



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

Case Reference : **Lon/00AF/LDC/2025/0898**

Property : **Reliance House (The Living Building) 3
Sherman Road Bromley BR1 3JH**

Applicant : **Adriatic Land 11 Limited**

Representative : **JB Leitch**

Respondents : **15 Long Leaseholders named on the
schedule attached to the Application.**

Representative :

Type of Application : **To dispense with the requirement to
consult lessees about major works
Section 20ZA of the Landlord and
Tenant Act 1985 (“1985 Act”)**

**Tribunal
Member(s)** : **Judge Tildesley OBE
Ms C Barton MRICS**

**Date and Venue of
Hearing** : **Determination on Papers**

Date of Decision : **22 April 2026**

DECISION

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.
2. The property is a five-storey mixed use building built in 2006 comprising 15 flats on the upper floors and office use on the ground floor.
3. The Applicant seeks that dispensation is granted in respect of the consultation for the urgent works to the deficient external wall system which present a fire hazard to the residents. Thomasons Ltd have prepared a budget cost estimate for the project in the sum of £1,075,000 exclusive of VAT, professional fees and other items. These works are caught by the Building Safety Act 2022 and the government Cladding Safety Scheme (CSS).
4. The Application for dispensation was dated 7 October 2025.
5. On 27 November 2025 the Tribunal directed the Applicant to serve the application and directions on the leaseholders and display copies of the relevant documents in the common parts of the property. On 11 December 2025 the Applicant confirmed that it had complied with the Tribunal directions.
6. The Tribunal required the leaseholders who opposed the Application to return a pro-forma to the Tribunal and the Applicant by 9 January 2026 stating their reasons for opposing the Application. On 12 January 2026 the Applicant confirmed that it had received no objections or responses from any leaseholder.
7. On 4 February 2026 the Tribunal issued further directions. The Tribunal indicated that it originally intended to determine this application on the papers in the week commencing 2 February 2026. However, on considering the application, further information was required. The Tribunal observed that although the Applicant has periodically updated the leaseholders, none of the above-mentioned letters provided any indication to the leaseholders as to the costs or approximate cost of the proposed works.
8. The Tribunal directed the Applicant to provide the following information to the leaseholders by the 17 February 2026:
 - An estimated cost of the works so far identified. This may be either an estimated figure, a range of the likely costs, or the minimum anticipated costs.
 - Having regard to the potential restrictions on recovery of these costs under the Building Safety Act 2022, whether it is currently envisaged leaseholders will bear full liability for the costs of the works that are the subject of this application.

- What amount of external funding towards the works has been secured, so far, and whether or not external funding has been exhausted.
9. On 17 February 2026 the Applicant supplied the leaseholders with the following information:
- The project lead consultant, Thomasons, has provided an estimate of the costs of the Works as described in the Applicant's Statement of Case dated 7 October 2025. It is important to note that these are budgeted costs only as tenders are yet to be received in relation to the Works. The estimated costs of the works are currently in the region of £1,718,000 excluding management fees, and any increases in insurance premiums. However, as above, the full costs will not be known until October 2026, once the Pre-Construction Services Agreement has been completed and following which the full works and cost package will be submitted to the Cladding Safety Scheme.
 - The Applicant is investigating who owns a qualifying lease within the Premises and, in so far as any of the costs of the Works are payable by the leaseholders via the service charge, will apply protections under schedule 8 of the Building Safety Act 2022. The Applicant hopes that the leaseholders will not be required to bear any of the costs of the Works. However, the Cladding Safety Scheme application is ongoing and until full funding is confirmed, the Applicant has a statutory duty to consult under section 20 Landlord and Tenant Act 1985 (or seek dispensation where it is unable to do so, as is the case here). Knowing it is unable to consult in accordance with the strict requirements of section 20, the Applicant has applied to dispense from the section 20 consultation process given that there remains a possibility that the Works are not funded or are partially funded by the government. However, the remediation Works are nonetheless required, and steps are being taken to procure them. The Premises has been granted eligibility by the Cladding Safety Scheme.
 - The Applicant has received £400,000 in pre-tender support from the Cladding Safety Scheme. The conditions of the Scheme require the landlord to demonstrate that it has pursued alternative funding routes, in particular against the developer. This is something that has to be considered as a part of the Cladding Safety Scheme application.
10. The leaseholders were given a further right to object or make representations to the Application by 10 March 2026. No leaseholder returned a pro-forma stating his/her opposition to the Tribunal and the Applicant.

11. On 25 March 2026 the Tribunal informed the Applicant that following the Further Directions on this case, there have been no submissions from any of the leaseholders and no request for a hearing. On this basis the case would proceed as a paper determination in the week commencing 20 April 2026. The Tribunal directed the Applicant to serve a copy of this letter on all the leaseholders by 6 April 2026.
12. On 14 April 2026 the Applicant supplied a hearing bundle and confirmed that no leaseholder had objected or made representations to the Application.

Determination

13. The 1985 Act provides leaseholders with safeguards in respect of the recovery of the landlord's costs in connection with qualifying works. Section 19 ensures that the landlord can only recover those costs that are reasonably incurred on works that are carried out to a reasonable standard. Section 20 requires the landlord to consult with leaseholders in a prescribed manner about the qualifying works. If the landlord fails to do this, a leaseholder's contribution is limited to £250, unless the Tribunal dispenses with the requirement to consult.
14. In this case the Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the works under section 20ZA of the 1985 Act. The Tribunal is not making a determination on whether the costs of those works are reasonable or payable. If a leaseholder wishes to challenge the reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
15. Section 20ZA does not elaborate on the circumstances in which it might be reasonable to dispense with the consultation requirements. On the face of the wording, the Tribunal is given a broad discretion on whether to grant or refuse dispensation. The discretion, however, must be exercised in the context of the legal safeguards given to the Applicant under sections 19 and 20 of the 1985 Act. This was the conclusion of the Supreme Court in *Daejan Investments Ltd v Benson and Others* [2013] UKSC 14 & 54 which decided that the Tribunal should focus on the issue of prejudice to the tenant in respect of the statutory safeguards.
16. Lord Neuberger in *Daejan* said at paragraph 44

“Given that the purpose of the Requirements is to ensure that the tenants are protected from (i) paying for inappropriate works or (ii) paying more than would be appropriate, it seems to me that the issue on which the LVT should focus when entertaining an application by a landlord under s 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”.
17. Thus, the correct approach to an application for dispensation is for the Tribunal to decide whether and if so to what extent the leaseholders

would suffer relevant prejudice if unconditional dispensation was granted. The factual burden is on the leaseholders to identify any relevant prejudice which they claim they might have suffered. If the leaseholders show a creditable case for prejudice, the Tribunal should look to the landlord to rebut it, failing which it should, in the absence of good reason to the contrary, require the landlord to reduce the amount claimed as service charges to compensate the leaseholders fully for that prejudice.

18. The Tribunal now turns to the facts.
19. On 7 February 2022. Hydrock carried out a site visit of the Premises and provided a review of the external wall design. When assessing the risk to life, it was found that the external wall systems posed a risk level to the upper end of medium that required remedial action because of missing cavity barriers and potential combustible materials. Hydrock made alternative recommendations to remedy the defects.
20. On 24 January 2024 the Applicants wrote to the leaseholders informing them about the findings of the Fire Risk Appraisal of the External Walls (FRAEW) report in 2022 compiled by Hydrock and established that some combustible materials were located within the external walls of the building, and the remediation works would be required to address this.
21. On 9 February 2024 Hydrock published its final report “for comment”. The Report repeated the alternative recommendations for remedial works. Option 1: fully replace all combustible materials and instal adequate cavity barriers at all locations. Option 2: retain combustible materials to EWO1 and EWO3 (assumed) and install adequate cavity barriers at all necessary locations. In respect of interim measures Hydrock proposed that the Premises would benefit from a functioning and maintained alarm and detection system in all apartments, a communal detection system within the communal areas to activate the smoke control, and adequate egress from the building. Hydrock considered it was unnecessary to modify the evacuation strategy from the building or provide a waking watch/communal alarm. However, Hydrock noted that the compartmentation issues have been identified within the building and the smoke control system was broken. Hydrock recommended that these deficiencies (interim measures?) be rectified as a matter of urgency within one month of the issue of the report. In addition Hydrock advised that Option 1 should be implemented within a suitable time frame of approximately no more than six months from the date of the report.
22. On 26 April 2024, 3 June 2024 and 24 June 2024 the Applicant had further correspondence with the leaseholders advising them that it would be making a funding application to the Cladding Safety Scheme for the external remediation works.

23. On 6 September 2024 the Applicant advised the leaseholders that Homes England had approved the eligibility for funding from the Cladding Safety Scheme and that Pre-Tender Support (PTS) funds would be provided as an initial payment for the procurement of consultants and legal costs. These funds would enable the works to be fully designed and tendered, prior to a full works cost package being finalised and submitted for review and approval.
24. On 20 November 2024, 5 March 2025 and 4 June 2025 the Applicant updated the leaseholders in relation to the remediation of the external façade and that a lead consultant, Thomasons, an established civil and structural engineering and design consultancy, was in the process of being appointed. In the interim Thomasons completed a feasibility study to assess how the remediation works could be undertaken, along with providing initial budget costs. Thomasons favoured option 1 with a budget cost of approximately £1,075,000 (VAT exclusive).
25. The Applicant supplied further updates to leaseholders on 8 July 2025, 6 August 2025 and 5 September 2025. The Applicant indicated in its statement of case that Thomasons completed the design element of the remediation work in early October 2025 which would enable Thomasons to collate the tender package ready for tendering the work. It would appear from the Applicant's statement of case that Thomasons has gone out to tender and that the Applicant is expected to choose the contractor with the lowest tender in December 2026.
26. The Applicant seeks dispensation from the consultation process in respect of the external wall remediation works which includes:
 - Removal and replacement of combustible insulation and facade materials.
 - Installation of cavity barriers at all required junctions and compartment lines.
 - Rectification of external wall types EW01 to EW03 as identified by Hydrock.
 - Associated access, enabling, and safety works.
 - Final testing, commissioning and compliance certification in line with Building Regulations and PAS9980:2022.
27. The Applicant's grounds for seeking dispensation are urgency, necessity of the works in view of the risks to the health and safety of the occupants, and incompatibility of the chosen procurement strategy of design and build with the statutory consultation process. In support of the proposition of incompatibility the Applicant states that
 - The procurement strategy of a design and build contract is commonly used for projects of this nature and scale because of the evolving design requirements and a need for early engagement with contractors.

- Thomasons, having already been appointed to act as lead consultant, will oversee the design development and tender process.
- The second stage of the consultation procedure, which would require the Applicant to obtain quotations from contractors nominated by leaseholders, is not feasible under the chosen procurement route.
- Under the two-stage design and build process, a contractor will be appointed first on a Pre-Construction Services Agreement (PCSA) to work collaboratively with the Applicant and its consultants on the design and cost plan. Only once the design has been developed and risks are better understood will the contractor proceed to the full construction phase.
- This approach allows for greater accuracy in cost forecasting and avoids inflated risk pricing from contractors.

Consideration

28. The Tribunal disagrees with the Applicant's contention that the works are urgent, particularly as the remediation works have not been started some four years after the fire risk assessment report. The Tribunal accepts, however, that the proposed works are necessary in view of the risk level of upper end of medium posed by the inadequate external wall design.
29. The issue for the Tribunal is whether the Applicant's argument of the incompatibility of the adopted procurement strategy of design and build with the statutory consultation process stands up to scrutiny.
30. The Tribunal accepts the Applicant's submission that the design and build strategy is commonly used for projects which have evolving design requirements and that it requires early engagement with contractors. The Tribunal also accepts that the design and build approach allows for greater accuracy in cost forecasting and avoids inflated risk pricing from contractors. The Tribunal observes that under the proposed strategy the Applicant carries out a competitive tendering exercise and that it is the Applicant's intention to choose the contractor with the lowest tender. The Tribunal finds that the Applicant has undertaken extensive communications with the leaseholders about the proposed works and obtained eligibility under the Cladding Support Scheme for funding them. Finally the Tribunal notes that no leaseholder has objected to the Application for dispensation.
31. The Tribunal is satisfied that the steps taken by the Applicant as identified in paragraph 30 provide leaseholders with the necessary safeguards as envisaged by the 1985 Act. The Tribunal finds there is no evidence to support the proposition that the leaseholders would be

prejudiced if the Applicant did not consult them about the external wall remediation works.

32. The Tribunal is, therefore, satisfied that the leaseholders would suffer no relevant prejudice if unconditional dispensation from consultation was granted.
33. The dispensation from consultation is confined to the external wall remediation works as elaborated in paragraph 26 above.
34. The Tribunal observes that the Applicant supplied no details of whether the interim works concerning a functioning and maintained alarm and detection system in all apartments and a communal detection system within the communal areas to activate the smoke control mentioned in the Hydrock report were carried out. The Tribunal records this decision does not apply to such interim works.

Decision

35. **The Tribunal, therefore, dispenses with the consultation requirements in respect of the external remediation works.**
36. The Tribunal directs the Applicant to inform the leaseholders of the Tribunal's decision and to display the written decision on a noticeboard in the common areas.

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 to the First-tier Tribunal at the Regional office which has been dealing with the case.
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.