



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

Case Reference	:	CAM/22UG/LDC/2026/0007
HMCTS code (paper, video, audio)	:	P: PAPERREMOTE
Property	:	65 High Street/34 Culver Street East, Colchester, Essex, CO1 1DN
Applicant	:	Southern Land Securities Limited
Representative	:	Together Property Management Limited
Respondents	:	All leaseholders of dwellings at the Property
Type of application	:	For dispensation from consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985
Tribunal member	:	Judge C. Morgan
Date of decision	:	29 May 2026

DECISION

The tribunal's decision

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works described in the application form and application bundle, namely works to repair the valley and associated leadwork to the rear flat roof, clean the front gutter, and repair the parapet roof.

The application

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of qualifying works which have been carried out, namely **works to repair the valley and associated leadwork to the rear flat roof, clean the front gutter, and repair the parapet roof**. The estimate for the cost of the work provided by the Applicant is between £2,220 inclusive of VAT to £2,250.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would potentially be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
 - (i) were complied with; or
 - (ii) are dispensed with by the tribunal.
3. The Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

The property, parties and the leases

5. The property is described in the application form contained in the bundle as being situated towards the far end of Colchester High Street and contains 6 leasehold flats situated above a commercial unit, currently occupied by Cash Converters. It is constructed of cavity brick and dates to circa 1910 (approximately) and features design elements typical with the Edwardian era. 65 High Street is 3 storeys high and includes a commercial unit to ground floor level, flats 1, 2 and 3 on the first floor and flats 4, 5 and 6 located on the second floor. There are no external common parts serving the property.
6. The Applicant is the Landlord of the property under a headlease.
7. The bundle contained a copy of the specimen lease for Flat 1.
8. In the Lease for Flat 1:

- (i) The term is 125 years from and including 25 March 2002.
- (ii) “*Advance Payment*” is defined as “*the annual advance payments of Service Charge payable by the Tenant under Clause 7.4.1;*”
- (iii) “*Building*” is defined as “*first and second floor, 65 High Street, Colchester being the property demised by the Headlease*”. No copy of the headlease is contained in the bundle.
- (iv) “*Common Parts*” is defined as “*any plant rooms, refuse areas, Accessways, Conduits and all other areas, ways and amenities in the Building which may be provided or designated from time to time by the Landlord for the common use and enjoyment of the tenants and occupiers of the Building and which are not specifically demised or sold to any third party;*”
- (v) “*Expenditure*” is defined as:
 - “(a) *the aggregate of all costs, fees, expenses and outgoings incurred by the Landlord in the provision of the Landlord's Services, including bank charges, interest and VAT;*
 - (b) *such sums as the Landlord, in its absolute discretion, considers desirable to set aside from time to time for the purpose of providing for periodically recurring items of expenditure in connection with the Landlord's Services, whether recurring at regular or irregular intervals; and*
 - (c) *such provisions for anticipated expenditure in connection with the Landlord's Services as the Landlord, in its absolute discretion, considers fair and reasonable in the circumstances;*
 - (d) *such sums as the Landlord pays from time to time to the Superior Landlord as a service charge and/or contribution towards joint expenditure under the Headlease*”.
- (vi) “*Financial Year*” is defined as “*the annual accounting period beginning on 25 March in each*

year of the Term or on such alternative date as the Landlord may at any time reasonably stipulate;”

- (vii) *“The Landlord’s Services” are defined as “the services which the Landlord covenants to provide in Clause 7 and the services listed in Schedule 5 which the Landlord may provide in its absolute discretion;”*
- (viii) *“Service Charge” is defined as “the amount which the Landlord from time to time incurs or expends in respect of the provision of the Landlord’s Services in accordance with its covenants in Clause 7.1;”*
- (ix) *“Service Charge Proportion” is defined as “such fair and proper proportion of the Expenditure as the Landlord or the Landlord’s Surveyor may from time to time, in its absolute discretion, determine to be fair and reasonable in all the circumstances and also such fair and proper proportion as the Landlord shall determine in its absolute discretion of such sums as the Landlord pays from time to time the Superior Landlord as a service charge and contribution towards joint expenditure under the Headlease;”*
- (x) Under clause 3.3 Service Charge is reserved as rent.
- (xi) In clause 4.1.2, the Tenant covenants to pay to the Landlord the service charge in accordance with the provisions of Clause 7.
- (xii) In clause 7.1, the Landlord covenants with the Tenant that *“subject to the Tenant paying the Service Charge in accordance with clause 3.3, the Landlord shall carry out the Landlord’s Services throughout the Term. . 7.1.3 this covenant does not apply to any works or repairs which are the responsibility of the Superior Landlord under the Headlease.”*
- (xiii) In clause 7.4.1, the Tenant covenants that *“on 25 March in every year during the Term, the Tenant shall pay the Landlord such a sum in advance and on account of the Service Charge for the Financial Year then current as the Landlord may from time to time specify as being, in its absolute discretion, a fair and reasonable assessment of the likely Service*

Charge for that particular Financial Year, the first Advance Payment of which (apportioned, if necessary, on a daily basis) shall be made on the date of this Lease for the period starting on the date of this Lease and ending on the day before the next payment is due.”

- (xiv) Clause 7.4.2 sets out that: *“If the Service Charge for any Financial Year:*

7.4.2.1. exceeds the Advance Payments for that Financial Year, the excess shall be paid by the Tenant to the Landlord on demand; or

7.4.2.2. is less than the Advance Payments for that Financial Year, the overpayment shall be credited to the Tenant against the next payment of the Service Charge.”

- (xv) Schedule 5 sets out the Landlord’s Services.

- (xvi) Paragraph 1 of Schedule 5 sets out: *“The maintenance, repair, rebuilding, replacement and renewal of;-*

1.1 the party walls within the Building;

1.2 the Conduits in, on, over or under the Building which are not situated within and which do not exclusively serve the Premises;

1.3 the Common Parts;

but excluding, in each case, any such parts of the Building which are included in this Lease or the lease of any other part of the Building or where the repair of which is the responsibility of the Tenant or any other tenant of the Building and also excluding any such parts of the Building which are the responsibility of the Superior Landlord under the Headlease.”

- (xvii) Paragraph 12 of Schedule 5 sets out: *“The provision of such other services and works as the Landlord may reasonably deem desirable or necessary for the benefit of the Building or the tenants or*

occupiers of it or in the interests of good estate management.”

(xviii) Paragraph 13 of Schedule 5 sets out:

“13.1 The costs incurred by the Landlord in maintaining, repairing, enforcing, preserving and protecting the rights easements covenants agreements declarations exceptions and reservations and other matters contained or referred to in the Headlease for the benefit of the Building;

13.2 The costs incurred by the Landlord under Clause 4.1.2 of the Headlease.”

No copy of the headlease is contained in the bundle.

9. The works to repair the valley and associated leadwork to the rear flat roof, clean the front gutter, and repair the parapet roof appear to be works outside the Applicant’s demise and outside the definition of “Building” and so are not works to the “Common Parts” as defined in the Lease. These works are therefore not included in the Landlord’s obligation contained in paragraph 1 of Schedule 5.
10. The bundle contains a copy of a letter from the Applicant’s Representative to one of the Respondents dated 22 December 2025 which sets out that: *“As the roof forms part of the freeholder’s responsibility, we initially contacted the freeholder and requested that they address the issue. However, the freeholder (who is not our client) has confirmed that they will not be carrying out the works. As a result, our client, the Head Lessor, has instructed us to proceed due to the urgent nature of the leak and the ongoing damage to the flat.”* The Applicant’s application form and statement of case contained in the bundle sets out that under the terms of the headlease, responsibility for the repair of the roof rests with the freeholder. No copy of the headlease is contained in the bundle. The Applicant states that the cost of any roof repairs is to be apportioned such that one third (1/3) is payable by the freeholder and two thirds (2/3) is recoverable through the service charge. The Applicant’s application form and statement of case contained in the bundle sets out that the Applicant’s Representative contacted the freeholder to request that they address the roof repairs. The freeholder confirmed in writing that, while they would not arrange the works themselves, they acknowledged their obligation to contribute one third of the cost and requested that the Applicant appoint contractors and provide quotations for their contribution.

11. The Applicant appears to be relying on either the sweeper clause set out in paragraph 12 of Schedule 5 or alternatively paragraph 13 of Schedule 5 (the headlease provisions) (no copy of the headlease is contained in the bundle). **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

Procedural history

12. On 1 April 2026, the tribunal gave case management directions. The directions included a reply form for any Respondent leaseholder who objected to the application to return to the tribunal and the Applicant by 29 April 2026, indicating whether they wished to have an oral hearing. The tribunal also directed that the Applicant send each of the Respondents the application form, the tribunal's directions, a clear, concise description of the relevant works, an estimate of the cost of the relevant works and any other evidence relied upon and to confirm to the tribunal that this has been done and the date(s) on which this was done. On 13 May 2026 the tribunal issued further directions requiring the Applicant to confirm to the tribunal that this had been done and the date(s) on which this was done by 12pm on 18 May 2026. The Applicant's Representative emailed the tribunal on 14 May 2026 confirming that it had complied with this direction on 10 April 2026. The tribunal also directed the Applicant to prepare an electronic bundle by 6 May 2026. On 11 May 2026 the tribunal issued further directions requiring compliance with the direction to prepare a bundle by 15 May 2026. The bundle was provided to the tribunal on 13 May 2026.
13. The directions provided that this matter would be determined on or after 20 May 2026 based on the documents, without a hearing, unless any party requested one.
14. No leaseholder has responded and no party has requested an oral hearing. Accordingly, this determination is based on the documents produced by the Applicant in their bundle. On reviewing these documents, I considered that an inspection of the Property was neither necessary nor proportionate to the issues to be determined and that a hearing was not necessary.

The Applicant's case

15. In the application form and the statement of case contained in the bundle the Applicant states that the roof serving the building was defective and that water ingress was entering Flat 5, causing ongoing damage to the property. The Applicant sets out in the application form and the statement of case contained in the bundle that under the terms of the headlease, responsibility for the repair of the roof rests with the freeholder. The Applicant states that the cost of any roof repairs is to be apportioned such that one third (1/3) is payable by the freeholder and

two thirds (2/3) is recoverable through the service charge. No copy of the headlease is contained in the bundle. The Applicant's application form and statement of case contained in the bundle sets out that the Applicant's Representative contacted the freeholder to request that they address the roof repairs. The Applicant states that the freeholder confirmed in writing that, while they would not arrange the works themselves, they acknowledged their obligation to contribute one third of the cost and requested that the Applicant appoint contractors and provide quotations for their contribution. The Applicant states that the leak was severe continuing to cause further damage to the property. The Applicant states that further complaints were received from the leaseholder of Flat 5 confirming that the roof leak was worsening and continuing to cause damage to the flat. The Applicant states that due to the urgency of the situation and the ongoing damage being caused, the Applicant obtained quotations from two roofing contractors. The Applicant states that it proceeded with the works to prevent further damage to the property and to safeguard the building.

16. The Applicant provides in the bundle two quotations from two contractors, one giving an estimate of £2,220 inclusive of VAT, the other giving an estimate of £2,250. In the copy of a letter from the Applicant's Representative to one of the Respondents dated 22 December 2025 contained in the bundle, the Applicant's Representative stated that they intended to appoint the building contractor who provided the quotation of £2,220 inclusive of VAT.

The Respondents' position

17. As noted above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. The tribunal has not received any response or statement of case opposing the application, or comments on the Applicant's statements in the application form. The tribunal has not received any allegations of prejudice. In the circumstances, the tribunal concluded that the application was unopposed.

The Law

18. Section 20ZA(1) of the 1985 Act provides as follows: "*Where an application is made to [the appropriate 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.*"
19. In the leading case of *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 [2013] 1 WLR 854 the Supreme Court set out certain principles relevant to section 20ZA. Lord Neuberger stated at [44]

that: “it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 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”.

The tribunal’s decision

20. In the circumstances, based on the information provided by the Applicant (as summarised above), there is no evidence before the tribunal that the Respondents were prejudiced by the failure of the Applicant to comply with the consultation requirements and I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.
21. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
22. There was no application to the tribunal for an order under section 20C of the 1985 Act (limiting the ability of the landlord to seek their costs of the application as part of the service charge).

Name: Judge C. Morgan

Date: 29 May 2026

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).