



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : **MAN/00EW/LDC/2025/0664**

Property : **Oak Grange, Bradburns Lane, Northwich, Cheshire CW8 1TG**

Applicant : **McCarthy & Stone Retirement Lifestyles Limited**

Respondents : **Various Residential Long Leaseholders**

Type of Application : **Landlord & Tenant Act 1985 - Section 20ZA**

Tribunal : **Tribunal Chair N Swain, MRICS**
Tribunal Member J Jacobs MRICS

Date of Decision : **09 March 2026**

DECISION

1. Pursuant to section 20ZA of the Landlord and Tenant Act 1985 the Tribunal makes a determination to dispense with the requirement to consult with the Respondents on the works to Oak Grange, Bradburns Lane, Northwich, Cheshire CW8 1TG as described in Schedule 1.

REASONS

The Application

2. The application ('the Application') was made on 25 July 2025 by McCarthy & Stone Retirement Lifestyles Limited ('the Applicant'). It seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') in relation to the statutory consultation requirements prescribed by section 20.
3. Dispensation is sought for repairs to the flat roof membrane and flashing on the Property identified during a routine roof survey ('the Works').
4. The Works were carried out to Oak Grange Bradburns Lane Northwich Cheshire CW8 1TG ('the Property'), comprising 35 self-contained residential apartments arranged over three storeys. The Applicant is the freeholder for the Property and the Respondents are the leaseholders of the 35 residential apartments. A sample lease evidences a current lease term of 999 years commencing on 01 January 2017.
5. The Applicant's statement of case avers that:

During a routine roof survey in 2021, tears in the flat roof membrane and damage to the lead flashing were identified and recorded as a maintenance requirement. Following a subsequent change in Operations Manager, no further action was taken until the May 2022 roof survey was completed. This survey confirmed that the issue had become an urgent maintenance concern. Quotations were then sought, and one was received for the works at a cost of £7,176.00, inclusive of VAT. Recognising the urgency and need for a long-term solution, the Development's newly appointed Operations Manager understood the works to be only marginally above the Section 20 threshold and, in error, authorised the works without completing the full Section 20 consultation process.

While homeowners were informed of the necessity for the works and discussions took place at the time, the formal statutory consultation was not undertaken.

The Application seeks dispensation for the works detailed in Schedule 1.

6. Directions in the present case were issued on 28 November 2025. The Applicant submitted a
7. bundle of papers including a statement of case and supporting documents. Although it is noted from meeting minutes within the bundle that some of the Respondents were unhappy with the situation (particularly that the building was only 4 years old and so the NHBC warranty should apply), none of the Respondents submitted a statement to the tribunal opposing the Application and the Applicant has confirmed that none of the Respondents has submitted any objections to the Application directly to itself.

8. Further, on the basis of the information provided by the Applicant, it appears to the Tribunal that the sum to be charged falls below the level at which consultation is required (i.e. £250 per Leaseholder). However, that does not preclude the Tribunal deciding this application, just as it does not preclude the Respondents challenging the reasonableness of the charge through a section 27A application.

9. The Applicant indicated that it would be content with a determination on the papers. The Tribunal considered this to be appropriate because none of the Respondents opposed the Application, neither party had requested a hearing and because there was

sufficient information before the Tribunal to reach a decision. It was unnecessary to conduct an inspection of the Property in view of the matters in issue.

The Law

10. Extracts from sections 20 and 20ZA of the Act are reproduced in Schedule 2. Section 20ZA subsection (1) provides that the Tribunal may make a determination to dispense with consultation requirements ‘if satisfied that it is reasonable to dispense with the requirements’.

11. The Tribunal considers the Supreme Court case of *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 (*‘Daejan’*) to be the leading case on dispensation. In *Daejan* Lord Neuberger stated that in deciding pursuant to section 20ZA whether it is reasonable to dispense with consultation requirements, a tribunal should consider whether any relevant prejudice would be suffered by the leaseholders. Lord Neuberger stated that whilst the legal burden of proof rests throughout on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered rested on the tenants. Lord Neuberger went on to hold that a tribunal is permitted to grant dispensation on terms, including compensating leaseholders for any prejudice suffered by requiring a landlord to reduce the amount claimed as service charge, and including an order for costs.

Findings of fact and Reasons for decision

12. None of the Respondents have submitted a statement of case opposing the Application. There is no evidence before the Tribunal that any of the Respondents consider themselves to be prejudiced in any way by the absence of a section 20 consultation exercise.

13. The Applicant engaged with the Respondents on its proposals to undertake the Works, though not through formal consultation, and there were no objections.

14. The Tribunal finds that there is no relevant prejudice identified by any Respondent, suffered as a consequence of the Applicant proceeding with the Works without first carrying out the section 20 consultation.

15. The Respondents have made no representation as to any condition the Tribunal might impose in granting dispensation, and there is no evidence of any cost being incurred by the Respondents that should appropriately be met by the Applicant.

16. In these circumstances, the Tribunal considers it reasonable to dispense with consultation requirements unconditionally. Accordingly, the Tribunal makes a determination under section 20ZA of the Act to dispense with the requirement to consult with the Respondents under section 20 in relation to the Works.

17. The Tribunal expresses no view as to whether any costs associated with the Works are reasonable in amount, whether the Works are of a reasonable standard or whether the element intended to be recovered by way of service charge is payable, within the meaning of sections 19 and 27A of the Act. The Tribunal’s decision does not include or imply any determination of such matters.

Schedule 1

‘the Works’

1. Repairs to the flat roof membrane and associated lead flashings.