



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

Case Reference	:	HAV/00HE/LDC/2026/0060
Property	:	The Amenity Centre at Atlantic Bays Holiday Park, St Merryn, Padstow, Cornwall, PL28 8PY
Applicant	:	Atlantic Bays Holiday Park Limited
Representative	:	David MacDonald
Respondents	:	The Lessees of Atlantic Bays Holiday Park
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	:	Mr D W Cotterell FRICS
Date of Decision	:	2 July 2026

DECISION

Summary of the Decision

1. **The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord for demolition works to the Amenity Centre (otherwise “clubhouse”) provided the Landlord serves a copy of this decision on all of the leaseholders.**

The application and the history of the case

2. 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 that Act. The application was received on or just after 7 April 2026. The Tribunal understands that the representative as named is a director of the Applicant company.
3. The Property is described as a holiday park covering approximately 36 acres and including 180 holiday homes, a touring and camping park and other space and buildings. The Applicant explains that a building which it describes as an amenity centre (also a “clubhouse”) is in a dangerous condition. The application concerns this building and its proposed demolition.
4. The application is said to be urgent. The reason given for urgency is that significant damage was caused to the building in a storm in 2024 and that a further storm in 2026 has left the building in a dangerous condition. The Applicant says that it wishes to demolish before the holiday season starts when visitors present might stray into the dangerous building
5. It understood that the building had been earmarked for demolition since the 1970s and was to be replaced but that for various reasons that plan has been deferred. It is also said that the lessees have been requesting work to be carried out since 2024.
6. Quotations for demolition works have been received from:
 - Weaver Demolition Ltd, dated 05/03/2026, (£157,622.68 + VAT)
 - Sam Gilpin Demolition Ltd dated 03/03/2026 (£255,000 + VAT)
 - JA Shore Excavation dated 02/03/2026 (£150,000 + VAT)
7. The Tribunal gave directions on 14 April 2026 that respondents should complete a reply form and return it to the Tribunal and to the Applicant; and, if they opposed the application to include a statement setting out why, evidence of what they may have done differently (if the Applicant had to comply with the full statutory consultation process) and to provide copies of all documents to be relied upon, if such were not already included in the Applicant’s bundle.

8. The Tribunal determined that the application would be decided on the papers without a hearing in accordance with rule 31 of the Tribunal Procedure Rules 2013, not having received an objection on that point.
9. Objections were received from P Evans (chalet 200) C Mason (CL1) M Steers (chalet) 181 who has also signed a document setting out objections to the application on behalf of the Point Curlew Tenants' Association ("PCTA") a Recognised Tenants' Association.
10. The Applicant has also obtained a condition report prepared by Mr David Broadhead MRICS trading as Michael Paul Consultancy. The conclusions and recommendations of that report state:

"... It is the professional opinion of the inspecting surveyor that the clubhouse building at Atlantic Bays Holiday Park is beyond economically viable repair and restoration. The scale, extent, and systemic nature of the deterioration identified during the inspection means that restoration to a habitable or operational standard would require essentially the complete replacement of all fabric elements, all finishes, all M&E installations, and significant structural intervention, whilst working within and around a structure that has been substantially compromised, that contains suspected ACMs, and that has been subject to severe rodent infestation.

Given the current condition of the building, the extent of structural and fabric deterioration, the systemic nature of the wet rot and fungal growth, the established rodent infestation, the likely presence of ACMs requiring licensed removal, and the probable cost of remediation, the inspecting surveyor's recommendation is that the building should be demolished and cleared."

11. The Tribunal has given careful consideration to the information provided to it, including Mr Broadhead's report and the objections received.

The Law

12. Section 20 of the Landlord and Tenant Act 1985 ("the Act") and the related Regulations provide that where the lessor intends to undertake major works with a cost of more than £250 per lease in any one service charge year the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement has been dispensed with by the Tribunal. An application may be made retrospectively.
13. Section 20ZA provides that on an application to dispense with any or all of the consultation requirements, the Tribunal may make a determination granting such dispensation *"if satisfied that it is reasonable to dispense with the requirements"*.

14. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of Daejan Investment Limited v Benson et al [2013] UKSC 14.
15. The leading judgment of Lord Neuberger explained that a tribunal should focus on the question of whether the lessee will be or had been prejudiced in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor to comply with the regulations. The requirements were held to give practical effect to those two objectives and were “*a means to an end, not an end in themselves*”.
16. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if able to engage in a consultation process. If the lessee advances a credible case for having been prejudiced, the lessor must rebut it. The Tribunal should be sympathetic to the lessee(s).
17. Where the extent, quality and cost of the works were in no way affected by the lessor’s failure to comply, Lord Neuberger said as follows: “*I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be- i.e. as if the requirements had been complied with.*”
18. The “*main, indeed normally, the sole question*”, as described by Lord Neuberger, for the Tribunal to determine is therefore whether, or not, the Lessee will be or has been caused relevant prejudice by a failure of the Applicant to undertake the consultation prior to the major works and so whether dispensation in respect of that should be granted.
19. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges of works arising or which have arisen.
20. If dispensation is granted, that may be on terms. 14. The effect of *Daejan* has been considered by the Upper Tribunal in Aster Communities v Kerry Chapman and Others [2020] UKUT 177 (LC), although that decision primarily dealt with the imposition of conditions when granting dispensation and that the ability of lessees to challenge the reasonableness of service charges claimed was not an answer to an argument of prejudice arising from a failure to consult.

Decision

21. The application explains that the subject Property (referred to as an “amenity centre” or “clubhouse” is a former army mess building repurposed over many years and which now presents in a dangerous condition and beyond economic repair in the opinion of a qualified surveyor.
22. It is explained that demolition is not only the preferred estate management policy, but that there is urgency due to the potential risk that the building in its current state might present to visitors to the Holiday Park during the summer season.
23. The Applicant relies on information supplied by the surveyor Mr Broadhead and his report, also the works quotations provided by the above mentioned contractors. The Tribunal has read and considered the objections from Respondents and the PCTA and responses to those objections contained in the bundle of documents.
24. The Tribunal is satisfied that it is reasonable in the circumstances for consultation regarding demolition of the subject building to be dispensed with on this application, because the Tribunal does not consider that the Leaseholders will be prejudiced by the proposed demolition and related works being carried out.
25. In reaching its decision the Tribunal has taken account of the fact that although objections have been received and concerns expressed regarding the proposed demolition works in this case, because the leaseholders may still challenge the reasonableness and the charges for the works, the opportunity to pursue the concerns expressed remains.
26. The Tribunal therefore directs that the dispensation is conditional upon the Applicant or their agent sending a copy of this decision to all the leaseholders so that they are aware of the same.
27. For completeness the Tribunal confirms in making this determination that it makes no findings as to the liability to pay or the reasonableness of the estimated costs of the works.

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. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
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.
5. Either party seeking to appeal a decision are referred to form RPPTA.