

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/24UP/LDC/2026/0142
Property	**:**	Arlebury Park House Estate, The Avenue, Alresford, Hampshire, SO24 9ER
Applicant	**:**	Arlebury Park House Estate Management Company Limited
Representative	**:**	Reece Residences Ltd
Respondents	**:**	The leaseholders
Representatives	**:**	None
Type of Application	**:**	Application for dispensation from consultation requirements – s.20ZA Landlord and Tenant Act 1985
Tribunal Member(s)	**:**	Judge M Loveday
Date of hearing/venue	**:**	Decision on the papers without a hearing (Rule 31)
Date of decision	**:**	22 October 2026

DETERMINATION

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Introduction

1. This is an application for dispensation from consultation requirements under s.20ZA Landlord and Tenant Act 1985 ("LTA 1985") in respect of the costs of qualifying works. The application is dealt with on the papers without a hearing under r.21 Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

2. The premises are a residential block comprising 11 self-contained flats within a converted former manor house. The building contains a mix of apartments, including one and two-bedroom flats, arranged over four floor levels. Originally constructed in 1774 as a manor house, the property was converted into residential apartments in the late 1990s. The building is of traditional construction with a pitched slate roof and is set within extensive grounds accessed via a long private driveway.

3. The Applicant landlord describes the works as follows:

> "Following a site inspection, the lift maintenance contractor, Andwis Lifts, identified excessive pressure loss within the hydraulic valve block assembly. The contractor has recommended replacement of the valve block seals, filters and O-rings, together with a hydraulic oil change, testing and recommissioning of the lift.
>
> The estimated cost of the works is £2,909.82 inclusive of VAT, based on the contractor's quotation dated 3 August 2026. The works are intended to be carried out as soon as practicable following authorisation."

4. No statutory consultation has been carried out. The application to the Tribunal explained that the affected leaseholders were notified of the proposed works, provided with a copy of the contractor's quotation and informed that the applicant intended to seek dispensation from the consultation requirements under s.20ZA of the LTA 1985.

5. The reasons accompanying the application explained that dispensation is sought because the proposed works were urgent and related to an essential service within the building. The passenger lift was relied upon by residents for day-to-day access to and from their homes. Several leaseholders had mobility difficulties and would experience significant hardship if required to rely solely on the staircase. The lift was also necessary for the transportation of shopping, deliveries, luggage and other household goods. The applicant had reviewed the contractor's recommendations and authorised the works to proceed. Delaying the repairs whilst undertaking the full s.20 consultation process would unnecessarily prolong the loss or deterioration of this essential facility and would negatively affect residents' accessibility and enjoyment of their homes. The applicant therefore sought dispensation from the consultation requirements in order that the works may proceed without delay. The applicant considered the proposed costs to be reasonable and did not believe leaseholders would suffer any relevant prejudice as a result of the dispensation, having been informed of the proposed works and provided with the contractor's quotation.

6. The application was received on 7 August 2026. Directions were given on 19 August 2026 and later amended. No lessees have objected to the application.

The Law

7. Major works costs are limited by s.20 Landlord and Tenant Act 1985:

> **"20 Limitation of service charges: consultation requirements**
>
> (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
>
> (a) complied with in relation to the works or agreement, or

(b) except in the case of works to which section 20D applies, dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

…

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

8. Dispensation is dealt with under s.20ZA LTA 1985.

20ZA Consultation requirements: supplementary

(1) 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."

(2) In section 20 and this section—

"qualifying works" means works on a building or any other premises, and

…

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

The material consultation requirements appear in Pt.2 of Sch.4 to the Service Charge (Consultation Requirements) (England) Regulations 2013, but it is unnecessary to set these out here.

9. The legal principles underpinning s.20ZA were summarised by Judge Cooke in *RM Residential v Westacre Estates* [2024] UKUT 56 (LC); [2024] L. & T.R. 19 at [9] to [12]:

"9. That provision gives the FTT a discretion to dispense with the requirements. The Supreme Court in *Daejan Investments Ltd v Benson* [2013] UKSC 14 explained how that discretion is to be exercised. At paragraph 44 Lord Neuberger said:

'44. Given that the purpose of the [consultation requirements] is to ensure that the tenants are protected from (i) paying for inappropriate works or (ii) paying more than would be appropriate, it seems to me that the issue on which the LVT 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.

46. I do not accept the view that a dispensation should be refused in such a case solely because the landlord seriously breached, or departed from, the Requirements. That view could only be justified on the grounds that adherence to the Requirements was an end in itself, or that the dispensing jurisdiction was a punitive or exemplary exercise. …

50. In their respective judgments, the LVT, the Upper Tribunal and the Court of Appeal also emphasised the importance of real prejudice to the tenants flowing from the

> landlord's breach of the [consultation requirements], and in that they were right. That is the main, indeed normally, the sole question for the LVT when considering how to exercise its jurisdiction in accordance with section 20ZA(1).'

10. As Lord Neuberger pointed out at paragraph 65, that is the relevant prejudice and no other:

> 'The tenants can always contend that they will suffer a disadvantage if a dispensation is accorded; however, as explained above, the only disadvantage of which they could legitimately complain is one which they would not have suffered if the [consultation requirements] had been fully complied with, but which they will suffer if an unconditional dispensation were granted.'

11. So, the consultation requirements are not an end in themselves, and failure to consult is not something to be punished. On many occasions the urgency of the work will have been such that the landlord obviously did the right thing, and acted in the tenants' best interests, in going ahead without waiting to go through the consultation process; see for example *Holding and Management (Solitaire) Ltd v Leaseholders of Sovereign View* [2023] UKUT 174 (LC) , where the landlord acted swiftly to get a fire alarm system installed so as to put a stop to the financial haemorrhage caused by the maintenance of a waking watch. Whether or not the work was urgent, if the tenants have not been prejudiced as a result of the failure to consult then dispensation should normally be granted, and it can be granted subject to conditions.

12. The sort of prejudice that will have a bearing on dispensation is where the tenants can show that they would have been able to suggest a better or cheaper way of doing the work: see for example *Marshall v Northumberland & Durham Property Trust Ltd* [2022] UKUT 92 (LC) where the tenant had expertise such that if he had been consulted he would have made suggestions which would have resulted in the work being done more cheaply. As a result, dispensation was granted on condition that the cost to leaseholders

was limited to the sum the landlord would have had to spend had the tenant been consulted."

Decision

10. The Applicant does not explain whether it seeks dispensation from all or only parts of the consultation requirements. But it is assumed dispensation is sought from all of the requirements in Pt.2 of Sch.4 to the consultation regulations.

11. There is no argument that any respondent has suffered the sort of prejudice referred to above. The Tribunal therefore orders under s.20ZA LTA 1985 that the consultation requirements of Pt.2 of Sch.4 to the 2001 regulations are dispensed with. Dispensation applies to the lift works referred to in the application.

12. This decision does not deal with questions whether (1) the costs of the above qualifying works were reasonably incurred, or (2) the works were of a reasonably standard. Save as above, the parties retain the right to apply to the Tribunal for a determination of liability to pay service charges under s.27A LTA 1985 in respect of the qualifying works.

Appeals

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 to the First-tier Tribunal at the Regional office which has been dealing with the case.

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.