



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

Case Reference : **CAM/26UG/LDC/2025/0633**

HMCTS : **Paper**

Property : **Latimore House, 21 Lattimore Road, St Albans
Hertfordshire AL1 3XL**

**Applicant (Management
Company)** : **Lattimore House Management Company
Limited**

Landlord & Freeholder : **Hallfare Limited**

**Representative
(Managing Agent)** : **Collinson Hall**

**Respondents
(Leaseholders)** : **Mrs Helen Ives-Rose Flat 1
Ms Susan Lister Flat 2
Ms Inga Parker Flat 3
Mr Chris Wilks & Mrs Linda Wilks Flat 4
Dr Julie Higgins Flat 5**

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 : **28 April 2025**

Date of Directions : **23 May 2025**

Date of Decision : **4 July 2025**

DECISION

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).
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 28 April 2025 the Applicant's Representative, who is the Applicant's Managing Agent, applied for retrospective dispensation from the statutory consultation requirements in respect of qualifying works which are to repair a wall at the Property.
4. The Property is a modern two storey development comprising a building of 5 flats and grounds. The building has brick elevations to the front and sides and the rear elevation is rendered under a pitched tile roof. There is a brick wall topped with railings to the front. To the rear there is a car park, access to which is through a gated entrance to the side of the building under a first-floor extension. The grounds at the rear also include a decked sitting area and lawn bounded by a gravel path. The grounds at the rear are bounded at each side by brick walls about one and a half metres high topped by a timber fence. The brick wall at the rear boundary between the Property and the neighbouring development of Milliner's Court is significantly higher than those at the side and is part rendered.
5. On the Application Form the Applicant's Representative stated that they were the new Managing Agents. They said that at the tendering meeting the lead director of the Applicant raised concerns regarding the safety of the rear wall with several large pieces of render having fallen into the car park. Following their appointment the Agents were approached by the Leaseholders expressing concern that the falling render may damage vehicles or cause serious injury or even death. The Managing Agents therefore obtained an estimate for the work from their preferred contractors, Podscape, which was for £6,130.00. There being only 5 flats this resulted 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. Since both the Managing Agents and Leaseholders considered the work to be urgent the Agents as the Applicant's Representatives applied for dispensation.
6. Directions were issued on 23 May 2025 which stated that the Application would be determined on or after 4 July 2025 based on written representations and

without an inspection, unless either party made a request for an oral hearing by 13 June 2025. No request was received.

7. The Directions required the Applicant's Representative to send by 1 May 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.
8. On 29 May 2025 the Applicant's Representative confirmed that this Direction had been complied with.
9. If the Respondent Leaseholders wished to oppose the Application the Directions required them to do so via an attached reply form by 13 June 2025. No forms or representations were received from the Leaseholders.

The Law

10. 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.
11. 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.
12. 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.
13. References to "tenants" includes "leaseholders" and vice versa.

Submissions & Evidence

14. The Applicant's Representative 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 copies of new Leases for two Flats which have been granted for an extended term under the Leasehold Reform Housing and Urban Development Act 1993 which include by incorporation the covenants of the Original Lease,
 - Application to the Tribunal,
 - Tribunal Directions,
 - Applicant's confirmation regarding compliance with Directions,
 - Cost Estimate
- These together set out the Applicant's case.
15. A copy of an Original Lease dated 25 July 2005 between the Landlord and Freeholder, the Management Company, and the Leaseholder, for a term of 99 years from 3 September 2004 and the covenants of which are understood to be common to all the Leases were provided. This Lease has for some or all the Leaseholders been renewed for a further 99 years under the Leasehold Reform Housing and Urban Development Act 1993. The new Leases include by incorporation the covenants of the Original Lease. The relevant covenants of the Original Lease are as follows:
- a) Clause 4
The Lessee hereby covenants with the Lessor and with the owners and lessees of the other flats...
(b) (i) To contribute and pay 20% of the costs expenses outgoings and matters mentioned in the Fifth Schedule hereto to the Management Company...
 - b) Clause 7
The Management Company hereby covenants with the Lessee to perform observe the covenants set out in the Fifth Schedule...
 - c) The Fifth Schedule before referred to Obligations of the Management Company
Costs expenses and matters in respect of which the Lessee is to contribute
1. At all times during the term to maintain the Common Parts in good and substantial repair and condition ...making all necessary renewals and replacement as may be required thereto
 - d) The Sixth Schedule before referred to
Costs expenses and matters in respect of which the Lessee is to contribute

1. The expenses incurred by the Management Company in carrying out its obligations under Fifth Schedule to this Lease
 7. The Management Company shall be entitled to employ contractors to carry out its obligations under this Lease...
16. The statement by the Applicant's Representative in the Application Form is set out above, as are the terms of the Directions and confirmation of their compliance.
17. A copy of the quotation from Podscape dated 4 February 2025 was provided as follows:
- 1) The render is cracked and falling away from the wall. It is proposed that the existing render is ripped off and skipped. The wall is to be slurried and re-rendered to new beads.
Including all materials and labour **£2,040.00**
 - 2) In addition:
 - Skipping of old render all labour and materials;
 - Erecting a scaffold tower to working height along the back of the car park;
 - Cutting away all foliage and clearing area;
 - Taking off the top five courses of brickwork where damaged including a section of pier;
 - Laying new bricks to original height;
 - Point up wall where required and skip waste.
 Including all materials, labour access equipment and skip **£4,090.00**
- Total** **£6,130.00**

Note parking bays will need to be suspended during works

Findings

18. The Tribunal finds from the Lease that the Applicant is obliged to make repairs to the wall and that these are chargeable to the Leaseholders through the Service Charge.
19. The Tribunal finds that the Leaseholders have recognised the risk posed to the health and safety of themselves, their visitors and their property by the wall having fallen into disrepair and have sought prompt action to remedy this risk by having the works undertaken as a matter of urgency.
20. The Tribunal found that the Applicant and its Representative have acted on the instructions of the Leaseholders and in the interests of their health and safety.

21. The Tribunal found that the Leaseholders were able to make representations to the Tribunal in relation to the Dispensation Application had they felt prejudiced and wished to do so. No representations have been received.
22. Therefore, the Tribunal finds that the Leaseholders have not suffered any relevant prejudice by the failure to carry out the consultation procedure.

Determination

23. 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.
24. 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).
25. 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.

26. 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.