



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

Case Reference	: BIR/00FY/LDC/2026/0021
Property	: Nottingham One, Canal Steet, Nottingham, NG1 7HW
Applicant	: Nottingham (One) UK Limited
Representative	: Landswood de Coy LLP (Ref: Oliver Clarke)
Respondents	: (1) The long leaseholders of the Property as noted in Schedule 1 (2) Geoff Mills Secretary of Residents' Association
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 T W Jones FRICS
Date of paper determination	: 4 August 2026

DECISION

Decision

The Tribunal grants dispensation from the consultation requirements of section 20 Landlord and Tenant Act 1985 in respect of the Works to refurbish and replace the lift in Block B.

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 27 February 2026, the Applicant seeks 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 reinstate Lift B at the Property which has been out of service since April 2025.
3. Directions were made on 20 April 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 from the Respondents.
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 purpose-built high-rise development in the centre of Nottingham built circa 2010 comprising of 242 residential units and, on the ground floor, eight commercial units. The residential units are a mixture of one and two-bedroom and the commercial units vary in size. There are two underground car park levels for parking
7. We have been provided with an undated and unsigned Lease for Unit 103 of the Property made between the Applicant and Xunlin Zhu for a term of 125 years from 1 April 2009. The Applicant freeholder holds title under Title Number NT416665. The Applicant's representative is their managing agent who commenced on 1 January 2026.
8. 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 3rd Schedule of the Lease.

Background and need for the proposed Works

10. The Applicant seeks dispensation on the ground that despite intermittent repair attempts by the previous managing agent, lift B requires substantial refurbishment and replacement of key components to restore safe and operational use. The lift has been out of service since April 2025. The estimated cost of the Works is approximately £80,000 which exceeds the section 20 threshold.
11. The absence of the lift is having a considerable impact on residents and at their request, the managing agents are looking to carry out the Works. The dispensation application is made prior to the commencement of the Works.

Proposed Works

12. The Works are lift refurbishment and replacement of Block B lift. The detail of the Works is set out in a Scope of Works included in the tenders referred to below.

Procurement Process

13. The Applicant has provided copies of three tenders dated 1 December 2025, 23 December 2025, 4 March 2026 in the sums of £87,496; £ 70,697.22 and £69,125.50 plus VAT respectively.

Consultation

14. A Notice of Intention under the provisions of section 20 of the 1985 Act was issued to all known leaseholders on the 5th of February 2026 following the appointment of the Applicant's managing agents on 1 January 2026. Subsequently, the housing association, Metropolitan Thames Valley Housing [MTVH], which owns 56 units within the development, advised on 26 February 2026 that certain units are subject to long term shared ownership arrangements. They have requested that the consultation be reissued and restarted. The Applicant's representative says that to restart a consultation process will delay the Works.

Hearing

15. 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

16. 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 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 to 'qualifying works' (defined under section 20Z A (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.

17. 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 20 ZA (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).

Applicant's submissions

Urgency and resident impact

18. The lift has been inoperative since April 2025. The managing agent has been made aware of the significant impact on residents, including those with mobility difficulties. The lift is also designated as a firefighting lift, raising considerable safety concerns for this block that is considered a high-rise building.

Delay caused by restarting consultation

19. Restarting the consultation process would result in a continued delay before Works can commence, further prolonging disruption and potential safety risks. This has been despite the previous request of the housing association, who were eager to ensure the lift was resolved.

Financial position of the building

20. The building's service charge accounts were left in a poor financial position by the previous managing agent. The Works will need to be funded via supplemental demand of which leaseholders are aware. Further delay increases risk of cost inflation and contractor withdrawal.

Absence of relevant prejudice

21. Leaseholders have been informed of the intended Works. Competitive quotations have been obtained, and the Applicant intends to proceed with the lowest compliant tender. No leaseholder will suffer financial prejudice as:
- a) The works are necessary;
 - b) Multiple quotations have been obtained;
 - c) The lowest tender will be accepted; and
 - d) Leaseholders retain the right to challenge reasonableness under section 27A of the Act.

Resident support group

22. A residents association group has been actively requesting that the lift be reinstated without further delay. The local MP of Nottingham has been contacted by residents about the lift prior to the involvement of this managing agent with expression of urgent attention being required. The housing association has similarly pressed for urgent resolution.
23. Upon issuing the Notice of Intention, the response received was agreeable to the Works being undertaken with the utmost urgency.

Deliberations

24. No objections were received from any Respondent in response to the Directions.
25. 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 the replacement of a lift which has been out of service since April 2025 and which is required due to safety concerns as it is a high-rise building. We also had regard to the significant impact the lack of the lift has had on residents, some of whom have mobility problems. We do not consider that further delay by restarting the process is reasonable, and indeed would cause prejudice to the Respondents, due to the increased delay and potentially increased costs. The Works are necessary, three quotations have been obtained and we are informed that the lowest tender is to be accepted. Further, the leaseholders retain the right to question the reasonableness of the cost under the provisions of section 27A of the 1985 Act.
 - 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

26. 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.
27. In granting dispensation, the Tribunal makes no determination as to whether any service charge costs are payable or reasonable.

Appeal

28. 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 T N Jackson