



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

Case Reference	: HAV/29UQ/LDC/2026/0035
Property	: 23 Eridge Road, Tunbridge Wells, Kent TN4 8HJ
Applicant	: Southern Land Securities Limited
Representative	: Together Property Management Ltd
Respondent	: The Leaseholders of the Property
Representative	: None
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	: District Judge Pain, sitting as a Judge of the First-tier Tribunal (Property Chamber)
Date of Directions	: 23 June 2026

DECISION

Decision of the Tribunal

1. The Tribunal grants the application for dispensation from the statutory consultation requirements in respect of the qualifying works.

The application

2. The applicant, Together Property Management Limited, is the managing agent of the landlord of the subject property, Southern Land Securities Limited.

3. The property is a detached house, constructed in around 1880, that was converted into four self-contained flats in the late 1980s, located over the ground and first floors of the building.
4. The application, dated 23 February 2026, seeks a determination dispensing with the statutory consultation requirements set out in section 20 of the Landlord and Tenant Act 1985 ('the 1985 Act'), pursuant to section 20ZA of the 1985 Act, in respect of qualifying works that have already been carried out.
5. Directions were given by the Tribunal on 18 May 2026. Those directions provided, among other things, that the application should stand as the Applicant's case, that the Respondents should, by 1 June 2026, complete an attached reply form to the Tribunal and to the Applicant, and, if opposing the application, provide a statement setting out why they opposed the application and evidence of what they would have done differently had the Applicant complied with the statutory consultation requirements, including copies of all documents relied on. The Applicant was directed either to reply to any objections raised by the Respondents, or to confirm that no objections had been received by 15 June 2026. The Tribunal further directed that the application would either be determined without a hearing or further directions be issued.
6. The Applicant having confirmed, in its application, that it would be content for the application to be determined on the papers, and thereafter that it had received no objections from any of the Respondents, the Tribunal set the matter down for a hearing on the papers only. I agree that a paper determination is appropriate in this case and have therefore determined the application based on the papers provided to me without an oral hearing.
7. I did not inspect the subject property having considered that it was not necessary to do so.

The Qualifying Works

8. The circumstances that led the Landlord to identify the need to carry out works to the building, and in which additional works were thereafter identified that led to the cost of those works exceeding the appropriate amount of £250 per flat (as set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (SI 2003/1987)) are set out within the application:

A report was received from the ground floor leaseholder of Flat 2 regarding water ingress causing serious damp within the bedroom. Contractors attended the property to investigate and identified issues with the external guttering serving the north side of the building.

Following investigation and detection works, it was ascertained that the guttering on the north elevation was failing and likely blocked due to overhanging trees. This was causing rainwater to overflow and cascade down

the external wall, saturating the base of the north side wall and contributing to the internal damp issues.

Two contractors attended and recommended that remedial works be undertaken, including gutter clearance and repair, fascia repairs, and cutting back overhanging trees to prevent recurrence. Quotations were obtained and circulated to leaseholders, and a third quotation was arranged at leaseholders' request. The lowest quotation was accepted.

The initial approved works, at a cost of £720, comprised the following:

- Erect mobile scaffolding tower
- Cut back tree from the building
- Replace gutter union
- Re-fix fascia board
- Clean gutters
- Fit new ridge
- Repair lead flashings
- Apply Thompson's water seal to the affected wall
- Remove all debris from site

While on site carrying out the above works, contractors identified an additional defect that could not reasonably have been identified in advance. Further investigation indicated that damp was also rising from ground level due to cracked render applied to the external wall. To fully resolve the issue, the contractors excavated a small inspection area adjacent to the wall, cleaned the affected brickwork, applied mould treatment, sealed the brickwork, installed damp proof protection, and applied new render.

These additional remedial works were carried out at an additional cost of £480, bringing the total cost of the works to £1,200.

9. The Applicant concedes that the consultation requirements set out in section 20 of the 1985 Act, including the service of section 20 notices, were not met. However, the Respondents were contacted prior to the commencement of the works to notify them of the proposed works and the costs.
10. The Applicant contends that the works were urgent, given the ongoing damage being caused by the damp and water ingress affecting the bedroom within Flat 2, a ground floor flat:

.... the works were required to address ongoing water ingress and serious damp affecting a habitable bedroom within the ground floor flat.

At the time of reporting, the damp was significant and ongoing. Contractors confirmed that the failing and blocked guttering was actively directing water onto the external wall, with the potential for further deterioration of the building fabric and worsening internal conditions if not remedied promptly.

Although quotations were obtained and circulated to leaseholders, and a third quotation was arranged at leaseholders' request, it was necessary to proceed

with the works without delay to prevent further damage and to protect the health and wellbeing of the occupiers.

11. The Applicant also contends that the additional defects, discovered during the works, could not reasonably have been identified in advance. Those repairs, it argues, were necessary to resolve fully the damp issue and to prevent recurrence. It would not, it is contended, have been reasonable or practicable to suspend the works in order to consult once those defects were exposed.

Decision and reasons

12. Section 20ZA(1) of the 1985 Act provides that:

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... the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

13. The Applicant's case is that the works were urgently required and that, having discovered additional defects that increased the cost of the works above the limit at which consultation with the Respondent was required (that is, £250 per flat), it would not have been reasonable to suspend the works so as to undertake statutory consultation.
14. None of the Respondents has responded to the application. As such, I have no representations on this issue from any of the Respondents. I am, nevertheless, satisfied that, for the reasons set out in the Applicant's application and referred to above, the works were urgently required. I am also satisfied that suspending any works until the statutory consultation requirements could be met would have led to further significant damage being done to the fabric of the building and to the interior of Flat 2.
15. The decision of the Supreme Court in *Daejan Investments Limited v Benson* [2013] UKSC 14 also makes clear that the focus of any decision as to whether it is reasonable to dispense with the statutory consultation requirements is the extent, if any, to which the leaseholders have been prejudiced by the landlord's failure to comply with those requirements. Once leaseholders have raised a credible case that prejudice has been suffered, it remains for the landlord to show that such prejudice was suffered.
16. Again, as the Respondents have not responded to the Applicant, I have no representations on this issue from any of the Respondents. And although the application refers to a third quotation being obtained at the request of the Respondents, I have no evidence before me about whether that quotation was for less than the sums in fact incurred by the landlord. In the absence of any such representations or evidence, I do not find that any prejudice was suffered as a result of the failure to consult.

17. Accordingly, I consider it reasonable to grant the Applicant's application for dispensation from the statutory consultation requirements set out in section 20 of the 1985 Act. I also do not consider that I should attach any conditions to the grant of that dispensation.
18. I should make clear, as the original directions did, that this decision is not about the costs of the works or whether they are recoverable from the leaseholders as service charges. The leaseholders retain a right to make a separate application for a determination of those matters pursuant to section 27A of the 1985 Act.

Name: District Judge Pain

Date: 23 June 2026