



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

Case Reference : **CAM/22UD/LDC/2026/0009**

Property : **87 Warley Hill, Brentwood, Essex CM14 5HN**

**Applicant
(Managing Agents)** : **Together Property Management**

Landlord : **Southern land Securities Limited**

Respondents : **All Leaseholders of Dwellings at the Property**

Type of Application : **To dispense with the consultation
requirements referred to in Section 20 of the
Landlord and Tenant Act 1985 pursuant to
Section 20ZA**

Tribunal : **Judge JR Morris**

Date of Application : **30 January 2026**
Date of Directions : **6 March 2026**
Date of Decision : **8 June 2026**

DECISION

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Decision

1. The Tribunal is satisfied that it is reasonable to dispense with compliance with all the consultation requirements of Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987).
2. The Applicant shall serve a copy of the Tribunal's decision on dispensation, together with the relevant appeal rights attached, to the Respondent Leaseholders.

Reasons

The Application

3. On 30 January 2026 the Applicant applied for dispensation from the statutory consultation requirements in respect of qualifying works which are to repair the roof at the Property.
4. The Property is a three storey mid-terrace house constructed circa 1880 which was converted into 6 flats, probably circa 1986 from when the term of the Leases runs. The Property has brick elevations under a pitched slate roof with an attic extension over part.
5. The Applicant stated on the Application form that there had been ingress of water at the rear of the Property affecting Flat 5. The Applicant appointed a roofer to attend the Property to investigate. Due to the height of the building a scaffold Tower had to be erected for safe access. The works were completed as an emergency to minimise any internal damage. The total cost of the works was £2,400.00 including VAT. There being believed to be 6 flats this resulted in the unit charge being more than £250.00. Therefore, the repairs were “qualifying works” and the consultation procedure under section 20 of the Landlord and Tenant Act 1985 was required or dispensation granted, for the full cost to be met by the service charge. If a full section 20 procedure had been followed this would have resulted in the leak being left longer which would have caused more damage and resulted in a large insurance claim and a possible increase in premium. Therefore an application for dispensation was made.
6. Directions were issued on 6 March 2026 which stated that the Application would be determined on or after 17 April 2026 based on written representations and without an inspection, unless either party made a request for an oral hearing by 27 March 2026. No request was received.
7. The Directions requested the Applicant to send by 13 March 2026 to each of the Respondent Leaseholders, by hand delivery or by first class post and by email, if practicable, copies of:
 - i. The application form without the list of leaseholders’ names and addresses;
 - ii. The Directions;
 - iii. A clear concise description of the relevant works for which dispensation is sought;
 - iv. an estimate of the cost of the relevant works, including any professional fees and VAT;
 - v. Any other evidence relied upon; andTo file with the Tribunal confirming that this had been done and stating the date on which this was done.

8. On 11 March 2026 the Applicant confirmed that this Direction had been complied with.
9. If the Respondent Leaseholders wished to oppose the Application the Directions required them to do so via an attached reply form by 27 March 2026. No forms or representations were received from the Leaseholders.

The Law

10. Section 20 of the Landlord and Tenant Act 1985 limits the relevant service charge contribution of tenants unless the prescribed consultation requirements have been complied with or dispensed with under section 20ZA. The requirements are set out in The Service Charges (Consultation Requirements) (England) Regulations 2003. Section 20 applies to qualifying works if the relevant costs incurred in carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.
11. The consultation provisions appropriate to the present case are set out in Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987) (the 2003 Regulations). The Procedure of the Regulations are summarised in Annex 2 of this Decision and Reasons.
12. Section 20ZA allows a Landlord to seek dispensation from these requirements, as set out in Annex 2 of this Decision and Reasons and this is an Application for such dispensation.
13. The terms “Tenants”, “Leaseholders” and “Lessees” are synonymous as are “Landlord” and “Lessor”.

Submissions & Evidence

14. The Applicant provided a bundle to the Tribunal which included:
 - A copy of the Lease, the covenants of which are understood to be common to all the Leases,
 - A copy of the Works Order dated 20 November 2025 and Invoice from Beck Roofing and Building Limited for £2,400.00 including VAT dated 2 December 2025
 - Application to the Tribunal dated 30 January 2026 (referred to above),
 - Tribunal Directions dated 6 March 2026 (referred to above),
 - Applicant’s confirmation regarding compliance with Directions dated 11 March 2026 (referred to above),
 - Correspondence to Respondents dated 30 January 2026 and 11 March 2026
 - Applicant’s Statement of Case

The Lease

15. It is noted that there had been a variation of lease and lease extensions in respect of at least one of the flats however it is understood that all flats were subject to the covenants contained in the original lease which had been granted to each of them. A sample copy of the original lease was provided which was dated 31 December 1986 and was between the Landlord's predecessor and the Tenant of the flat to which the Lease was granted. The Lease was for a term of 99 years commencing 29 May 1986. The relevant provisions of the Lease are:
- a) Clause 1 sets out the following definitions:
 - “(1) (E) “The Building” means the building known as 87 Warley Hill Brentwood Essex
 - (3) “The Reserved Parts” means ... the main structural parts of the Building including the roof main walls foundations and exterior parts thereof...all devices for conveying rainwater from the Building ...”
 - b) Clause 4 (T) the Lessee covenants with the Lessor and the tenants for the time being of other dwellings on the Development as follows:
 - “(i) To pay to the Lessor ... a fair proportion ... of the costs and expenses referred to in the Fourth Schedule hereto”
 - c) Clause 5 the Lessor hereby covenants with the Lessee:
 - “(e) ... to keep the reserved parts ... in good and tenantable repair state of repair decoration and condition including such works of maintenance repair cleansing decorating and painting as the Lessor from time to time deem necessary or expedient and without prejudice to the generality of the foregoing including the renewal and replacement of the Reserved Parts or any part or parts thereof ... and including such other matters as may be referred to in the Fourth Schedule hereto ...”
 - d) Clause 6
 - “(ix) The word “repair” includes the rectification or making good of any defect in the foundations roof or structure of the Building notwithstanding that it is inherent or due to the original design thereof”
 - e) The Fourth Schedule
 - “1. The costs and expenses payable in respect of the constructing repairing painting decorating cleansing and in all ways whatsoever maintaining and insuring the main walls and structure foundations roofs beams and joist of the Building all devices for conveying rainwater from the Building all sewers drains channels gutters ...”

Works Order

16. The Applicant's Works Order dated 20 November 2025 stated:

Roof Works

Please proceed with the below works:

Erect scaffolding to rear of building

- Remove all bird waste from roof
- Carry out slate repairs as required
- Coat all lead valleys
- Patch mortar as required
- Fit bird spikes to chimneys and ridges to front and rear
- Remove all debris from site

Invoice

17. The invoice from Beck Roofing and Building Limited dated 2 December 2025 stated:

- Erected scaffolding tower to rear of building
- Removed all bird waste from roof
- Carried out slate repairs as required
- Coated all lead valleys
- Patched mortar as required
- Fitted bird spikes to chimneys and ridges to front and rear •
- Removed all debris from site

Price

Materials	£900.00
Labour	£1100.00
VAT @ 20%	£400.00
Total	£2,400.00

Correspondence to Respondents

18. On completion of the qualifying works the Applicant made the Application to the Tribunal and on the same date wrote to the Respondent Leaseholders as follows:

“We write to inform you that emergency roof works have recently been carried out at the property.

These works were undertaken as a matter of urgency to address an active defect in the roof which was causing water ingress and internal damage to Flat 5. The total cost of the emergency works was £2,000 plus VAT.

Due to the urgent nature of the issue, it was not possible to follow the formal Section 20 consultation process prior to instructing the works. As you may be aware, the Section 20 process typically takes between two and

three months to complete. Delaying the repairs for this length of time would have resulted in continued water ingress, increased internal damage to Flat 5, and a significantly larger insurance claim. This, in turn, could have led to higher insurance premiums for the building as a whole.

The works were therefore necessary to minimise further damage, protect the structure of the building, and reduce the overall financial impact on leaseholders. As the cost of the works exceeds the amount we are permitted to spend without consultation, we will be making an application to the First-tier Tribunal (Property Chamber) for dispensation from the requirements of Section 20 of the Landlord and Tenant Act 1985.

We will keep leaseholders informed of the progress of this application and provide any further information as required.

We attach a copy of the repair invoice for your information.

If you have any questions regarding these works or the tribunal application, please do not hesitate to contact us.”

19. In accordance with the Directions the Applicant provided the Leaseholders with a copy of the Application form and Directions.

Statement of Case

20. In addition, the Applicant provided a statement of case summarising the reasons for the Application and confirming that no objections had been received. It was stated that the Applicant had been made aware of a roof leak at the rear of the building, and a roofer was instructed to attend the site urgently to investigate the issue. Following inspection, it was identified that repairs to the slates were required, along with coating works to the lead valleys and associated mortar repairs. In addition, bird spikes have been installed to prevent birds from nesting on the roof and to avoid the build-up of debris and waste. No objections were received in relation to these works. The repairs have now been completed satisfactorily. The owner of the affected flat advised the Applicant that there had been no further water ingress following completion of the works.

Determination

21. In making its decision the Tribunal had regard to the decision of the Supreme Court in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14. In summary, the Supreme Court noted the following:
 - 1) The main question for the Tribunal whether the landlord’s breach of the section 20 consultation requirements resulted in the leaseholders suffering real prejudice.
 - 2) The financial consequence to the landlord of not granting a dispensation is not a relevant factor.

- 3) The nature of the landlord is not a relevant factor.
 - 4) Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
 - 5) The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms are appropriate.
 - 6) The Tribunal has power to impose a condition that the landlord pays the tenants' reasonable costs (including surveyor and/ or legal fees) incurred in connection with the landlord's application under section 20ZA.
 - 7) The legal burden of proof in relation to dispensation applications is on the landlord. The factual burden of identifying some "relevant" prejudice that they would or might have suffered is on the tenants.
 - 8) The Supreme Court considered that "relevant" prejudice should be given a narrow definition; it means whether non-compliance with the consultation requirements has led the landlord to incur costs in an unreasonable amount or to incur them in the provision of services, or in the carrying out of works, which fell below a reasonable standard, in other words whether the non-compliance has in that sense caused prejudice to the tenant.
 - 9) The more serious and/or deliberate the landlord's failure, the more readily a Tribunal would be likely to accept that the tenants had suffered prejudice.
 - 10) Once the tenants had shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
22. From the above the Tribunal finds it has a limited jurisdiction in respect of this type of Application. The question for the Tribunal is how did the lack of consultation prejudice the Leaseholders and in determining whether there is prejudice, the question is what would the Respondents have done if the consultation, of which they were deprived, had taken place and how would it have changed matters. The Tribunal considered the following in making its decision.
1. Are the works permissible under the lease?
23. The Tribunal found that the Lease was a long lease. Under Clause 5 of the Lease the Landlord must carry out "repairs" to the "Reserved Parts". Under Clause 1 the roof is included in the "Reserved Parts" and under Schedule 6 "repair" includes the rectification or making good of any defect in the roof. Under the Fourth Schedule the cost of repairing the roof is included in the "proportion" (commonly referred to as the Service Charge) which the Lessee covenants to pay to the Lessor under Clause 4. Therefore the Tribunal found that the Landlord was obliged to carry out the qualifying works and the Respondents were obliged to pay for them through the Service Charge.
2. Were the works necessary and 3. Were they urgent?
24. The Tribunal considered whether the works were necessary. From the description of the works in the Application form and the evidence adduced by way of the

quotation the works were necessary and urgent. No evidence was adduced by the Leaseholders to suggest otherwise. The urgency of the works was a particular factor which vitiated against a full consultation under section 20 as damage would continue to be caused by the delay in remedying the ingress of water.

4. How was the contractor selected, the works carried out and the cost determined?

25. The Tribunal found that the works were carried out by a contractor who was instructed to carry out specific works following an investigation. The invoice provided was clear and in accordance with the Applicant's works order which was based on the contractor's investigation. No evidence was adduced by the Leaseholders to suggest that the contractor was not independent of the Landlord or that the works could have been carried out by a different contractor at lower cost or by a more effective method.

5. Were the leaseholders informed or aware of the works notwithstanding the consultation procedure was not carried out and have they had an opportunity to make representations?

26. The Tribunal found that according to the Works Order, dated 20 November 2025, the leak was discovered in or about November 2025 and the qualifying works were carried out as an emergency on or around 2 December 2025. The Tribunal finds that the Leaseholders were informed that the works had been carried out, together with a copy of the invoice, and that an Application for dispensation had been made on 30 January 2026. It was also found that the Leaseholders as Respondents had been provided with a copy of the Application and the Directions on 6 March 2026. Although, apart from this correspondence, a consultation was not carried out the correspondence and Application has given an opportunity to the Leaseholders to identify an alternative contractor with cheaper quotations, or instruct a surveyor or similar professional to suggest a different scope of works or recommend a different methodology. In the event the Respondent Leaseholders did not adduce such evidence.
27. The Tribunal is satisfied that it is reasonable to dispense with compliance with all the consultation requirements of Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987).
28. The Leaseholders should note that this is not an application to determine the reasonableness of the works or their cost. If, when the service charge demands in respect of these works are sent out, any Leaseholder objects to the cost or the reasonableness of the work or the way it was undertaken, an application can be made to this Tribunal under section 27A of the Act, if the matter cannot be settled by agreement. A landlord can also seek a determination as to the reasonableness of the cost of the work.

29. The Applicant shall serve a copy of the Tribunal's decision on dispensation, together with the relevant appeal rights attached, to all Leaseholders.

Judge JR Morris

Annex 1 – Right of Appeal

1. 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.
2. 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.
3. 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.
4. 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.

Annex 2 – The Law

1. Section 20 of the Landlord and Tenant Act 1985 limits the relevant service charge contribution of tenants unless the prescribed consultation requirements have been complied with or dispensed with under section 20ZA. The requirements are set out in The Service Charges (Consultation Requirements) (England) Regulations 2003. Section 20 applies to qualifying works if the relevant costs incurred in carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.
2. The consultation provisions appropriate to the present case are set out in Schedule 4 Part 2 to the Service Charges (Consultation etc) (England) Regulations 2003 (SI 2003/1987) (the 2003 Regulations). The Procedure of the Regulations and are summarised as being in 4 stages as follows:

A Notice of Intention to carry out qualifying works must be served on all the tenants. The Notice must describe the works and give an opportunity for tenants to view the schedule of works to be carried out and invite observations to be made and the nomination of contractors with a time limit for responding of no less than

30 days. (Referred to in the 2003 Regulations as the “relevant period” and defined in Regulation 2.)

Estimates must be obtained from contractors identified by the landlord (if these have not already been obtained) and any contractors nominated by the Tenants.

A Notice of the Landlord’s Proposals must be served on all tenants to whom an opportunity is given to view the estimates for the works to be carried out. At least two estimates must be set out in the Proposal and an invitation must be made to the tenants to make observations with a time limit of no less than 30 days. (Also referred to as the “relevant period” and defined in Regulation 2.) This is for tenants to check that the works to be carried out are permitted under the Lease, conform to the schedule of works, are appropriately guaranteed, are likely to be best value (not necessarily the cheapest) and so on.

A Notice of Works must be given if the contractor to be employed is not a nominated contractor or is not the lowest estimate submitted. The Landlord must within 21 days of entering into the contract give notice in writing to each tenant giving the reasons for awarding the contract and, where the tenants made observations, to summarise those observations and set out the Landlord’s response to them.

3. Section 20ZA allows a Landlord to seek dispensation from these requirements, 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.
 - (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
if it is an agreement of a description prescribed by the regulations, or in any circumstances so prescribed.
 - (4) to (7)... not relevant to this application.