



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

Case Reference : **BIR/00CU/LDC/2025/0048**

Property : **2-36 (even) Old Mill House Close. Pelsall,
Walsall WS4 1BL**

Applicant : **Millers Green (Sheffield) Management
Company Limited**

Representative : **Mr Amandeep Uppal, Talbots Law**

Respondents : **The long leaseholders as noted in Schedule 1**

Type of Application : **An application under section 20ZA of the
Landlord and Tenant Act 1985 for dispensation
of the consultation requirements in respect of
qualifying works**

Tribunal : **Tribunal Judge P.J. Ellis
Tribunal Member Mr G.S.Freckelton FRICS**

Date of Hearing : **14 July 2026**

Date of Decision : **14 July 2026**

Decision

The Tribunal dispenses with the with the obligation to carry out consultation with the leaseholders of in respect of the Works namely:

- a) Remove moss from both buildings, apply anti-fungal treatment to kill any remaining spores.***
- b) Clear all gutters and downpipes.***
- c) Remove all waste from site.***

Introduction and Background

1. The Applicant seeks dispensation from all or some of the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 (“the Act”). The applicant is the management company of the subject property. The freehold is owned by Adriatic Land 11 Limited (incorporated in Guernsey)(OE ID: OE018212)
2. The reason for the application is that Section 20 of the Act, as amended by the Commonhold and Leasehold Reform Act 2002, sets 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 £100.00 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.
3. The only issue for the Tribunal to determine under this application is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.

4. The application is in respect of dispensation for the following works:
 - a) Remove moss from both buildings, apply anti-fungal treatment to kill any remaining spores.
 - b) Clear all gutters and downpipes.
 - c) Remove all waste from site. (the Works)
5. The Works will cost the sum of £8,400. The sum each leaseholder is required to pay is £466.67.
6. Directions were issued on 13 January 2026 requiring the Applicant to send to the Respondents, the following documents:
 - a) A copy of these directions.
 - b) A copy of the application form and accompanying documents (including the statement of case) but for the avoidance of doubt not the copy of the lease and not the list of leaseholders
 - c) Any other relevant documents.
 - d) Copies of quotations received to date with an indication (if known) of the likely cost per leaseholder
7. In turn the Respondents were required to complete an attached form, and return it to the Tribunal with a copy to the Applicant indicating whether:
 - a) they gave consent to the application (i.e. agreed to dispensation from full consultation) or,
 - b) they opposed the application (in whole or in part) and their reasons.
8. By its application, the Applicant indicated it did not require an oral hearing. The Respondents were directed to state whether they required an oral hearing. At the time of the Tribunal's determination the Respondents had not served any opposition to the application or any request for an oral hearing. Accordingly, the Tribunal considered the application on the papers.

The Property and the Lease

9. The Property comprises of 18 flats in a purpose-built block. There are a total number of 3 floors in the building.

10. The lease of the property is for 999 years from 1 January 2003. By clause 5 the Management Company covenants with the lessee and further covenants with the lessor to observe and perform the obligations in the sixth schedule which requires at clause 2 to keep in good and substantial repair reinstate replace and renew the Retained Parts which is defined as those parts of the Building not included or intended to be included in the demise or a demise of any other part of the Building.
11. By its statement in support of the application the Applicant explained that during the course of the unrelated major works the contractor JC Property advised that additional works were required. They also confirmed that these works would eventually need to be carried out, and it would be cost effective to have them carried out now whilst the scaffolding in connection with the major work was erected. There was an approximate saving of £10,000.00 to the Development if the works were carried out whilst the scaffolding was erected.
12. The Applicant further submitted that the leaseholders have not suffered any prejudice as result of its failure to comply with the consultation requirements. The subject Works are not inappropriate and are required for the Development. Further, having them carried out at the same time of the Major Works will save the leaseholders the cost of erecting the scaffolding to carry out the Works because the scaffolding was already erected for the purposes of the Major Works and the same scaffolding can be used whilst carrying out the Works. The work is appropriate, and the contractor appointed to carry out the Works is the same contractor that provided the estimate for the Major Works. JC Property was appointed by the Applicant following the section 20 consultation process. Therefore, the Applicant considered that the quote is fair and reasonable.

Discussion and Decision

13. 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.

14. 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).
15. In this case the Tribunal does not consider the failure to consult has caused any prejudice to the lessees none of whom has expressed any objection to the Works or this application. The Works were required at some time and doing them as additional works at the time of Major Works using already erected scaffolding was sensible. The Tribunal is willing to assume the relevant leaseholders expected the landlord to carry out remedial work as required by the lease.
16. 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.
17. Accordingly the Tribunal dispenses with the with the obligation to carry out consultation with the leaseholders of in respect of the Works namely
 - a) Remove moss from both buildings, apply anti-fungal treatment to kill any remaining spores.
 - b) Clear all gutters and downpipes.
 - c) Remove all waste from site.

Appeal

18. 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