



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

Case Reference	: LON/00AG/LDC/2026/0015
Property	: Hill View 2-4 Primrose Hill Road, London, NW3 3AX
Applicant	: Hill View 2014 Limited
Representative	: James Holton of DTM Legal Group Limited
Respondents	: The Long Leaseholders of Flats 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 , Hill View, Primrose Hill Road, London NW3 3AX The Long Leaseholder of 20A Greville Place, London NW3 3AX.
Representative	: Richard Webber of RLS Law for Sande Property Holdings of Flat 22 Andrew Myers of Keystone Law Limited for Denise Shelton of Flat 25
Type of Application	: To dispense with the requirement to consult lessees about major works Section 20ZA of the Landlord and Tenant Act 1985 (“1985 Act”)
Tribunal Member(s)	: Judge Tildesley OBE
Date and Venue of Hearing	: Determination on Papers
Date of Decision	: 15 June 2026

DECISION

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.
2. The Property is a nine-storey block of residential apartments constructed in the early 1960s comprising 25 flats, car parking spaces, garages and shared spaces.
3. The Applicant is the proprietor of the Headlease of the Property. The shareholders of the Applicant comprise most of the owners of the flats in the Property and the company officers are either long leaseholders or family members of long leaseholders. Under the terms of the Headlease the Applicant has repairing and management obligations for the Building which includes keeping the structure of the Building in good repair. The Respondents are the long leaseholders of the flats.
4. Mr Hugh Alexander Briggs, one of the Applicant's four directors, stated in his witness statement dated 15 January 2026 that the Applicant had already consulted the leaseholders on "Planned Works" for external repairs and redecoration of the Building which was due to commence in March 2026. Mr Briggs explained that the Application for Dispensation concerned an additional set of works which he described as "Recommended Works".
5. The "Recommended Works" related to a programme of remedial works to fix a longstanding problem of water ingress in Flat 22. The remedial works included works to the roof garden and conservatory of Flat 25 which is located directly above Flat 22.
6. On 21 July 2023 the Applicant and the leaseholders of Flats 22 and 25 agreed jointly to instruct a surveyor, Mr Trevor Rushton of Watts Group, to carry out the investigative works required to ascertain the source(s) of the water ingress into Flat 22. The parties agreed to be bound by Mr Rushton's determination as to the physical causes of the water ingress.
7. Mr Rushton produced two reports dated 13 October 2023 and 29 July 2024 on the causes of the water ingress into Flat 2. Mr Rushton sets out his recommendations for remedial works in paragraphs 4.2.1 and 4.2.2 of his report dated 29 July 2024 which are summarised as follows:
 - a) Full replacement of the roof above Flat 22 and the raising or replacing of the conservatory attached to Flat 25.
 - b) Provision of a temporary roof over the terrace to avoid risk of water penetration during the works.
 - c) Removal of the existing decking, promenade tiles and roofing.

- d) Replacement of same either with a felt or liquid applied roofing system creating a warm roof with appropriate u-value.
 - e) Raising or replacing the conservatory with attendant construction of a new upstand 150mm high and attendant changes to flashings and weatherings.
 - f) Lifting coping stones to the two side parapet walls and providing a new damp proof course beneath. (This will also involve removing and probably replacing the existing timber screens which are now becoming weathered).
 - g) Checking the western parapet wall and inserting a new cavity tray as appropriate.
 - h) Reinstatement of decking and promenade tiles (ideally placing the tiles on adjustable pedestals rather than direct bedding as current).
 - i) Making good of surfaces disturbed, decoration etc.
8. The works described in sub-paragraphs 7a) to 7i) constitute “the Recommended Works” which are the subject of this Application for Dispensation.
 9. There is a dispute between the Applicant and the long leaseholder of Flat 25 as to which one of them is liable to pay the costs of “the Recommended Works”. Mr Rushton’s estimate of the cost of “the Recommended Works” from November 2024 was between £323,000 and £390,000 including fees and VAT depending on design options.
 10. On 1 September 2025 the long leaseholder of Flat 22 filed a Claim in the County Court at Central London against the long leaseholder of Flat 25 and the Applicant. The particulars of Claim are as follows:

“A claim in the tort of nuisance and for breach of a lease of residential premises in respect of water ingress from Flat 25, Hill View, Primrose Hill Road, London NW3 3AX (“Flat 25”) into neighbouring property at Flat 22, Hill View, Primrose Hill Road, London NW3 3AX (“Flat 22”) for i) an injunction requiring the Defendants (or either of them) to carry out such works of repair as may be necessary to waterproof Flat 25 and/or the building of which it forms part, to abate the ingress of water into Flat 22, and to prevent further water ingress; alternatively damages in lieu of an injunction; damages, currently estimated at £348,781.59; interest; further or other relief; costs”.
 11. Mr Briggs stated that the Applicant was minded to undertake “the Recommended Works” and recover the costs of those works through the service charges and or against the long leaseholder of Flat 25 whichever is the proper recourse and paying party.

12. The Applicant wished to proceed with “the Recommended Works” within the scope of “the Planned Works” on the basis that if the Applicant is found liable for the costs of “the Recommended Works” then those costs would be reduced by the use of scaffolding erected as part of “the Planned Works”. Mr Rushton advised that this would result in a cost saving in the region of £36,000 to £60,000. Mr Briggs said that there was insufficient time to proceed with a section 20 consultation on “the Combined Works” (“the Planned Works” and “the Recommended Works”) in view of the imminent start date of “the Planned Works” in March 2026. Mr Briggs added that the specification for “the Planned Works” had been prepared by Mr Rushton’s firm of surveyors. Given these circumstances the Applicant considered that an Application for Dispensation in respect of “the Recommended Works” is justified.
13. The Application for dispensation was received by the Tribunal on 16 January 2026. The Application named the leaseholders of Flats 8 to 25 and the leaseholder of 20A Greville Place as the Respondents. On 3 March 2026 the Applicant applied to add the long leaseholders of Flats 2 to 7 as Respondents to the proceedings on the ground that they had been mistakenly omitted from the original application because it was believed at the time that these long leaseholders did not pay service charges. The Tribunal granted the application to add the long leaseholders of Flats 2-7 as Respondents to the Application for Dispensation.
14. On 2 March 2026 the Tribunal issued directions to the parties which were amended on 20 April 2026 following the adding of the long leaseholders of Flats 2 to 7 as Respondents.
15. The directions required the Applicant to serve copies of the Application form and the directions on the Respondents which was duly done. The Applicant included copies of the documents and supporting evidence with the Application.
16. The Tribunal required the Respondents who opposed the Application to return a pro-forma to the Tribunal and the Applicant by 23 March 2026 (the first set of Respondents) and by 15 May 2026 (the added Respondents) stating their reasons for opposing the Application. No leaseholder returned a pro-forma stating his/her opposition to the Tribunal and the Applicant.
17. The solicitors for the long leaseholders of Flats 22 and 25 indicated that their clients did not oppose the Application for dispensation. The solicitor for the long leaseholder of Flat 25 stated that his client’s agreement to the Application for dispensation was without prejudice to his position that the Applicant was the liable party to do and pay for the necessary remedial works (“the Recommended Works”).
18. The Tribunal required the Applicant to provide the Tribunal and those leaseholders who opposed the Application with a bundle of documents by 29 May 2026. The Tribunal received the bundle on 28 May 2026.

19. The Tribunal directed that the Application would be dealt with on the papers during the seven days commencing 15 June 2026 unless a party requested a hearing. No party requested a hearing.

Determination

20. The 1985 Act provides leaseholders with safeguards in respect of the recovery of the landlord's costs in connection with qualifying works. Section 19 ensures that the landlord can only recover those costs that are reasonably incurred on works that are carried out to a reasonable standard. Section 20 requires the landlord to consult with leaseholders in a prescribed manner about the qualifying works. If the landlord fails to consult, a leaseholder's contribution is limited to £250, unless the Tribunal dispenses with the requirement to consult.
21. In this case the Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the works under section 20ZA of the 1985 Act. The Tribunal is not deciding on the liability to pay the costs and or whether the costs of those works are reasonable or payable. If a leaseholder wishes to challenge the reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
22. Section 20ZA does not elaborate on the circumstances in which it might be reasonable to dispense with the consultation requirements. On the face of the wording, the Tribunal is given a broad discretion on whether to grant or refuse dispensation. The discretion, however, must be exercised in the context of the legal safeguards given to the Applicant under sections 19 and 20 of the 1985 Act.
23. This was the conclusion of the Supreme Court in *Daejan Investments Ltd v Benson and Others* [2013] UKSC 14 & 54 which decided that the Tribunal should focus on the issue of prejudice to the tenant in respect of the statutory safeguards.
24. Lord Neuberger in *Daejan* said at paragraph 44:

“Given that the purpose of the Requirements is to ensure that the tenants are protected from (i) paying for inappropriate works or (ii) paying more than would be appropriate, it seems to me that the issue on which the LVT should focus when entertaining an application by a landlord under s 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”.
25. Thus, the correct approach to an application for dispensation is for the Tribunal to decide whether and if so to what extent the leaseholders would suffer relevant prejudice if unconditional dispensation was granted. The factual burden is on the leaseholders to identify any

relevant prejudice which they claim they might have suffered. If the leaseholders show a creditable case for prejudice, the Tribunal should look to the landlord to rebut it, failing which it should, in the absence of good reason to the contrary, require the landlord to reduce the amount claimed as service charges to compensate the leaseholders fully for that prejudice.

26. The Tribunal now turns to the facts of this Application. The Applicant has stated that the Application for Dispensation related solely to “the Recommended Works”. Although the Applicant disputed its liability to pay for “the Recommended Works” it has decided to proceed with the works because they are necessary and in anticipation of costs savings if in the event the Applicant is found liable to pay the costs of those works. Likewise the long leaseholder of Flat 25 agrees that the works should be carried out without prejudice to its position that the Applicant is liable to pay the costs of those works. As explained earlier the Tribunal’s determination on the question of dispensation does not require the Tribunal to decide who is liable to pay for the costs and or the reasonableness of those costs. The Tribunal’s determination is confined to whether it is reasonable to dispense with the consultation requirements if in the event the long leaseholders are required to contribute to those costs through the service charge.
27. The Tribunal finds that the Applicant and potentially the leaseholders would lose the benefit of the costs savings achieved by combining “the Recommended Works” with “the Planned Works” if the Applicant delayed the commencement of “the Recommended Works” by undertaking the statutory consultation. The Tribunal is satisfied that the detailed investigation into the causes of the water ingress into Flat 25 carried out by Mr Rushton, the appointed surveyor, his estimate of proposed costs and that his firm has prepared the specifications for “The Combined Works” give the leaseholders reassurance that their protections under the 1985 are not being undermined by the Applicant’s failure to consult. Finally, the Tribunal notes that no leaseholder has objected to the Application.
28. The Tribunal is, therefore, satisfied on the above facts that the leaseholders would suffer no relevant prejudice if dispensation from consultation was granted in respect of “the Recommended Works”.

Decision

29. **The Tribunal, therefore, dispenses with the consultation requirements in respect of the works to remedy the water ingress to Flat 25 which are identified as “the Recommended Works and more particularly described in sub-paragraphs 7a) to 7i) of this decision.**

30. The Tribunal directs the Applicant to inform the leaseholders of the Tribunal's decision and to display the written decision on a noticeboard in the common areas.

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 to the First-tier Tribunal at the Regional office which has been dealing with the case.
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.