



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

Case Reference : HAV/24UF/LDC/2025/0745

Property : Cray House, 40 Stoke Road, Gosport
Hampshire, PO12 1EJ

Applicant : Cray House Residents Company Limited

Representative : KJB Residential Property Management
Limited

Respondents : The Leaseholder

Representative : None

Type of Application : To dispense with the requirement to consult
lessees about major works pursuant to section
20ZA of the Landlord and Tenant Act 1985

Tribunal Members : Mr M E Williams FRICS

Date of Decision : 11 March 2026

DECISION

The Decision

- 1. The Tribunal grants the application for dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) from the statutory consultation requirements imposed on the landlord by section 20 of the 1985 Act in respect of the required EWS1 survey which is needed to establish if the block qualifies for external cladding works.**
- 2. The dispensation is granted subject to the condition that the Applicant serves upon the Respondent a copy of this decision.**
- 3. This dispensation does not affect the Tribunal’s jurisdiction upon any future application from the leaseholders to make a determination under section 27A of the 1985 Act, in respect of the reasonableness and/or cost(s) associated with the qualifying works.**

Background and the Application

4. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the statutory consultation requirements imposed on the landlord by section 20 of the 1985 Act in respect of obtaining an EWS1 survey which is needed to establish if the block qualifies for external cladding works.
5. The application is dated 13 October 2025.
6. The property is described as:

BLOCK OF 24 FLATS, HAS LOWER GROUND CAR PARK, LIFT TO UPPER FLOORS (LIVING ACCOMODATION) 4 FLOORS
CURTAIN WALLING TO FRONT OF BLOCK ABOVE ENTRANCE
RENDER/CLAD/KREND TYPE COATING TO MOST OF UPPER FLOOR EXTERIOR SURFACE.
SHOP TO THE GROUND FLOOR, LEFT OF ENTRANCE,
RENOVATED [sic] OFFICE BLOCK APPROX 1998/1999 AS LEASE STARTS YEAR 2000.
21 FLATS ON 3 FLOORS AND 3 PENTHOUSE FLATS ON THE ROOF.

7. In its explanation to seek dispensation The Applicant states in ‘Section 6.5’ of the application the following:

‘works: EWS1 SURVEY REQUIRED ASAP,
TO ESTABLISH IF THE BLOCK QUALIFIES FOR EXTERNAL CLADDING WORKS REQUIRED OF BUILDINGS 11 METERS AND OVER. WORKS THAT WOULD MOST LIKELY QUALIFY FOR CLADDING SAFETY FUND.

IN ADDITION, SALES OF THE FLATS ARE ON HOLD AWAITING AN EWS1.

UNDER THE SCHEME - APPROVED EXPENSIVE SURVEYORS ARE REQUIRED, OVER OUR SECTION 20 VALUE OF £6000 CHEAPEST QUOTE £9600 INV VAT : IF WORKS ARE REQUIRED WE GET THE SURVEY COST BACK IN FUND.

SECTION 20 QUALIFIES.

HOWEVER DUE TO THE SALES OF PROPERTY ON HOLD AND APPLICATION RESTRICTION OF THE CLADDING SAFETY FUND, AND USE OF REQUIRED APPROVED SURVEYORS, SECTION 20 WOULD CAUSE UNNECESSARY DELAY TO SALES AND TO OUR CLADDING SAFETY FUND APPLICATION.

WE CANNOT INVITE LEASEHOLDERS TO RECOMMEND A SURVEYOR AND GOING OUT TO FURTHER TENDER WILL DELAY SURVEY 60+ DAYS AND BE NOT APPLICATBLE.

WE CONSIDER THIS APPLICATION URGENT FOR OUR LEASEHOLDERS.

WE CONSIDER THE APLICATION URGENT:
DUE TO DELAYS IN SALE COMPLETIONS

DUE TO CSS RESTRICTIONS

DUE TO CSS REQUIREMENT

CLADDING SAFETY DETERMINATION REQUIRED

COSTS AND SURVEY - IF WORKS FOUND TO BE REQUIRED WOULD BOTH BE PAID FOR UNDER THE CLADDING SAFETY SCHEME, REIMBURSING ANY MONEY PAID OUT FOR THIS SURVEY.'

8. The Tribunal gave a number of Directions ('the Directions') on the 11 November 2025, 5 December 2025, the final of which was given on 29 January 2026 listing the steps to be taken by the parties in preparation for the determination of the application.
9. The Directions stated the Tribunal would determine the application on the papers without a hearing in accordance with Rule 31 of the Tribunal Procedure Rules 2013 unless a party objected in writing to the Tribunal within 14 days of the receipt of these Directions.
- 10. The only issue for the Tribunal is whether or not it is reasonable for the Applicant to have dispensed with the statutory consultation requirements. This application is neither about the costs of the works carried out to date, nor is it about the costs of the proposed works and whether they are recoverable from the leaseholders as services charges, nor the possible application or effect of the Building Safety Act 2022. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the 1985 Act to determine**

the reasonableness of the costs, and their respective contributions payable through the service charge provisions in their leases.

The Law

11. Section 20 of the 1985 Act and the related Regulations provide that where the lessor undertakes qualifying works with a cost of more than £250 per lease per 12 month period, the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum per annum unless the required consultation processes have been undertaken or the requirement has been dispensed with by the Tribunal. An application to the Tribunal may be made retrospectively.
12. The relevant section of the 1985 Act reads as follows:

S.20 ZA (1) Consultation requirements: supplementary
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 or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
13. In *Daejan Investments Limited v Benson and Others* [2013] UKSC 14, the Supreme Court set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of sections 19 to 20ZA of the 1985 Act was to ensure that tenants are protected from paying for inappropriate works and paying more than would be appropriate, went on to state “*it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements*”.
14. Furthermore, and following *Daejan v Benson*, the Tribunal has power to grant dispensation on terms.

Consideration and Decision

15. The Tribunal first considered whether it felt able to decide this application reasonably and fairly based on the papers submitted only, with no oral hearing. Having read and considered the papers and given that the application remained unchallenged the Tribunal decided it could do so.
16. The Directions of 5 December 2025 state, at paragraph 22, ‘The application shall stand as the Applicant’s case’.
17. In its application, the Applicant states the case is appropriate to be dealt with without a hearing (a paper determination) and goes on to state the application is urgent for the reasons set out in 6.5 of its application and

‘CLADDING SAFETY DETERMINATION SURVEY NEEDED & SALES COMPLETIONS ON HOLD’

18. The Directions attached a reply form for the Respondents with a date for it to have been completed and to have been returned by to the Applicant to confirm whether the Respondents: (1) agreed with the application, or not; and (2) similarly agreed the Tribunal may decide the matter on the basis of written representations only (no hearing), or not.
19. The Directions include provisions in the event the Respondents oppose the application.
20. Thereafter the Directions give the date by which the Applicant is to confirm to the Tribunal that no objections have been received from the Respondents, if applicable, being 23 December 2025.
21. The bundle includes completed forms, confirming no objections, for the leaseholders of flats 1, 3, 8, 9, 11, 14, 17, 18, 20 and 25.
22. The leaseholder for flat 23 returned the form but had not completed the section confirming objection or not, no written objection was received and the Tribunal therefore assumed it was agreed.
23. The Leaseholder of flat 2 returned the form confirming his agreement with the application and also attached a covering letter which the Applicant responded to by email on 17 December 2025.
24. The bundle includes a copy of a redacted tripartite lease for one of the flats within Cray House. The lease term commences on 1st January 2000 and expires on 31 December 2124. The lessee covenants, in the seventh schedule, ‘To pay to the Management Company the Lessee's Proportion (of the Maintenance Expenses as provided in the Sixth Schedule above) and also to pay any value added tax which may from time to time be payable on the Lessee's Proportion.
25. The lessee proportion is set out in clause one of the sixth schedule which states ‘The Lessee shall pay 3.21% of the Maintenance Expenses.’
26. The fifth schedule of the lease deals with Maintenance Expenses which at clause 7 states ‘Repairing re-building re-pointing or otherwise treating as necessary and keeping the Buildings and every part of them in good and substantial repair order and condition and renewing and replacing all worn or damaged parts of them’. Clause 21 states that Maintenance Expenses are to include ‘Complying with the requirements and directions of any competent authority and with the provisions of all statutes and all regulations orders and bye-laws made under them relating to the Buildings the Access Areas and the Gardens and Grounds except in so far as such compliance is the responsibility of the lessee of any of the Flats.’

27. The reasons why dispensation from the consultation requirements of the 1985 Act is sought by the Applicant is due to the immediate need to instruct an EWS1 to limit 'UNNECESSARY DELAY TO SALES AND TO [their] CLADDING SAFETY FUND APPLICATION'.
28. The Applicant has obtained quotations for the EWS1 Survey from Cladding Safety Scheme approved surveyors and intends to proceed with the lowest of the same.
29. For the Tribunal to grant dispensation will allow the works to be completed, preventing any further delay in Cladding Safety Scheme requirements being complied with; the completion of sales; the Cladding Safety Fund application and will enable the funds to be raised formally through the service charges' mechanisms in the leases to pay for the works.
30. The Tribunal finds that nothing different would be done or achieved in the event of a full consultation with the Lessees, except for the potential delay and potential problems.
31. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.
32. Taking all the above into consideration and no objections to the application having been received from the respondents, coupled with none of the same having asserted that any prejudice would be caused to them, the Tribunal consequently finds that it is reasonable for the Applicant to have dispensed with the consultation requirements under the 1985 Act relating solely to the EWS1 instruction.
33. Thus, the Tribunal grants the application from Cray House Residents Company Limited dated 13 October 2025 for dispensation under section 20ZA of the 1985 Act from the statutory consultation requirements imposed on the landlord by the same.
34. The dispensation is granted subject to the condition that the Applicant serves upon the Respondent a copy of this decision.

RIGHTS OF APPEAL

35. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case. All communications must clearly state the Case Number and the address(s) of the premises.

31. 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.
32. If the person wishing to appeal does not comply with the 28 days' 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 days' time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
33. 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.