and most helpful. The Tribunal note that the Applicants are both freeholder, landlord and residents' management company. No objection to dispensation were received from any of the Respondents.
22. The Applicant served the Respondents with the application and none of the Respondents have responded to it.

23. The Tribunal would emphasise the fact that it has solely determined the question of whether or not it is reasonable to grant dispensation from the consultation requirements. This decision should not be taken as an indication that the Tribunal considers that the amount of the anticipated service charges resulting from the works is likely to be recoverable or reasonable; or, indeed, that such charges will be payable by the Respondents. The Tribunal makes no findings in that regard and, should they desire to do so, the parties retain the right to make an application to the Tribunal under s.27A of the Landlord & Tenant Act 1985 as to the recoverability of the costs incurred, as service charges.

Dispensation order

24. The Tribunal determines that compliance with the consultation requirements of s.20 of the Landlord and Tenant Act 1985 is dispensed with in relation to the balcony repairs as detailed in this decision.

Chairman

7 January 2026

Annex – List of Respondents

See attached list.

RIGHT OF APPEAL

A person wishing to appeal against 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.

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.

If the person wishing to appeal does not comply with the 28-day time limit, that 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.

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.

Annex – List of Respondents

Chris Johnson
Anne Storm
Lesley Neville
Emma Leedham
Paul & Sarah Price
Pauline Smithson
Stephen Brooks
Kerry Lee & Richard Whipp
Andy & Sheila Carmichael
Lynne Bracewell, Kate Gaze & Andrew Baird
Yvonne Neville, Edward Neville & John Neville
Robert & Kate Peart
Gillian Clatworthy
Jean Wilson
Mackenzie Greenwood
Jane Middleton
Jared Goodhead & Laura Alvarez
Sarah & Paul Richardson-Clarke
Mesdames Malik