



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

Case Reference : **CAM/00MF/LDC/2025/0638**

HMCTS : **Paper**

Property : **North Court, The Ridges, Finchhampstead,
Wokingham, Berkshire RG40 3SJ**

**Applicant (Management
Company)** : **North Court (The Ridges) Management
Company Limited**

Landlord & Freeholder : **North Court (The Ridges) Freehold
Company Limited**

**Respondents
(Leaseholders)** : **All Leaseholders of Dwellings at the Property**

Type of Application : **To dispense with the consultation
requirements referred to in Section 20 of the
Landlord and Tenant Act 1985 pursuant to
Section 20ZA**

Tribunal : **Judge JR Morris**

Date of Application : **20 May 2025**
Date of Directions : **13 June 2025**
Date of Decision : **25 July 2025**

DECISION

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Decision

1. The Tribunal is satisfied that it is reasonable to dispense with compliance with all the consultation requirements of Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987) that the Applicant has not carried out.
2. The Applicant or its Representative shall serve a copy of the Tribunal's decision on dispensation, together with the relevant appeal rights attached, to the Leaseholders.

Reasons

The Application

3. On 20 May 2025 the Applicant applied for dispensation from the statutory consultation requirements in respect of qualifying works which are to maintain trees at the Property. Due to the circumstances and urgency of the work, by the time this Application will be dealt with the dispensation will be retrospective.
4. The Property is a development comprising a building of 12 apartments, garages, parking, and grounds. The building is of brick under a pitched slate roof. The grounds are substantial with extensive lawns, paths, and woodland.
5. On the Application Form the Applicant stated that the Leaseholders of the 12 apartments are both shareholders in the Applicant and in the Freeholder and Landlord.
6. The Property is in a heavily wooded area and as part of the maintenance a tree hazard survey was carried out by Fulford-Dobson Associates Ltd which identified various works and priorities some of which were "high risk" being in the wooded belts along the south and west edges of the Property overhanging the B3348 and Jubilee Road. There are public health and safety issues due to dead trees and branches overhanging the road which could fall in high winds. Therefore, the work is considered urgent.
7. The Applicants said that a section 20 consultation process was started with a Notice of Intention sent to all leaseholders on 21 February 2025. In addition, an email was sent to all Leaseholders with an attached form asking them if they would consent to a dispensation application to the tribunal due to the urgency of the work and the time taken to carry out a full consultation under section 20 Landlord and Tenant Act 1985 which was returned unanimously. An estimate for the work has been obtained which is just over £11,000.00 including VAT. There being 12 apartments this will result in the unit charge being more than £250.00. Therefore, the consultation procedure under section 20 of the Landlord and Tenant Act 1985 was required or dispensation granted for the full cost to be met by the service charge.

8. Directions were issued on 13 June 2025 which stated that the Application would be determined on or after 25 July 2025 based on written representations and without an inspection, unless either party made a request for an oral hearing. No request was received.
9. The Directions required the Applicant's Representative to send by 23 June 2025 to each of the Respondent Leaseholders, by hand delivery or by first class post and by email, if practicable, copies of:
 - i. The application form without the list of leaseholders' names and addresses;
 - ii. The Directions;
 - iii. A clear concise description of the relevant works for which dispensation is sought;
 - iv. an estimate of the cost of the relevant works, including any professional fees and VAT;
 - v. Any other evidence relied upon; andTo file with the tribunal confirming that this had been done and stating the date on which this was done.
10. On 23 June 2025 the Applicant confirmed that this Direction had been carried out.
11. If the Respondent Leaseholders wished to oppose the Application the Directions required them to do so via an attached reply form by 11 June 2025. No forms or representations were received from the Respondent Leaseholders.

The Law

12. Section 20 of the Landlord and Tenant Act 1985 limits the relevant service charge contribution of tenants unless the prescribed consultation requirements have been complied with or dispensed with under section 20ZA. The requirements are set out in The Service Charges (Consultation Requirements) (England) Regulations 2003. Section 20 applies to qualifying works if the relevant costs incurred in carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.
13. The consultation provisions appropriate to the present case are set out in Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987) (the 2003 Regulations). The Procedure of the Regulations are summarised in Annex 2 of this Decision and Reasons.
14. Section 20ZA allows a Landlord to seek dispensation from these requirements, as set out in Annex 2 of this Decision and Reasons and this is an Application for such dispensation.

15. The terms “tenants” “lessees” and “leaseholders” are synonymous as are “landlord” and “lessor.”

Submissions & Evidence

16. The Applicant provided a bundle to the Tribunal which included:
- A copy of the Original Lease, the covenants of which are understood to be common to all the Leases, together with a copy of the Deed of Variation,
 - Application to the Tribunal,
 - Tribunal Directions,
 - An email to all Leaseholders dated 21 February 2025 and the form regarding the Application for Dispensation
 - The Notice of Intention with covering letter dated 21 February 2025
 - Completed forms regarding the Application for Dispensation from all Respondent Leaseholders
 - Applicant’s confirmation regarding compliance with Directions,
- These together set out the Applicant’s case.
17. A copy of the Original Lease was provided between the Original Landlord and Freeholder, Millgate Developments Limited (1), the Management Company, referred to in the Lease as “the Company” (2), and the Leaseholder (3), for a term of 125 years from 12 December 2002 and the covenants of which are understood to be common to all the Leases. This Lease has been varied following the transfer of the freehold from the Original Landlord and Freeholder to the current Landlord and Freeholder, North Court (The Ridges) Freehold Company Limited, granting 999-year leases to the Leaseholders. The relevant covenants of the Original Lease are as follows:
- a) Clause 1
“Common Parts” means all internal and external entrances passages lift landings staircases gates footpaths accessways spaces grounds... and other areas or parts of the Property the use of which is shared in common with the other lessees of the apartments within the Property and any other part or parts of the Property not included in the demise of individual apartments... The Lessee hereby covenants with the Lessor and with the owners and lessees of the other flats...
 - b) Clause 4
(3) The Lessee shall pay to the Company at the times and in the manner specified in the Sixth Schedule hereto the Lessee’s Initial Contribution and the Lessee’s Share of the Excess Expenditure as herein respectively defined each sum or sums in case of default to be recoverable as if it or they were rent arrear

c) Clause 5
...the Company hereby covenants with the Lessor (and as a separate covenant) with the Lessee as follows: -

(2) To maintain and keep in good tenable repair and condition

(iv) the Common Parts of the Property

d) The Sixth Schedule
The Service Charge
Part A

(1) “Annual Cost” means the total expenditure incurred by the Company or the Lessor as the case may be in any Accounting Period in carrying out their obligations referred to or contained in paragraph 1 of Part B hereof and the total expenses referred to in paragraph 2 of part B hereof

(5) “Basic Maintenance Charge” means the total amount of:-
(i) the Annual Cost

(6) “Excess Expenditure” means that amount if any by which the Basic Expenditure Charge exceeds the total of the Annual Contribution and any Unexpected Surplus from previous Accounting Periods if any

“Initial Contribution” means the Lessee’s yearly contribution towards the Basic Maintenance Charge

Part B

1. The Company’s obligations contained or referred to in Clause 5 of this Lease and the New Leases

2. The total expenses incurred by the Company

(3) in respect of periodically inspecting examining maintaining and repairing...any and every part of the Property

18. The statement by the Applicant in the Application Form is set out above, as are the terms of the Directions and confirmation of their compliance.

19. A copy of the email dated 21 February 2025 to all Leaseholders was provided, the main points of which are:

The Applicant said it would like to apply for dispensation because there are health and safety concerns in relation to delaying the work – the dead trees that

overhang the road in places and it is possible that they could fall in high winds and cause damage to road users and power cables.

The work will involve partially closing the road and installing temporary traffic lights and permission will have to be obtained from the Council. It was not known when the Council would schedule the work and this is organised by the arborists as they understand the licences, permits and approvals which are required.

The email went on to explain the section 20 procedure and the length of time this might take when the work is urgent, therefore an application for dispensation should be made. It was added that it might take some time to obtain the dispensation and therefore to enable work to start as soon as possible the Leaseholders were requested to complete a form agreeing to the dispensation being granted which was attached.

It was intended to instruct Fernoak Tree Surgeons who are the Property's regular arborists and who have given an estimate of just over £11,000 including VAT but Leaseholders were invited to comment on the work or suggest another contractor. It was said that £3,500 of the cost was for council traffic management which would be incurred whichever contractor was used.

It was intended to meet the cost from the reserve but there had been recent expense with the guttering and external redecoration was planned which will have an impact on the Applicant's finances.

20. The covering letter to the Section 20 Notice of Intention set out the main stages of the consultation process. The Notice dated 21 February 2025 set out the works to be carried out:

Tree Surgery to perimeter

- Wooded belts along the south and west edges of the Property overhanging the B3348 and Jubilee Road. Tree surgery will be undertaken to cut back the overhang and ensure statutory height clearances of 5.2m are met.
- Dead and hazardous trees/stems/branches as identified in the 2024 Tree Hazard Survey from Fulford -Dobson Associates Ltd.
- Associated Road traffic Management including permits, licences, and temporary traffic lights (or other road Management).

The works were considered necessary because:

- The work was identified as a priority in a recent Tree Hazard Survey;
- The work is required to abate personal/public safety issues or damage risk to structures;
- The work is part of prudent landscape husbandry to maintain the aesthetic and natural environment of North Court.

Leaseholders were invited to comment and nominate contractors with appropriate experience.

21. All Leaseholder returned their forms and agreed to Dispensation to the section 20 procedure.

Findings

22. The Tribunal finds from the Lease that the Applicant is obliged to maintain the trees and that this cost is chargeable to the Leaseholders through the Service Charge.
23. The Tribunal found:
 - a) The Applicant is acting in accordance with a Tree Hazard Survey.
 - b) In the email of 21 February 2025, the Applicant has informed the Leaseholders of:
 - The work that is required based on the tree Hazard Survey;
 - The necessity for the consultation procedure under section 20 of the Landlord and Tenant Act 1985 and have explained that procedure;
 - The urgency of the work which it considers justifies dispensation from the latter parts of that procedure;
 - The contractor the Applicant intended to use unless a Leaseholder nominates an alternative from whom a quotation can be obtained, which they are invited to do;
 - The likely cost and its effects on the current finances.
 - c) By the form attached to the email the Leaseholders are given an opportunity to object to the Dispensation Application.
 - d) In the Notice of Intention dated 21 February 2025 the Applicant concisely states the work and the urgency and gives an opportunity to comment and nominate a contractor.
 - e) Through the Application procedure the Leaseholders had a further opportunity to raise objections to the work and/or the Application.
24. The Tribunal found that the Leaseholders, in the course of the above opportunities, had not wished to comment, provide alternative contractors or object to the Application and had positively agreed to the Application. Therefore, the Tribunal finds that the Leaseholders have not suffered any relevant prejudice by the failure to carry out the consultation procedure.

Determination

25. In making its decision the Tribunal had regard to the decision of the Supreme Court in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14. In summary, the Supreme Court noted the following:
 - 1) The main question for the Tribunal whether the landlord's breach of the section 20 consultation requirements resulted in the leaseholders suffering real prejudice.

- 2) The financial consequence to the landlord of not granting a dispensation is not a relevant factor.
 - 3) The nature of the landlord is not a relevant factor.
 - 4) Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
 - 5) The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms are appropriate.
 - 6) The Tribunal has power to impose a condition that the landlord pays the tenants' reasonable costs (including surveyor and/ or legal fees) incurred in connection with the landlord's application under section 20ZA.
 - 7) The legal burden of proof in relation to dispensation applications is on the landlord. The factual burden of identifying some "relevant" prejudice that they would or might have suffered is on the tenants.
 - 8) The Supreme Court considered that "relevant" prejudice should be given a narrow definition; it means whether non-compliance with the consultation requirements has led the landlord to incur costs in an unreasonable amount or to incur them in the provision of services, or in the carrying out of works, which fell below a reasonable standard, in other words whether the non-compliance has in that sense caused prejudice to the tenant.
 - 9) The more serious and/or deliberate the landlord's failure, the more readily a Tribunal would be likely to accept that the tenants had suffered prejudice.
 - 10) Once the tenants had shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
26. The Tribunal is satisfied that it is reasonable to dispense with compliance with all the consultation requirements of Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987) that the Applicant has not carried out.
27. The Leaseholders should note that this is not an application to determine the reasonableness of the works or their cost. If, when the service charge demands in respect of these works are sent out, any Leaseholder objects to the cost or the reasonableness of the work or the way it was undertaken, an application can be made to this Tribunal under section 27A of the Act. A landlord can also seek a determination as to the reasonableness of the cost of the work.
28. The Applicant shall serve a copy of the Tribunal's decision on dispensation, together with the relevant appeal rights attached, to all Leaseholders.

Judge JR Morris

Annex 1 – Right of Appeal

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Annex 2 – The Law

1. Section 20 of the Landlord and Tenant Act 1985 limits the relevant service charge contribution of tenants unless the prescribed consultation requirements have been complied with or dispensed with under section 20ZA. The requirements are set out in The Service Charges (Consultation Requirements) (England) Regulations 2003. Section 20 applies to qualifying works if the relevant costs incurred in carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.
2. The consultation provisions appropriate to the present case are set out in Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987) (the 2003 Regulations). The Procedure of the Regulations and are summarised as being in 4 stages as follows:

A Notice of Intention to carry out qualifying works must be served on all the tenants. The Notice must describe the works and give an opportunity for tenants to view the schedule of works to be carried out and invite observations to be made and the nomination of contractors with a time limit for responding of no less than 30 days. (Referred to in the 2003 Regulations as the “relevant period” and defined in Regulation 2.)

Estimates must be obtained from contractors identified by the landlord (if these have not already been obtained) and any contractors nominated by the Tenants.

A Notice of the Landlord's Proposals must be served on all tenants to whom an opportunity is given to view the estimates for the works to be carried out. At least two estimates must be set out in the Proposal and an invitation must be made to the tenants to make observations with a time limit of no less than 30 days. (Also referred to as the "relevant period" and defined in Regulation 2.) This is for tenants to check that the works to be carried out are permitted under the Lease, conform to the schedule of works, are appropriately guaranteed, are likely to be best value (not necessarily the cheapest) and so on.

A Notice of Works must be given if the contractor to be employed is **not** a nominated contractor or is not the lowest estimate submitted. The Landlord must within 21 days of entering into the contract give notice in writing to each tenant giving the reasons for awarding the contract and, where the tenants made observations, to summarise those observations and set out the Landlord's response to them.

3. Section 20ZA allows a Landlord to seek dispensation from these requirements, 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.
 - (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
if it is an agreement of a description prescribed by the regulations, or in any circumstances so prescribed.
 - (4) to (7)... not relevant to this application.