



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

**Case Reference** : HAV/29UL/LDC/2025/0706

**Property** : The Metropole, The Leas, Folkestone, CT20  
2LU

**Applicant** : Metropole (Folkestone) Limited

**Representative** : Parkfords Property Management

**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

**Date of Decision** : 22 January 2026

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**DECISION**

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## **Decision of the Tribunal**

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 the erection of scaffolding, supportive equipment and any other required work to ensure the safety and integrity of the cantilever balconies at the Property.

## **The background to the application**

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act. This application was received on 27 August 2025.
2. The Property is described as a Grade II listed building, comprising 68 flats over the basement, ground and five higher floors. It was built between 1895 and 1897 and extended around 1910. It contains cantilevered balconies on the exterior which are supported by steel brackets.
3. The Applicant is the landlord of the Property and the Respondents comprise its leaseholders.
4. The application relates to the erection of scaffolding, supportive equipment and any other required work to ensure the safety and integrity of the cantilever balconies at the Property. It does not include works to repair or demolish the balconies; this will require a separate section 20 consultation or dispensation application.
5. The works were necessitated because the steel brackets that support the cantilevered balconies were identified as having corroded causing the stone cladding to move. An engineer advised that there was a danger of falling stonework or collapse of the balconies. Scaffolding has therefore been installed to prevent collapse and allow further investigation. This was said to be urgent to provide protection to the public and residents and allow the further investigation.
6. The works have been carried out; no information as to their cost has been provided to the Tribunal.
7. The Applicant has not carried out any consultation with leaseholders and has applied for dispensation instead.
8. The Applicant has confirmed that that only one objection has been received from the Respondents. However, this has been withdrawn.
9. The Tribunal has issued various sets of the Directions in this case. The latest, dated 15 December 2025 required the provision of a bundle, after which the Tribunal would decide whether a hearing was required or the

matter could be determined without a hearing, by way of a paper case. No objections have been received to this approach. I have reviewed the documentation provided and am satisfied that it remains suitable for a paper determination.

10. 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.
11. This has been a paper determination which has not been objected to by the parties. The documents that were referred to are the Applicant's application, a specimen lease, a list of the Respondents, structural engineers' reports and correspondence with the Respondents, the contents of which have been recorded.

### **The issues**

12. 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**

13. 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.
14. 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.
15. 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.
16. 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.*

17. 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.
18. 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

### **Consideration**

- 19. 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.
- 20. Having read the evidence and submissions from the Applicant and having considered all of the documents and grounds for making the application provided by the Applicant, the Tribunal determines the dispensation issues as follows.
- 21. It is evident that a statutorily compliant 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 landlord. In doing so, it 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.
- 22. The Applicant believes that the erection of scaffolding, supportive equipment and any other required work to ensure the safety and integrity of the cantilever balconies at the Property needed to be completed urgently to protect residents and the public and to allow further investigation. On the evidence before it, the Tribunal agrees with the Applicant’s conclusions.
- 23. The Tribunal, and taking into account that there have been no objections to this application from the Respondents, could not find prejudice to any of the leaseholders by the granting of dispensation relating to the erection of scaffolding, supportive equipment and any other required work to ensure the safety and integrity of the cantilever balconies at the Property.

24. As a result, the Tribunal determines that it is reasonable to allow dispensation in relation to the subject matter of the application.
25. Accordingly, the Tribunal grants the Applicant's application 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 erection of scaffolding, supportive equipment and any other required work to ensure the safety and integrity of the cantilever balconies at the Property.
26. For the avoidance of doubt, this dispensation does not apply to any works to repair or demolish any balconies at the Property.
27. 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, any Respondents who have not returned the reply form may view the Tribunal's eventual decision on dispensation and their appeal rights.

### **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](mailto: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.

