



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

Case Reference : HAV/00LC/LDC/2026/2032/HP

Property : 34-35 College Road, Historic Dockyard,
Chatham, Kent, ME4 4JS

Applicant : Historic Dockyard Property Limited
▲

Representative : None

Respondents : Mr Cox – 34
Mr and Mrs Butler – 35

Representative : None

Type of Application : To dispense with the requirement to consult
lessees about major works pursuant to section
20ZA of the Landlord and Tenant Act 1985

Tribunal Members : Mr M E Williams FRICS

Date of Decision : 10 May 2026

DECISION

The Decision

- 1. The Tribunal grants the application for dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) from the statutory consultation requirements imposed on the landlord by section 20 of the 1985 Act in respect of the following works:**

‘The leaseholder of the top floor apartment (35) has reported a water leak into their bedroom from the roof, water is traveling through the loft void, the insulation is noted as being wet as is the blockwork on the gable end.

The block is three storeys high with sloping land to the right hand side of the block.

A scaffold tower is required for safe access to the roof level to inspect the condition of both the roof itself and parapet gutters prior to repairs or unblocking of the rainwater goods.’

- 2. The dispensation is granted subject to the two following conditions:**
- 3. Firstly, the Applicant serves upon the Respondent a copy of this decision.**
- 4. Secondly, the Applicant shall place a copy of the this decision 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 it 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.**
- 5. This dispensation does not affect the Tribunal’s jurisdiction upon any future application from the leaseholders to make a determination under section 27A of the 1985 Act, in respect of the reasonableness and/or cost(s) associated with the qualifying works.**

Background and the Application

- 6. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the statutory consultation requirements imposed on the landlord by section 20 of the 1985 Act in respect of the works detailed below.**
- 7. The application is dated 20 February 2026.**
- 8. The property is described as:**

‘Three story purpose build block of 2 apartments, with garages on the ground floor, constructed in early 1990’s, built of traditional brick and block construction of yellow facing brick, under a man-made slate roof, with reconstituted stone parapet detail.

Land to the right hand side of the property slopes downwards to allow access to further garages and properties sited to the rear.’

9. The Applicant provides a description of the qualifying works, which states the following:

‘The leaseholder of the top floor apartment (35) has reported a water leak into their bedroom from the roof, water is traveling through the loft void, the insulation is noted as being wet as is the blockwork on the gable end.

The block is three storeys high with sloping land to the right hand side of the block.

A scaffold tower is required for safe access to the roof level to inspect the condition of both the roof itself and parapet gutters prior to repairs or unblocking of the rainwater goods.’

10. The Applicant sets out what consultation it has, or proposes to be, undertaken in section 6.5 of its application stating:

‘A notice of intention will be issued to the two leaseholders in parallel to this application.’

11. The Applicant states the reasons why it seeks dispensation for all or any of the consultation requirements as:

‘Dispensation is sought from consultation for the scaffold and repairs / unblocking as the leak is into the leaseholders bedroom, given the current winter weather conditions and persistent (sic) rain with limited means of safe roof access on the block, inspection and repair needs to be carried out without delay to mitigate further damage to the property and allow the leaseholder full use of their property.

The block is two units as such the threshold to consult is low.’

12. The Applicant provided a schedule of photographs showing the following:

- ‘1. Photograph of the block, showing orientation and surrounding land.
2. Photographs of water ingress to roof void showing wet block work to gable end.
3. Water damage to bedroom ceiling within No.35 College Road.’

13. The Tribunal gave Directions ('the Directions') on the 2 March 2026 listing the steps to be taken by the parties in preparation for the determination of the application.
14. The Directions, at paragraph 10, stated the Tribunal would determine the application on the papers without a hearing in accordance with Rule 31 of the Tribunal Procedure Rules 2013 unless a party objected in writing to the Tribunal within 7 days of the receipt of these Directions.
15. **The only issue for the Tribunal is whether or not it is reasonable for the Applicant to have dispensed with the statutory consultation requirements. This application is neither about the costs of the works carried out to date, nor is it about the costs of the proposed works and whether they are recoverable from the leaseholders as services charges, nor the possible application or effect of the Building Safety Act 2022. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the 1985 Act to determine the reasonableness of the costs, and their respective contributions payable through the service charge provisions in their leases.**

The Law

16. Section 20 of the 1985 Act and the related Regulations provide that where the lessor undertakes qualifying works with a cost of more than £250 per lease per 12 month period, the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum per annum unless the required consultation processes have been undertaken or the requirement has been dispensed with by the Tribunal. An application to the Tribunal may be made retrospectively.
17. The relevant section of the 1985 Act reads as follows:

S.20 ZA (1) Consultation requirements: supplementary
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 or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
18. In *Daejan Investments Limited v Benson and Others* [2013] UKSC 14, the Supreme Court set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of sections 19 to 20ZA of the 1985 Act was to ensure that tenants are protected from paying for inappropriate works and paying more than would be appropriate, went on to state "*it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements*".

19. Furthermore, and following *Daejan v Benson*, the Tribunal has power to grant dispensation on terms.

Consideration and Decision

20. The Tribunal first considered whether it felt able to decide this application reasonably and fairly based on the papers submitted only, with no oral hearing. Having read and considered the papers and given that the application remained unchallenged the Tribunal decided it could do so.
21. The Directions of 2 March 2026 state, at paragraph 14, ‘The application shall stand as the Applicant’s case’.
22. In its application, the Applicant states the case is appropriate to be dealt with without a hearing (a paper determination).
23. The Directions attached a reply form for the Respondents with a date for it to have been completed and to have been returned by to the Applicant to confirm whether the Respondents: (1) agreed with the application, or not; and (2) similarly agreed the Tribunal may decide the matter on the basis of written representations only (no hearing), or not.
24. The Directions included provisions in the event the Respondents oppose the application.
25. Thereafter the Directions gave the date by which the Applicant is to confirm to the Tribunal that no objections have been received from the Respondents, if applicable, being 24 March 2026.
26. The Tribunal received no responses from the remaining leaseholders. Furthermore, we are informed by the applicant in their email of the 24 March 2026 that they received no objections.
27. Following prompting by the Tribunal, the Applicant provided a lease, however to the Tribunal’s surprise the lease related not to the Respondent’s properties but to 9 Church Lane, Historic Dockyard, Chatham, Kent, ME4 4LF, another property within the Dockyard. The Tribunal was informed, by email dated 27 April 2026, that this lease was granted on similar terms as the Respondent’s properties. Whilst supplying a lease of a property that is not the subject of the application is highly unorthodox, given the application relates to an uncontested s20ZA and with a view to acting proportionately the Tribunal decided to proceed on the assurance from the Applicant that the lease provided was granted on similar terms to that of the Respondent’s properties. Should this not be the case a further dispensation application will need to be made.
28. The lease term commences on 2 March 1989 and expires on 1 March 2114.
29. The lessee covenants in para 3 of the Fifth Schedule to:

‘3.1 Throughout the Term to pay the Service Charge and Supplementary Service Charge on the days and in the manner provided in the Sixth Schedule

3.2 To pay the Main Estate Charge Proportion at the same times as the Service Charge’

30. The Lessee proportion of these is dealt with in the particulars at clause 1.6 being:

‘

1.6:2	Service Charge	0.625% variable by clause 13
1.6:3	Main Estate Charge Proportion	10% of the Service Charge
1.6:4	Supplementary Service Charge	One Third

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31. Clause 2.32 defines Supplementary Service Charge as follows:

‘ “Supplementary Service Charge” means in relation only to the Block in which the part of the Demised Premises first described in Part I of the Second Schedule hereto forms part of the proportion of the Total Supplementary Expenditure (defined by the Sixth Schedule) which is specified in the Particulars or any substituted proportion in accordance with clause 13 and included the Interim Supplementary Charge and contributions to the Service Reserve Fund”

32. Total Expenditure is defined in para 1 of Part II of the Sixth Schedule as:

‘1.1 “Total Supplementary Expenditure” means the total expenditure incurred by the Landlord in any Accounting Period in Carrying out its obligations under Part II of the Seventh Schedule and any other costs and expenses reasonable and properly incurred in connection with the maintenance repair and renewal of the Block including but without limitation all other expenses similar to those listed in sub-paragraphs 1.1.1 to 1.1.6 of Part I of this Schedule and which are incurred in the relation to the Block’

33. The reasons why dispensation from the consultation requirements of the 1985 Act is sought by the Applicant is:

‘Dispensation is sought from consultation for the scaffold and repairs / unblocking as the leak is into the leaseholders bedroom, given the current winter weather conditions and persistent (sic) rain with limited means of safe roof access on the block, inspection and repair needs to be carried out without delay to mitigate further damage to the property and allow the leaseholder full use of their property.

The block is two units as such the threshold to consult is low.’

34. The works would typically require a Section 20 consultation due to the likely costs. However, the Applicant has characterised these works as urgent for the following reasons:

‘There is significant water ingress into the leaseholders [sic] bedroom, access for inspection of the roof and parapet and repairs need to be undertaken promptly to mitigate damage and allow the leaseholder to use their bedroom.’

35. The Tribunal finds that nothing different would be done or achieved in the event of a full consultation with the Lessees, except for the potential delay and further water ingress.
36. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.
37. Taking all the above into consideration and no objections to the application having been received from the respondents, coupled with none of the same having asserted that any prejudice would be caused to them, the Tribunal consequently finds that it is reasonable for the Applicant to have dispensed with the consultation requirements under the 1985 Act relating solely to the works described in paragraph 9 above.
38. Thus, the Tribunal grants the application from Historic Dockyard Property Limited dated 20 February 2026 for dispensation under section 20ZA of the 1985 Act from the statutory consultation requirements imposed on the landlord by the same.
39. The dispensation is granted subject to the two following conditions:
40. Firstly, the Applicant serves upon the Respondents a copy of this decision.
41. Secondly, the Applicant shall place a copy of the this decision 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 it 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

42. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case. All communications must clearly state the Case Number and the address(s) of the premises.
43. 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.

44. If the person wishing to appeal does not comply with the 28 days' 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 days' time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
45. 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.