



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

Case References : BIR/31UD/LDC/2025/0035

Properties : Various Properties situated at Roman Gardens
Symington Way Market Harborough LE16
7XA

Applicant : EMH Housing and Regeneration Limited

Representative : Forbes Solicitors LLP (LM1/P.24.99067)

Respondents : The Leaseholders of Various Properties
at Roman Gardens (the Properties)

Type of Application : An application under section 20ZA of the
Landlord and Tenant Act 1985 for
Dispensation of Consultation Requirements

Tribunal : Judge P.J Ellis.
Tribunal Member Ms K Bentley

Date of Hearing : 17 February 2026

Date of Decision : 13 March 2026

DECISION

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The Tribunal is satisfied it is reasonable to dispense with the Consultation Requirements (set out in Section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003) in respect of digital upgrade works, installation of upgraded telecare / warden call alarm monitoring equipment and associated works undertaken on behalf of the Applicant

***between 8th December 2023 and Spring 2024 at Roman Gardens,
Symington Way, Market Harborough, LE16 7XA***

Introduction and Background

1. This is an application for dispensation from the consultation requirements of s20 Landlord and Tenant Act 1985 (the 1985 Act). The application was issued on 1 October 2025. Directions were issued on 13 October 2025 requiring the Applicant to serve a copy of the application, the Directions, and any other relevant documents on the leaseholders and giving directions to the leaseholders to complete an attached form indicating whether they agreed with the application or opposed it with their reasons for so doing.
2. The application relates to urgent qualifying works involving the implementation of critical safety measures. The subject property was not inspected by the Tribunal but there was no dispute over its description by the Applicant as set out in its Statement of Case. *“The Applicant is the freehold owner of the residential cul-de-sac known as Roman Gardens, Symington Way, Market Harborough, LE16 7XA (“the Scheme”). The Scheme is a “Leasehold Scheme for the Elderly” which consists of 23 bungalows and 14 flats let under long leases on an age-restricted basis.”*
3. Included in the Direction and for the benefit of the parties the Tribunal described Section 20 of the Act, as amended by the Commonhold and Leasehold Reform Act 2002, as setting 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 by way of a “qualifying long term agreement” unless the consultation requirements have been met or dispensation from the same has been granted. A qualifying long term agreement is an agreement for more than 12 months where the amount payable by any one contributing leaseholder under the agreement in any accounting period exceeds £100. In addition, 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.

4. The only issue for this Tribunal is to determine under this application whether or not it is reasonable to dispense with the statutory consultation requirements.
5. This application does not concern the issue of whether any service charge costs will be reasonable or payable.

The Parties Submissions

6. The justification for the application provided by the Applicant is as follows:
 - 6.1. *Among other matters, the Lease terms at Clause 3.(8) require the Applicant to “provide such alarm systems to the demised premises as the Lessor shall deem appropriate such items to be fitted by the Lessor and the ownership of which shall be retained by the Lessor and shall be maintained by it”. The individual dwellings on the Scheme are connected to a networked telecare / warden call alarm system for use by the Respondents. Until 14th November 2023, the networked alarm system was supplied to the Scheme through an “analogue” service operated by Openreach. On 14th November 2023, Openreach unilaterally disconnected the analogue network connection, as this system was being retired as part of the switch to purely digital services. Although the Applicant had been aware of Openreach’s general digital switchover programme beforehand, the Applicant was not given prior warning of Openreach’s intention specifically to disconnect the Scheme until after this had occurred. The Applicant tried to get the connection restored and updated for the Respondents accordingly – see attached copy letter dated 23rd November 2023 and marked “Appendix 4”.*
 - 6.2. *By the middle of December, it had become clear that Openreach would not be able to re-connect the service with the existing equipment, and that a replacement service would be needed as soon as possible.*

Procurement History

- 6.3. *On about 8th December 2023, the Applicant asked a contractor, Independent Testing Company Inc. Limited, to undertake the installation of digitally upgraded*

telecare / warden call alarm equipment at the Scheme. The works were completed the following Spring 2024.

6.4. The cost of the works undertaken by Independent Testing Company Inc. Limited (excluding VAT) was:-

Asbestos Survey £1425.00

Provision of equipment and labour £133,593.13

Install Smart Link modules £4573.83

Remediation (pullcord removal / replacement) £4512.81

Fault finding and rectifying electrical wiring faults £571.06

TOTAL £ 144,675.83 + VAT

6.5. The Applicant also separately incurred some minor associated setup costs:-

Hardware £242.50

Professional services – install and configuration £523.17

6.6. The Applicant raised the order for works without consulting the Respondents due to the urgency of the works and the lead-in times for sourcing materials and labour. The invoices have been paid in full by the Applicant. Further details are contained in the application form and statement of case.”

7. By its statement of case the Applicant described the facts giving rise to the need for the works.
8. The Applicant accepted the quotes for the works from its contractor without engaging in a consultation exercise because of the urgency of the works and the lead-in times for sourcing materials and labour. Further, the Applicant's officers considered, from their knowledge of the market, that it was unlikely that it would have been possible for the Respondents to nominate, or for the Applicant to contact, at least one other suitable and competent contractor who could have undertaken the Digital Upgrade Works to a satisfactory standard for any significantly lower cost. The invoices have been paid in full by the Applicant.
9. In response to the directions two only lessees replied using the form provided to indicate agreement to the works. One respondent, Mrs Lynda Church, indicated no objection to the works whereas the other, Mrs E Fountain, by her son Mr Stephen Fountain complained the lessees had suffered prejudice. The prejudice allegedly suffered was that the Applicant had not properly managed the property so as to avoid

an urgent issue arising. He disputed the need for urgent works contending that elderly lessees had been deprived of the opportunity to ask questions, hear explanations and contribute ideas. His contention is that the Applicant was aware or should have been aware of digital switch over from analogue installations and was not prepared for it.

10. The Applicant served a reply to Mr Fountain's submission noting there has not been any cogent evidence adduced to establish that the Digital Upgrade Works were not necessary due to pressing safety requirements and/or that they were not required urgently. Therefore, even if the consultation requirements had been complied with, and had the Applicant had 'regard to' any observations of the Respondents, the result would not have been any different. Therefore, the Respondents have not suffered any relevant prejudice.

Discussion and Decision

11. The Tribunal must be satisfied under s20ZA of the Act that it is reasonable to dispense with consultation requirements having regard to the decision of the Supreme Court in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 ("*Daejan*") and its guidance to the Tribunal that in considering dispensation requests, it should focus on whether tenants are prejudiced by the lack of consultation required section 20.
12. The Tribunal is satisfied the leaseholders will not suffer any prejudice by the grant of dispensation of consultation requirements. Whereas urgency of itself is not sufficient although it may be one of the facts giving rise to an application for dispensation if there is no prejudice to the tenant arising from the failure to properly consult it is impossible to see any reason why dispensation is not given as held by HHJ Cook in *RM Residential v Westcare* [2024]UKUT 56(LC).
13. In this case the Tribunal does not consider the failure to consult has caused any prejudice to the lessees. It is also apparent that few if any other than Mrs Fountain objected to the works being undertaken. Further, as stated in the Directions this decision does not restrict the leaseholders entitlement to challenge consequential

costs and charges under s27A Landlord and Tenant Act 1985. Moreover, the proposed works are for the benefit of the leaseholders by enhancing their safety.

14. Accordingly, the Tribunal dispenses with the obligation to carry out consultation with the leaseholders of in respect of digital upgrade works, installation of upgraded telecare / warden call alarm monitoring equipment and associated works undertaken on behalf of the Applicant between 8th December 2023 and Spring 2024 at Roman Gardens, Symington Way, Market Harborough, LE16 7XA

Appeal

15. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal.

Judge P.J. Ellis