



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

Case Reference	:	CAM/26UD/LDC/2025/0704
HMCTS code (paper, video, audio)	:	P: PAPERREMOTE
Property	:	Flats 1-83 Millacres, Station Road, Ware, Herts SG12 9PU
Applicant	:	Amber Estate Management Limited
Respondents	:	The leaseholders of flats 1-83
Type of application	:	For dispensation from consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985
Tribunal member	:	Regional Judge Wayte
Date of decision	:	28 April 2026

DECISION

- 1. The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the cladding project and subsequent balcony and cladding project described in Appendix 2 to the application form and below.**
- 2. This dispensation is conditional upon the applicant providing written confirmation to the objectors to this application as to how the works have been paid for or when they may be the subject of future service charge claims, such information to be provided by 29 May 2026.**

3. The tribunal does not make an order under section 20 C of the 1985 Act in respect of the applicant's costs passing through the service charge and/or as an administration charge in respect of Ms McKay.

The application

1. Amber Estates Management Limited applied for dispensation from the statutory consultation requirements in respect of qualifying works to replace timber cladding and balconies on behalf of their client, the landlord, Granary Mansions Management Limited. Appendix 2 to their application described the background in some detail and clarified that the application related to additional costs incurred as part of project 1 (replacement of timber cladding) and project 2 (balcony works).
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would potentially be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
 - (i) were complied with; or
 - (ii) are dispensed with by the tribunal.
3. The Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. Directions were given on 23 February 2026. Those directions required any objections to be made by 16 March 2026. Two objections were received before that deadline and one afterwards. As the late objection was sent to the tribunal by the applicant, all three objections are considered in this decision. None of those Respondents requested a hearing and I considered that a decision could be made on the papers.

The property and background to the application

5. There is no number 13 Millacres and therefore there are 82 flats in total. The application form confirmed that the flats were mainly in purpose-built blocks constructed in or about 1988, with numbers 71 to 83 situated in a former mill, converted into residential use around the same time. The units vary from one to three-bedroom flats to maisonettes with their own entrance but each unit contributes an equal 1/82nd share of the total expenses for the estate and buildings.

6. The bundle contained a copy of what appears to be a draft lease, said to be representative of the others. The “premises” (meaning the respective flat) is described as including internal coverings, doors and windows and excluding all structural parts of the building of which the premises form part. “Common parts” is defined as “*the main structure roofs external walls and foundations and those other parts of the Development not included in any Lease or Tenancy granted by the Lessor*”.
7. The lease is tri-partite with the Management Company’s duties set out in the Fifth Schedule, including at paragraph 2 “*To repair renew clean paint maintain and when necessary rebuild the Common Parts*”. There is also a “sweeper clause” in paragraph 16 allowing the Management Company “*To include in its service charge provision for any other expenses which are necessary for the Company to observe its Management Duties.*”
8. Appendix 2 to the application explained that in 2021 the landlord considered replacing the decorative timber cladding covering a large part of the buildings while also replacing timber balconies to the block comprising flats 71-83. While fire safety was a reason, a key driver was also the ongoing cost of maintenance of the cladding. The original proposal had been to replace all timber cladding across the estate but this was limited due to costs considerations and scaled back to the block comprising flats 71 to 83.
9. Two section 20 notices were sent to the leaseholders prior to the works but additional costs were incurred while the works commenced, together with fees to the architect, managing agents and local authority. Those additional costs are the part of Project 1 for which dispensation is sought (1/82nd = £483). The balcony work costs are part of Project 2, which has not been the subject of any consultation process, amounting to £29,081), with 1/82nd = £355 (both contributions have been rounded up to the nearest pound).
10. That said, in this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**
11. Appendix 2 also requested a determination as to responsibility for the balcony costs i.e. whether they are payable by all the leaseholders or just those with a balcony but that needs to be the subject of a separate application for a determination under section 27A of the Landlord and Tenant Act 1985 and will require submission of relevant completed leases and plans.

The Applicant’s case

12. In terms of the additional costs incurred for Project 1, the Applicant states that it was not practicable to halt the works and carry out additional consultation once further issues had come to light once high level access was available. They omitted to include the fees at the time, although maintain that they would ultimately been incurred in relation to any project undertaken. The works in Project 2 were a further omission, although the Applicant had originally thought there would be no need to consult as the cost would be below £250 per leaseholder. After approaching the contractors for Project 1 for a quote, the Applicant was able to obtain a more competitive price from alternative contractors (less than half the amount). Some additional costs were incurred, although the overall cost was still considerably cheaper than the original quote. Again, there are also fees to be paid for the engineer, managing agent and Building Control and these additional costs and fees brought the total above the statutory limit.
13. Dispensation is therefore sought for the whole of Project 1, including the additional costs and fees and amounting to a total of £120,325.50 and Project 2, amounting to £29,081.

The Respondents' position

14. There are just three objectors to the application: Jonas Osterley and Ms L.Chalk of Flat 57, Victoria McKay of Flat 24 and Suzanne Griffiths of Flat 3.
15. Mr Osterley complained that the application documents were served on him one day after the deadline given in the directions. He confirmed that the works had been completed in 2022 (Project 1) and 2024 (Project 2). He had purchased his flat in 2025 and had no visibility as to how the works had been funded. His main concern was to clarify whether he would be liable for anything, there having been no reference to major works in the latest service charge accounts.
16. Ms McKay's objection was in respect of Project 2. She was aware of the consultation in respect of the estimated Project 1 works and had queried whether there would be any consultation in respect of Project 2. She submitted that the failure to consult meant she was denied the opportunity to challenge the works before the costs were incurred. In particular, her flat had no balcony and had there been proper consultation, she would have argued that at least part of the cost should not be spread across all leaseholders, particularly those without balconies. She therefore argued that she had suffered prejudice due to the failure to consult and dispensation should be refused. If the tribunal was nevertheless minded to grant dispensation, she submitted that it should make clear that it leaves open the prospect of challenge to the costs or consider a reduction to reflect the prejudice caused by the loss of consultation rights. Ms McKay also made an application for an order under section 20C of the 1985 Act, preventing the Applicant from

passing the costs of the application through the service charge and an application under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 in respect of any administration charge levied against her personally.

17. Ms Griffiths also bought her flat after the original dispensation exercise. She objected to the application on the basis that the failure to properly consult had caused prejudice, including the loss of the opportunity to scrutinise and challenge the scope and cost of the works, nominate alternative contractors and exposed her to potential liability for costs in the future.

The tribunal's decision

18. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
19. In effect, that is the major concern of the objectors and may be the subject of an application under section 27A of the 1985 Act, which can be initiated by either landlord or tenant. Two of the objectors alleged prejudice, which is the only real ground of opposition as set out by the Supreme Court in the leading case of *Daejan Investments Ltd v Benson and others* [2013] UKSC 14. That said, no one has alleged that the works were unnecessary or provided evidence that they nominated alternative contractors at the time, unsurprisingly given the scale of the works or the fact that two of the objectors bought their flat after that consultation took place. There were no objections from the remaining 79 leaseholders, although I take on board that numbers 71-83 are unlikely to object, given they were the beneficiaries of the works.
20. There is also an argument that consultation is not required for fees as opposed to works or in respect of the additional works that only came to light once the original Project 1 works commenced. I accept that the decision not to consult on Project 2 was reasonable in the light of the original quote, which would have been below £250 per leaseholder. Again, it was the additional works and fees that brought the total above that threshold.
21. In the circumstances, I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works. However, given the lack of clarity amongst the objectors as to charging for the works, I consider it is appropriate to make that dispensation conditional on the applicant providing the objectors with clarity as to how these works have been paid for or if any further charges are intended. That will inform any decision to issue an application under section 27A. This information must be provided by

29 May 2026. If Ms McKay wishes to challenge her contribution on the basis she does not have a balcony, she will also need to issue separate proceedings but may wish to seek her own advice first.

22. Ms McKay also made an application for protection from the costs of this application. Given that hers was the only application, if granted it would mean that whereas she would not face liability for any costs claimed through her service charge, the other 81 leaseholders would. It is by no means clear that costs will be claimed for this process in any event. There is also no evidence that any administrative charges will be levied against her. In those circumstances and bearing in mind the decision made in favour of the Applicant, I am not convinced that it is just and equitable to make the orders sought. Again, future claims for service or administration charges may be the subject of proceedings under section 27A or the 2002 Act.

Name: Judge Wayte

Date: 28 April 2026

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).