



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

Case reference : **MAN/00CX/LDC/2025/0652**

Property : **Jowett Court, Highfield Road, Idle, Bradford
BD10 8DF**

Applicant : **McCarthy & Stone Retirement Lifestyles Limited**

Representative : **McCarthy & Stone Management Services Limited**

Respondents : **The residential long leaseholders**

**Type of
Application** : **Landlord & Tenant Act 1985 - Section 20ZA**

**Tribunal
Members** : **Mr J Platt FRICS, FTPI
Mr N Foster FRICS
Dr T Gledhill FRICS**

**Date of Paper
Determination** : **12 January 2026**

DECISION

DECISION

1. Pursuant to section 20ZA of the Landlord and Tenant Act 1985 the tribunal makes a determination to dispense with the requirement to consult with the Respondents on the works to repair the asphalt flat roof at Jowett Court undertaken by Doncaster Maintenance in, or around, November 2022.

REASONS

The Application

2. The application (the Application') was made on 24 July 2025 by McCarthy & Stone Management Services Limited on behalf of McCarthy & Stone Retirement Lifestyles Limited ('the Applicant'). It seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') in relation to the statutory consultation requirements prescribed by section 20.
3. Dispensation is sought for repairs to a flat asphalt roof to remedy leaks into communal corridors at Jowett Court, Idle, Bradford BD10 8DF ('the Property'). The Property is a purpose built block of flats comprising of one and two bedroom apartments in an age-restricted community for the over Sixties. The Applicant is the freehold proprietor of the Property and the Respondents are the long leasehold tenants of the flats.
4. A sample lease evidences that the tenants' obligations include the payment of a variable service charge towards costs of services incurred by the Landlord. The Landlord obligations include "maintain repair ... the main structure of the Building including (but not by way of limitation) the foundations roofs and exterior and the load bearing or structural walls and the windows of the same".
5. Directions were issued on 22 October 2025. The Applicant submitted a bundle of papers including a statement of case and supporting documents. The Applicant seeks dispensation based on its evidence that:

During 2022, the development experienced persistent and escalating issues with water ingress affecting a section of the building with a flat asphalt roof. Despite multiple repair attempts, including works to internal drainage systems and flashing near Apartment 46, the problem remained unresolved. The situation deteriorated to the point where residents reported significant internal damage, including water-stained ceiling tiles and damp plasterboard in communal areas.

On 29 September 2022, residents voiced their frustration and concern regarding the leak, particularly in light of the approaching winter months. The urgency of the situation, combined with the risk of further damage to the development and potential health and safety implications, necessitated immediate and decisive action.

6. The Applicants' further evidence is that it:

sought quotations for a full roof replacement using a 'Rapid Roof' system, which offered a 20-year guarantee. Three competitive quotes were obtained:

- Vertex – £17,950 + VAT
- SP Maintenance – £18,200 + VAT
- Doncaster Maintenance – £12,380 + VAT

Following a homeowner engagement session on 10 November 2022, where these quotes were presented and discussed with the homeowners, Doncaster Maintenance was selected due to their competitive pricing and ability to mobilise quickly.

Given the urgency of the works and the need to prevent further deterioration to the Development's, MSMS made the decision to proceed without completing the full Section 20 consultation process. A formal letter was issued to all homeowners on 11 November 2022, outlining the rationale for this approach and confirming the intention to proceed under a future application for dispensation.

7. The Tribunal, therefore, understands that the works have already been undertaken and the Applicant, in effect, seeks retrospective dispensation.
8. None of the Respondents submitted a statement to the tribunal opposing the Application and the Applicant has confirmed that none of the Respondents has submitted any objections to the Application directly to itself.
9. Submissions were received from one of the Respondents; Sandra Deegan of Apartment 34. She avers that the evidence provided by the Applicant on the engagement undertaken with residents is not fully accurate. Notes were displayed on the notice board rather than being distributed to all apartments and residents were not advised in advance of meetings / coffee mornings that these proposals would be discussed. She does not however state that she opposes the Application nor does she provide any evidence that she has been prejudiced in any way by the Applicant's actions.
10. The Applicant indicated that it would be content with a determination on the papers. The tribunal considered this to be appropriate because none of the Respondents opposed the Application, neither party had requested a hearing and because there was sufficient information before the tribunal to reach a decision. In view of the matters in issue, it was unnecessary to conduct an inspection of the Property.

The Law

11. Extracts from sections 20 and 20ZA of the Act are reproduced in Schedule 1. Section 20ZA subsection (1) provides that the tribunal may make a determination to dispense with consultation requirements 'if satisfied that it is reasonable to dispense with the requirements'.
12. The tribunal considers the leading case on dispensation to be the Supreme Court decision in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 ('*Daejan*'). In *Daejan*, Lord Neuberger stated that in deciding pursuant to section 20ZA whether it is reasonable to dispense with consultation requirements, a tribunal should consider whether any relevant prejudice would be suffered by the leaseholders. Lord Neuberger stated that whilst the legal burden of proof rests throughout on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered rested on the tenants. Lord Neuberger went on to hold that a tribunal is permitted to grant dispensation on terms, including compensating leaseholders for any prejudice suffered by requiring a landlord to reduce the amount claimed as service charge, and including an order for costs.

Findings of fact and Reasons for decision

13. None of the Respondents have submitted a statement of case opposing the Application. There is no evidence before the tribunal that any of the Respondents

consider themselves to be prejudiced in any way by the absence of a section 20 consultation exercise.

14. The Applicant engaged with the Respondents on its proposals to undertake the Works.
15. The tribunal finds that there is no relevant prejudice identified by any Respondent, suffered as a consequence of the Applicant proceeding with the Works without first carrying out the section 20 consultation.
16. The Respondents have made no representation as to any condition the tribunal might impose in granting dispensation, and there is no evidence of any cost being incurred by the Respondents that should appropriately be met by the Applicant.
17. In these circumstances, the tribunal considers it reasonable to dispense with consultation requirements unconditionally. Accordingly, the tribunal makes a determination, under section 20ZA of the Act, to dispense with the requirement to consult with the Respondents under section 20 in relation to the Works.
18. The tribunal expresses no view as to whether any costs associated with the Works are reasonable in amount, whether the Works were necessary or of a reasonable standard or whether the costs intended to be recovered by way of service charge are contractually payable under the leases or within the meaning of 'relevant costs reasonably incurred' in sections 19 and 27A of the Act. No such applications are currently before this Tribunal and the Tribunal's decision does not include or imply any determination of such matters.

Schedule 1

Extracts from legislation

Landlord and Tenant Act 1985

Section 20

(Subsections (1) and (2):)

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either -

(a) complied with in relation to the works or agreement, or

(b) dispensed with in relation to the works or agreement by (or on appeal from) a tribunal.

(2) In this section 'relevant contribution', in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works under the agreement.

Section 20ZA

(Subsection (1))

(1) Where an application is made to a 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.