



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

Case Reference	: HAV/18UG/LDC/2026/0089
Property	: The Salcombe Apartments, Fore Street, Salcombe, Devon TQ8 8JG
Applicant	: The Salcombe Company Limited
Representative	: Winfields Block Management Limited
Respondents	: The leaseholders of the Property
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(s)	: Tribunal Judge H Lumby
Date of Decision	: 26 August 2026

DECISION

Decision of the Tribunal

The Tribunal grants the application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (Section 20ZA of the same Act) in relation to the entry into qualifying long-term agreements in relation to gas and electric energy contracts.

The background to the application

1. 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 the 1985 Act. This application was received on 22 May 2026.
2. The Property is described as a block of 36 apartments, 35 of which have long leases. There is an additional commercial unit trading as a restaurant. It is located on the waterfront in Salcombe harbour. A sea wall separates the Salcombe from the foreshore and from the jetty used to ferry to East Portlemouth. The Salcombe has 36 swinging moorings along a floating pontoon along the sea wall. The Property was originally built in the 1890's as a hotel and was converted into apartments in the 1980's.
3. The Applicant is the freeholder of the Property with responsibility to the leaseholders for the provision of services. The Respondents comprise the leaseholders and are also the shareholders of the Applicant.
4. The application relates to the entry into qualifying long-term agreements in relation to gas and electric energy contracts. These contracts are attached to the application that was submitted and are for a term of three years, which have contributed to the competitive pricing.
5. The contracts had been entered into at the time of the application.
6. The entry into the contracts were said to be urgent to take advantage of what was viewed as great pricing and because of the imminent expiration of the existing gas contract
7. No statutorily compliant consultation has been carried out due to the urgency of entering into the contracts and the Applicant therefore has applied for dispensation instead. The leaseholders are said to have discussed this at the last AGM. It was later agreed by the directors outside of the AGM to go ahead with a 3 year contract to lock into the pricing for long term stability for the development.
8. An objection to the application for dispensation was received from Sarah Morris, the leaseholder of Flat 36 at the Property. She questions whether the urgency to sign was genuine and is concerned about the tariff agreed and the commission payable to the broker, which could have been challenged with a meaningful consultation.

9. A second objection was received from Jenny King, the leaseholder of Flat 34. She raises similar concerns to those made by Mrs Morris.
10. By Directions of the Tribunal dated 18 June 2026 it was decided that the application be determined without a hearing, by way of a paper case. No objections have been received to this approach. The Tribunal has reviewed the documentation provided and is satisfied that it remains suitable for a paper determination, as confirmed by Directions dated 24 August 2026.
11. The Tribunal did not inspect the Property as it considered the documentation and information before it in the set of documents prepared by the Applicant enabled the Tribunal to proceed with this determination.
12. This has been a paper determination which has not been objected to by the parties. The documents that were referred to are contained in a bundle running to 77 pages, the contents of which have been recorded.

The issues

13. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying contracts. The Tribunal has made no determination on whether the costs are payable or reasonable. If a Lessee wishes to challenge the payability or reasonableness of those costs as service charges, including the possible application or effect of the Building Safety Act 2022, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

Law

14. Section 20 of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) and the Service Charges (Consultation Requirements) (England) Regulations 2003 require a landlord planning to enter into an agreement lasting 12 months or more, where a leaseholder will be required to contribute over £100 per annum, to consult the leaseholders in a specified form.
15. Should a landlord not comply with the correct consultation procedure, it is possible to obtain dispensation from compliance with these requirements by an application such as this one before the Tribunal. Essentially the Tribunal must be satisfied that it is reasonable to do so.
16. The Applicant seeks dispensation under section 20ZA of the 1985 Act from all the consultation requirements imposed on the landlord by section 20 of the 1985 Act.

17. Section 20ZA relates to consultation requirements and provides as follows:

“(1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

*(2) In section 20 and this section—
“qualifying works” means works on a building or any other premises, and “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.*

*....
(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.*

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

Applicable test

18. In the case of *Daejan Investments Limited v Benson* [2013] UKSC 14, by a majority decision (3-2), the Supreme Court considered the dispensation provisions and set out guidelines as to how they should be applied.
19. The Supreme Court came to the following conclusions:
- a. The correct legal test on an application to the Tribunal for dispensation is: “Would the flat owners suffer any relevant prejudice, and if so, what relevant prejudice, as a result of the landlord’s failure to comply with the requirements?”

- b. The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.
- c. In considering applications for dispensation the Tribunal should focus on whether the leaseholders were prejudiced in either respect by the landlord's failure to comply.
- d. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.
- e. The factual burden of identifying some "relevant prejudice" is on the leaseholders. Once they have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
- f. The onus is on the leaseholders to establish:
 - i. what steps they would have taken had the breach not happened and
 - ii in what way their rights under (b) above have been prejudiced as a consequence
- 20. Accordingly, the Tribunal had to consider whether there was any "relevant prejudice" that may have arisen out of the conduct of the Applicant and whether it was reasonable for the Tribunal to grant dispensation following the guidance set out above.

Consideration

- 21. Having read the evidence and submissions from the Applicant and the two objectors and having considered all of the documents and grounds for making the application provided by the Applicant, the Tribunal determines the dispensation issues as follows.
- 22. It is evident that a statutorily compliant consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether the Respondents have suffered any relevant prejudice, and if so, what relevant prejudice, as a result of that lack of consultation by the landlord. In doing so, it needed to focus on whether the leaseholders have been prejudiced by paying for inappropriate works or paying an inappropriate amount as a result of the lack of consultation.
- 23. The Applicant believes that the entry into qualifying long-term agreements in relation to gas and electric energy contracts needed to be completed urgently to take advantage of what was viewed as great pricing and because of the imminent expiration of the existing gas contract. On the evidence before it, the Tribunal agrees with the Applicant's conclusions.

24. The Tribunal then considered the Respondents' objections. They also question the process followed and argued that the Applicant's failure deprived them of the opportunity to be consulted, this amounting to relevant prejudice.
25. As stated, a compliant consultation was not carried out. The Applicant could have completed the ongoing process or applied for dispensation earlier. However, a non-compliant process or any delay in applying for dispensation is not a sufficient ground to refuse dispensation. None of the objectors identify any specific relevant prejudice from not being consulted, for example no specific alternative contractors are proposed or alternatives to the proposed contracts. More significantly, it is the nature of long term energy contracts that prices fluctuate constantly and cannot be held long enough to hold a consultation. If the directors believed on the advice of the broker that prices are at a low level and it is in the interests of the leaseholders to take advantage of this, that is a reasonable approach. The Property needed a supply of gas and electricity and they acted on expert advice to secure this at what they considered to be a "great" price. Fixing the price when faced with a worsening situation was a reasonable decision to have taken. Accordingly, the Tribunal finds that the Respondents have not suffered any relevant prejudice from the lack of consultation.
26. The objectors' also question both that price and the broker's commission. These are legitimate points but not relevant to the question of dispensation. Instead, they should rely on their rights pursuant to section 27A of the 1985 Act to challenge the reasonableness and payability of the charges under the contracts. The fact the dispensation is granted does not make these costs reasonable or prevent a challenge to them.
27. The Tribunal is of the view that, taking into account the findings above, it could not find prejudice to the leaseholders by the granting of dispensation relating to the entry into the energy contracts. Challenges as to the payability and reasonableness of any amounts demanded can be brought pursuant to section 27A of the 1985 Act.
28. As a result, the Tribunal believes that it is reasonable to allow dispensation in relation to the subject matter of the application.
29. The Tribunal considered whether the dispensation should be granted subject to any conditions. The objectors for all relevant documents to be disclosed. This is not appropriate for a dispensation application. It therefore concludes that the dispensation should not be made subject to any conditions. However, given the comments about a section 27A challenge made above, it is in the interests of all for this to be disclosed in any event and the Applicant is asked to do so promptly.

30. Accordingly, the Tribunal unconditionally grants the Applicant's application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 in relation to the entry into qualifying long-term agreements in relation to gas and electric energy contracts.
31. The Applicant shall place a copy of the Tribunal's decision on dispensation together with an explanation of the leaseholders' appeal rights on its website (if any) within 7 days of receipt and shall maintain it there for at least 3 months, with a sufficiently prominent link to both on its home page. It should also be posted in a prominent position in the communal areas. In this way, any leaseholder who has not returned the reply form may view the Tribunal's decision on dispensation and their appeal rights.

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 by email to rpsouthern@justice.gov.uk
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.