



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

Case Reference : HAV/29UE/LDC/2025/0739

Property : Ripley House, 8 Castle Avenue, Dover, Kent,
CT16 1HA

Applicant : David Adams
Rebecca Adams

Representative : Tersons

Respondents : Mr & Mrs Adams – Flat 1
Mr W James – Flat 2
Monique Verlaan – Flat 3
Mrs A Clayton – Flat 4

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

Date of Decision : 27 May 2026

DECISION

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 rendering on the rear wall of 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 15 October 2025.
2. The Property is described as a semi-detached Victorian House (1887) converted into 4 self-contained flats in about 1982. The freeholders own the garden flat (Flat 1) and there are three other one bedroom flats with Flat 2 on the ground floor, Flat 3 on the first floor and Flat 4 on the top floor.
3. The Applicant is the freeholder of the Property with responsibility to the leaseholders for the provision of services. The Respondents comprise the Applicant as leaseholder together with the other leaseholders.
4. The application relates to works to repair rendering on the rear wall of the Property; this caused cracking and damp. The Applicant has explained that a section 20 consultation began in December 2024, but only one builder quoted for the works. That builder offered to do the works in February 2025 and the then leaseholders were asked to waive their formal section 20 rights. The owners of Flats 1 and 2 agreed to the works proceeding. There was no express agreement from the owners of Flat 3 and 4 (the latter owner had recently died). The consultation was not completed but the works proceeded and were completed in February 2025.
5. However, no dispensation was applied for at the time. The new owner of Flat 3 (who acquired their flat subsequent to the works being done) raised an issue with this, leading to the Applicant making the current application.
6. The works were said to be urgent to take advantage of the opportunity to get the works done, given the paucity of builders interested in doing the works and to prevent further deterioration to the affected wall.
7. The Applicant has provided an invoice for the works of £3,100 plus VAT and says they were paid for from available funds.
8. The Applicant accepts that a statutorily compliant consultation was not completed and therefore has applied for dispensation instead.

9. The owner of Flat 3 has objected to the request for dispensation. They argue that the consultation process that took place and claims the prejudice suffered was being deprived of “a genuine and meaningful consultation process carried out on a proper evidential footing”. They were personally prejudiced because this was not disclosed during their purchase process, denying them the opportunity to take part in discussions and influence decisions.
10. The owner of Flat 4 has also objected. They similarly object to the process followed and question the managing agents’ fee as a result.
11. In addition, the owner of Flat 2 has also objected. They similarly object to the process followed and deny that they have waived their rights to object to the application.
12. By Directions of the Tribunal dated 6 March 2026 it was decided that the application be determined without a hearing, by way of a paper case. No objections have been received to this approach. The Tribunal has reviewed the documentation provided and is satisfied that it remains suitable for a paper determination.
13. 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.
14. This has been a paper determination which has not been objected to by the parties. The documents that were referred to are in a bundle running to 151 pages together with the Tribunal’s additional Directions dated 6 March 2026, 1 May 2026 and 13 May 2026, the contents of which have been recorded.

The issues

15. 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

16. 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.

17. 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.
18. 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.
19. 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

20. 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.

21. 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
22. 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

23. Having read the evidence and submissions from the Applicant 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.
24. It is evident that a statutorily compliant consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether the Respondents have 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 the leaseholders have been prejudiced by paying for inappropriate works or paying an inappropriate amount as a result of the lack of consultation.

25. The Applicant believes that works to repair rendering on the rear wall of the Property needed to be completed urgently to avoid further delay in the works being carried out. The owner of Flat 2 has confirmed that damp was worsening and there was a resultant smell. On the evidence before it, the Tribunal agrees with the Applicant's conclusions.
26. The Tribunal then considered the Respondents' objections. They also question the process followed and argued that the Applicant's failure deprived them of the opportunity to be consulted, this amounting to relevant prejudice.
27. As stated, a compliant consultation was not carried out. The Applicant could have completed the ongoing process or applied for dispensation earlier. However, a non-compliant process or any delay in applying for dispensation is not a sufficient ground to refuse dispensation. None of the objectors identify any specific relevant prejudice from not being consulted, for example no specific alternative contractors are proposed or alternatives to the proposed works. The owner of Flat 3 suggests the cause of the cracking and damp could have been investigated further but the owner of Flat 2 (who was an owner at the relevant time, unlike the owner of Flat 3) states repeatedly that the cause was known.
28. In addition, there is no suggestion that the works were inappropriate or an inappropriate amount was being paid.
29. The objections made are therefore not relevant to the questions here, as set out above. The works themselves were appropriate to ensure that the damp and cracking were addressed. Getting on with the works when faced with a worsening situation was a reasonable decision to have taken. No inappropriate charges were made. Accordingly, the Tribunal finds that the Respondents have not suffered any relevant prejudice from the lack of consultation.
30. However, the Respondents should be aware that they have rights pursuant to section 27A of the 1985 Act to challenge the reasonableness and payability of the works; this includes any management fee charged by the Applicant, as raised by the owner of Flat 4. The fact the dispensation is granted does not make these costs reasonable or prevent a challenge to them.
31. The Tribunal is of the view that, taking into account the findings above, it could not find prejudice to the leaseholders by the granting of dispensation relating to works to repair rendering on the rear wall of 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 specific 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 rendering on the rear wall of 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
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.