



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

Case Reference : BIR/00CN/LDC/2026/0013

Property : (1) St Paul's Chamber, Caroline Street, Jewellery Quarter
Birmingham B3 1UP
(2) Sterling House/St Paul's Chamber, Caroline Street,
Jewellery Quarter, Birmingham, B3 1UP

Applicant : Chord Properties Limited

Representative : Centrick Limited (Ref: Alina Raza)

Respondents : The long leaseholders of the Properties

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

Tribunal Members : Judge T N Jackson
Mr G Freckelton FRICS

**Date of paper
Determination** : 5 August 2026

DECISION

Decision

The Tribunal grants dispensation from the consultation requirements of section 20 Landlord and Tenant Act 1985 in respect of remedial Works to the automated vehicle access gates.

In granting dispensation, the Tribunal makes no determination as to whether any service charge costs are payable or reasonable.

Reasons for decision

Introduction

1. By application dated 20 January 2026, the Applicant seeks retrospective dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act') from all or some of the consultation requirements provided for by section 20 of the same Act.
2. The application relates to the need to carry out remedial works to the automated vehicle access gates following issues identified during a gate maintenance service visit undertaken to test the gates.
3. Directions were made on 25 February 2026. Direction 5 required the Respondents to complete an attached form stating whether they consented to or opposed the dispensation application. If the latter, the Respondent was to give reasons for that opposition. The Directions advised that if a Respondent failed to return the form, the Tribunal would assume that the Respondent did not oppose the application.
4. The Tribunal has received neither letters of support nor objection to the application.
5. The only issue for determination is whether we should dispense with the statutory consultation requirements. This decision does not concern the issue of whether any service charge costs will be payable or reasonable.

Property and Lease

6. The Property is a five-storey building, including a basement, comprising 8 residential apartments and one commercial unit. The building is of traditional construction with concrete floors and is covered by a combination of pitched and flat roof. The means of escape is provided by a centrally located stairwell, which leads directly to a ground floor exit.
7. The commercial unit is located on the ground floor to the left side of the Property. The bin store is located to the left of the building, prior to the automated vehicle access gate. The Property is part conversion and part new build, completed in 2017.

8. We have been provided with the Lease for Apartment 4 dated 20 December 2017 between the Applicant and Samuel William Griggs for a term of 250 years from and including 1 January 2014 to 31 December 2263. The freeholder holds title under Title Number MM52560.
9. Each Respondent is a service charge payer. The Services to be provided by the Applicant under the Lease provided to us are contained in the Sixth Schedule of the Lease.

Background and need for the Works

10. The Applicant's representative says that the Works were necessary to address safety and compliance issues identified during a routine vehicle access gate maintenance service and testing visit of 4 June 2025. We have been provided with a copy of the automated swing gate risk assessment report from that visit. The inspection identified that the existing gate system did not provide sufficient protection during operation and required additional safety measures to reduce the risk of injury to residents, visitors, and vehicles.
11. The installation of safety edges, photocells, and a vehicle detection system was required to ensure the gates would stop or reverse if an obstruction was detected during opening or closing. The provision of a rotary isolator and a fireman's switch was necessary to allow the system to be safely isolated in an emergency. The hinge derailment system and fall-protection cable were installed to prevent gate failure and reduce the risk of collapse.
12. Engineers were instructed to install all of the above equipment, recommission the gate system, and undertake a new risk assessment and force testing upon completion of the Works to confirm that the gates operated safely and in compliance with current safety standards. The cost of the Works amounted to £3,926.70 including VAT and were carried out on 30 September 2025.
13. The Works were carried out without the completion of a formal Section 20 consultation. However, internal compliance procedures were followed, and the compliance team was obtaining comparative quotations to assess reasonableness of cost and value for money.
14. The Applicant's representative submits that the Leaseholders have not suffered any prejudice as a result of the Works, as they were necessary and the costs were subject to review and represent value for money.

The Works

15. The Works included the supply and installation of the following safety and operational equipment: one leading safety edge; four safety edges installed along the bottom of the gates to cover both the opening and closing phases; a rotary isolator; a stainless-steel, surface-mounted fireman's switch; a hinge derailment system; a galvanised steel fall-protection cable; a wireless vehicle detection system; a Fadini Orbita 57 wireless safety photocell; a pair of safety photocell posts; and a FAAC SW gate operator.

Procurement Process

16. The Applicant's representative states that internal compliance procedures were followed, and that the compliance team obtained comparative quotations to assess the

reasonableness of cost and value for money. The Applicant has provided limited details of the procurement process in relation to the Works, though we note an installation worksheet dated 29 September 2025 and subsequent invoice dated 30 September 2025 from the contractor who carried out the Works.

Consultation

17. The Applicant's representative says that at the time the Works were instructed and undertaken, it was not identified that the total cost would exceed the Section 20 consultation threshold and therefore the formal consultation was not commenced prior to the Works being carried out. When reviewing if the costs breached the threshold, the Applicant's representative says that they misunderstood the respective service charge apportionments under Part I (The Estate Services) and Part II (Parking Services) of the Sixth Schedule of the Lease. Depending on under which Part the Works fell, the invoice may not have breached the section 20 threshold and no consultation was necessary. It was an oversight on the Applicant's representative's part and following a review, they are now aware of the different requirements of the Parts of the Schedule and the resulting need to apply for a dispensation in this case.

Hearing

18. The Applicant indicated that they wished to have a paper determination. The Respondents did not request an oral hearing. We therefore considered the matter on the papers. No inspection was requested.

The Law

19. Section 20 of the 1985 Act, as amended by the Commonhold and Leasehold Reform Act 2002, sets out the procedures landlords must follow which are particularized, 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 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. In accordance with section 20ZA(1) of the 1985 Act, the Tribunal may dispense with the consultation requirements 'if it is satisfied it is reasonable' to do so.
20. The proper approach to the Tribunal's dispensation power was considered by the Supreme Court in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854. In summary, the Supreme Court noted the following:
 - a) Prejudice to the tenants from the landlord's breach of the requirements is the main, and normally the sole question for the Tribunal in considering how to exercise its discretion under section 20ZA(1).
 - b) The financial consequences to the landlord of not granting the dispensation is not a relevant factor. The nature of the landlord is not a relevant factor.

- c) Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
- d) The legal burden of proof in relation to dispensation applications is on the landlord. The factual burden of identifying some 'relevant prejudice' that they would or might have suffered is on the tenant. It is not appropriate to infer prejudice from a serious failure to consult.
- e) The court considered that 'relevant' prejudice should be given a narrow definition: it means whether non-compliance with the consultation requirements has led the landlord to incur costs in an unreasonable amount or to incur them in the provision of services, or in the carrying out of works, which fell below a reasonable standard, in other words whether the non-compliance has in that sense caused prejudice to the tenant.
- f) Once the tenants have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
- g) Compliance with the requirements is not an end in itself. Dispensation should not be refused solely because the landlord departs from the requirements (even seriously). The more serious and/or deliberate the landlords' failure, the more readily a Tribunal would be likely to accept that the tenants had suffered prejudice.
- h) In a case where the extent, quality and cost of the works were in no way affected by the landlord's failure to comply with the requirements, the dispensation should be granted in the absence of some very good reason.
- i) The Tribunal can grant a dispensation on such terms as it thinks fit provided that they are appropriate in their nature and effect.
- j) The Tribunal has power to impose a condition that the landlord pays the tenants' reasonable costs (including surveyor and/or legal fees) incurred in connection with the landlord application under section 20 ZA (1).

Deliberations

21. No objections were received from any Respondent in response to the Directions.

22. In the absence of any prejudice identified by any objector, we are satisfied that it is reasonable to dispense with any outstanding consultation requirements in the circumstances of the present case, for the following reasons:

- a) The Works relate to measures required to comply with a risk assessment report to ensure that the automated vehicle access gates provided sufficient protection during operation and the provision of additional safety measures to reduce the risk of injury to residents, visitors, and vehicles.
- b) We do not consider that the Respondents are prejudiced or will suffer any loss of opportunity as a result of the dispensation of the statutory consultation requirements.

Determination

23. The Tribunal therefore determines that, to the extent that the statutory consultation requirements were not complied with, the consultation requirements are dispensed with in relation to the Works.
24. In granting dispensation, the Tribunal makes no determination as to whether any service charge costs are payable or reasonable.

Appeal

25. 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.

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Judge T N Jackson