



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

**Case Reference** : HAV/43UD/LDC/2026/0027

**Property** : The Mews, Walnut Tree Close, Guildford,  
Surrey GU1 4UU

**Applicant** : Guildford Borough Council

**Representative** : Ms P Skertchly

**Respondent** : 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  
Mr M E Williams FRICS

**Date of Hearing** : 8 April 2026

**Date of Decision** : 8 April 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 works to repair a collapsed waste pipe 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 17 February 2026.
2. The Property is described as comprising a number of blocks with a total of 43 one and two bedroom flats. It is estimated that it was constructed between 1983 and 1990.
3. The Applicant is the landlord of the Property with responsibility to the leaseholders for the provision of certain services. The Respondent comprises its leaseholders.
4. The application relates to works to repair a collapsed waste pipe at the Property; a survey of the affected pipe was carried out to identify the issue. The collapse caused sewage to back up into at least one flat, requiring its removal manually.
5. The works were completed on 11 February 2026, prior to the application being made.
6. The works were said to be urgent because the back up of sewage risked the health and safety of the occupier of the affected flat and to prevent further damage or harm occurring.
7. The Applicant obtained two quotations for the works and employed the contractor with the lower quote. It says that the cost of the works was £9,865 plus VAT.
8. Given the urgency of the works, no consultation has not been carried out and the Applicant has applied for dispensation instead. However, the Applicant says that the leaseholders were informed of the requirement for the works.
9. The Applicant was uncertain whether the pipe solely served flats 10 to 26 (being the flats located in the affected block) or the wider estate. This will impact on whether the Applicant looks to recover the cost via the block or estate service charge.
10. The Applicant has confirmed that that one objection has been received from the Respondent, being from Mr Chowdhury of Flat 29. The

leaseholders from Flat 19 (Nnennaya Nwabueze) and Flat 21 (James Hemery) also provided comments but did not object to the application for dispensation.

11. 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.

### **Hearing**

12. The hearing took place online, using the Tribunal's CVP system. Ms Skertchly appeared for the Applicant, accompanied by Ms Jo Hinton and Mr Paul Hudson. Mr Chowdhury did not attend. The Tribunal was satisfied that he was aware of the hearing and proceeded in his absence. No one else attended.
13. The Tribunal had been provided with a bundle from the Applicant comprising 131 pages including the objections and the comments received. The contents of all these documents were noted.

### **Submissions**

14. The Applicant explained that the works were considered urgent due to the risk to the health and safety of a vulnerable resident caused by sewage backing up. It was therefore reasonable to proceed with works without the delay inherent in a statutorily compliant consultation.
15. In Mr Chowdhury's absence, the Tribunal considered his objections. He argued that the collapse of the pipe arose from poor maintenance by the Applicant as landlord; as a result, it rather than the leaseholders should pay for the works.

### **The issues**

16. 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**

17. 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.

18. 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.
19. 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.
20. 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.*

### **Applicable test**

21. 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.
22. 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
23. 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.

### **Consideration**

24. Having read the evidence and listened to the submissions made at the hearing 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.

25. It is evident that a statutorily compliant consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether any Respondent has 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 any leaseholder has been prejudiced by paying for inappropriate works or paying an inappropriate amount as a result of the lack of consultation.
26. The Applicant believes that works to repair a collapsed waste pipe at the Property needed to be completed urgently because the back up of sewage risked the health and safety of the occupier of the affected flat and to prevent further damage or harm occurring. On the evidence before it, the Tribunal agrees with the Applicant's conclusions.
27. The Tribunal then considered Mr Chowdhury's objection. He argued that the need for the works arose because the Applicant had not properly maintained the pipe and so should be responsible for their costs. The objection is therefore not to the carrying out of the works and no prejudice from the lack of consultation is identified. Instead, he is disputing the payability by the leaseholders for the works. As such, the Tribunal finds that he has not suffered any relevant prejudice from the lack of consultation.
28. However, Mr Chowdhury should be aware that he has rights pursuant to section 27A of the 1985 Act to challenge the reasonableness and payability of the works, including in relation to the cost and quality of previous maintenance works.
29. The Tribunal also considered the other comments made in response to the consultation. These related to whether the reserve fund could be used to fund all part of the cost of the works and whether the cost could be spread across the whole estate, rather than limited to the block service charge. The Tribunal concluded that these comments do not reveal any relevant prejudice to leaseholders from the lack of consultation.
30. Ms Hinton of the Applicant commented at the hearing that she considered the provisions of the leaseholders' leases prevented the reserve fund being used to fund the works. In addition, she said that the question of whether the works would form part of the block or estate service charge would depend on whether the pipe only served the block or other parts of the estate as well; the Applicant is still considering this. The Applicant is urged to reach a conclusion on this and communicate this to leaseholders in short order so service charge payers can budget appropriately. Leaseholders are reminded that they do have the section 27A rights outlined above.
31. The Tribunal is of the view that, taking into account the findings above and that there have been no other objections to this application, it could not find prejudice to the leaseholders by the granting of dispensation relating to works to repair a collapsed waste pipe at the Property. The

works were appropriate and leaseholders are not being asked to pay an inappropriate amount due to the lack of consultation. Challenges as to the payability and reasonableness of any amounts demanded for the works can be brought pursuant to section 27A of the 1985 Act.

32. As a result, the Tribunal believes that it is reasonable to allow dispensation in relation to the subject matter of the application.
33. The Tribunal considered whether the dispensation should be granted subject to any conditions. No conditions have been requested and it did consider that any conditions were appropriate. It therefore concludes that the dispensation should not be made subject to any conditions.
34. Accordingly, the Tribunal unconditionally 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 works to repair a collapsed waste pipe at the Property.
35. 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 leaseholder who has not returned the reply form may view the Tribunal's 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.