



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

**Case Reference** : **BIR/00CN/LDC/2025/0021**

**Property** : **Orchard House Orphanage Road Erdington  
Birmingham B24 9HU**

**Applicant** : **Amplus**

**Representative** : **Anne Sutton**

**Respondents** : **The leaseholders attached schedule.**

**Type of Application** : **An application under section 20ZA of the Landlord  
and Tenant Act 1985 for dispensation of the  
consultation requirements in respect of qualifying  
works**

**Tribunal Member** : **V Ward BSc Hons FRICS – Regional Surveyor**

**Date of Decision** : **10 March 2026**

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**DECISION**

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## **Background**

1. The Applicant seeks dispensation from all or some of the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 (“the Act”).
2. Section 20 of the Act, as amended by the Commonhold and Leasehold Reform Act 2002, sets out the procedures landlords must follow which are particularised, collectively, in the Service Charges (Consultation Requirements) (England) Regulations 2003. There is a statutory maximum that a lessee has to pay by way of a contribution to “qualifying works” (defined under section 20ZA (2) as works to a building or any other premises) unless the consultation requirements have been met. Under the Regulations, section 20 applies to qualifying works which result in a service charge contribution by an individual tenant in excess of £250.00.
3. The only issue for the Tribunal to determine under this application is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.
5. The Tribunal directed that the Respondents be notified of the application for dispensation. In those directions, Respondents were asked to complete a form indicating whether they agreed with the application, and if not to explain their reasons. The form contained an option to indicate whether any Respondent wished the Tribunal to hold a hearing to determine the application.
6. Two Respondents returned Reply Forms. Both indicated support for the grant of dispensation and neither required an oral hearing. The reasons for our determination appear below.

## **Law**

7. The Act imposes statutory controls over the amount of service charge that can be charged to long leaseholders. If a service charge is a “relevant cost” under section 18, then the costs incurred can only be taken into account in the service charge if they are reasonably incurred or works carried out are of a reasonable standard (section 19).
8. Section 20 imposes another control. It limits the leaseholder’s contribution towards a service charge to £250 for payments due for “works on a building” unless “consultation requirements” have been either complied with or dispensed with. There are thus two options for a person seeking to collect a service charge for works on a building costing more than £250. The two options are: comply with “consultation requirements” or obtain dispensation from them. Either option is available.

9. To comply with consultation requirements a person collecting a service charge has to follow procedures set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (see section 20ZA(4)). For qualifying works on a building not subject to public notice requirements, those procedures are set out in Schedule 4 of those regulations.
10. To obtain dispensation, an application has to be made to the Property Chamber of the First-tier Tribunal who may grant it if it is satisfied that it is reasonable to dispense with the consultation requirements (section 20ZA(1) of the Act).
11. The Tribunal's role in an application under section 20ZA is therefore not to decide whether it would be reasonable to carry out the works, but to decide whether it would be reasonable to dispense with the consultation requirements.
12. The Supreme Court case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854 (hereafter *Daejan*) sets out the current authoritative jurisprudence on section 20ZA. This case is binding on the Tribunal. *Daejan* requires the Tribunal to focus on the extent to which the leaseholders would be prejudiced if the landlord did not consult under the consultation regulations. It is for the landlord to satisfy the Tribunal that it is reasonable to dispense with the consultation requirements; it is for the leaseholders to establish that there is some relevant prejudice which they would or might suffer, and for the landlord then to rebut that case.
13. The general approach to be adopted by the Tribunal, following *Daejan*, has been summarised in paragraph 17 of the judgement of His Honour Judge Stuart Bridge in *Aster Communities v Chapman* [2020] UKUT 0177 (LC) as follows:

“The exercise of the jurisdiction to dispense with the consultation requirements stands or falls on the issue of prejudice. If the tenants fail to establish prejudice, the tribunal must grant dispensation, and in such circumstances dispensation may well be unconditional, although the tribunal may impose a condition that the landlord pay any costs reasonably incurred by the tenants in resisting the application. If the tenants succeed in proving prejudice, the tribunal may refuse dispensation, even on robust conditions, although it is more likely that conditional dispensation will be granted, the conditions being set to compensate the tenants for the prejudice they have suffered.”

## **The Works**

14. The justification for the application provided by the Applicant is that emergency works were required as of the two sewage pumps on site, one had failed which had caused the pipe in lower floor to expand with raw sewage entering the communal hallway outside some properties.

15. The Applicant explained that temporary works had been completed on 14 April 2025 but further works were required as follows:

*Following our recent visit to Orphanage Road, Erdington Birmingham to service your equipment, our Technician has recommended the replacement of parts attached to ensure the continued reliable operation of the equipment and we now take pleasure in confirming the attached quotation for the above site.*

*To Include:*

*X 2 Engineers to attend site*

*Supply and fit parts and services that detailed in this quote*

*Tankering is also required*

*Please note: This estimate covers the tankering unit and engineers for up to 6 hours each on site and up to 2,000 gallons effluent disposal. Any further waste removed will be an additional charge of £109.80 +vat per 1,000 gallons. If these works take longer for reasons out of our control, we may contact you to uplift the costs on the order.*

*Qty*

*Description*

*11*

*Eng-Standard Day Rate Per HR*

*11*

*Eng-Standard Day Rate Per HR*

*1 MP3085.172 Cast iron submersible*

*Electric pump 249 impeller*

*1.9kW 230/1/50*

*Discharge 40mm*

*10m 4G1.5+2x1.5mm cable*

*Thermal switches*

*1 Compression Glands*

*1 2K Jet Vac Tanker required*

*1 Site Environmental Charge*

*1 Combi Junction Box*

*1 MINOR ELECTRICAL CERTIFICATION*

*3 CABLE HOLDER BRACKET*

*1 20-72v Beacon*

*2 Capacitor 140mF start 350V  
2 2872543 - CAPACITOR 22mF*

*Total Discounted Price (NETT)*

*£ 8,440.54*

*Total*

*Project*

*Price*

*including*

*VAT*

*£10,128.65*

## **Discussion**

16. The Tribunal's task is to determine whether to grant dispensation from the consultation requirements. Broadly, we should grant dispensation unless to do so would result in leaseholders suffering prejudice. The Applicant advises that funds are in place to complete the proposed works however that is not a factor whether to grant dispensation or not.
17. No leaseholders have objected to this application, and we cannot see that any are likely to have suffered prejudice as a result of not being consulted on the Works. Accordingly, we grant dispensation from consultation for the Works.
18. Our decision does not preclude any Respondent from applying for a determination that the cost of the Works was not reasonably incurred or not of a reasonable standard under section 27A of the Act. This determination only deals with whether the consultation requirements in the Act have been complied with.

## **Appeal**

19. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

V Ward BSc Hons FRICS  
First-tier Tribunal (Property Chamber)

## **Schedule of Respondents**

1. Anna Carneiro Executor of Mrs J Caston
2. In Estate of Mr T Hickman
3. In the estate of Mr R Hodgetts
4. In The Estate of Mrs P Phillips C/O Mrs Linda Crowdy
5. Mr and Mrs Kane
6. Mr and Mrs Phillips
7. Mr Cooper
8. Mr E Twigg
9. Mr J Halliwell
10. Mr L Toller
11. Mr Murphy
12. Mr P A & Mrs J F Stoakes
13. Mr P Lynch
14. Mr R & Mrs L Graham
15. Mr T Denny
16. Mrs Bradbury
17. Mrs Crawford
18. Mrs Fielding
19. Mrs G Best
20. Mrs I Halliwell
21. Mrs I Willett
22. Mrs M D Richards
23. Mrs M McCauley
24. Mrs P Arnold
25. Mrs P P Campbell
26. Mrs S Weir
27. Mrs SM Allsopp
28. Mrs Valley and Mr Snow
29. Ms Curtis