FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**HAV/00HR/LDC/2026/0163**
Property	:	**1-39 King Edmund Court, Gillingham, Dorset SP8 4DL**
Applicant	:	**E & J Estates Limited**
Representative	:	**Churchill Estate Management Limited**
Respondents	:	**The Lessees 1-39 King Edmund Court, Gillingham, Dorset SP8 4DL**
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	:	**D W Cotterell FRICS**
Date of Decision	:	**2 November 2026**

DECISION

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Summary of the Decision

1. **The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord for remedial works to the roof of King Edmund Court, Gillingham, Dorset SP8 4DL provided that the Landlord serves a copy of this decision on all of the leaseholders.**

The Application & The History of the Case

2. 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 that Act. The application was received on 16 September 2026. The Tribunal understands that the representative is a managing agent acting on behalf of the Applicant company under authority set out in an email dated 16 September 2026.

3. The Property is described in the application as a development comprising "*38 properties - there is a combination of flats and cottages build in 1989. This is a purpose-built development for occupants over 60 years old. The block contains: Lounge, Laundry, Guest facilities, Residents have access to a landscaped garden and parking spaces.*"

4. A schedule of leases supplied by the Applicant discloses 39 lessees: the Tribunal relies on the detail of schedule as to the lessees affected for the purpose of this application.

5. The Applicant explains in its application that:

    a. The replacement and digital upgrade of the Emergency Call System/Careline system at the Property is urgently required, due to the national transition from analogue to digital telephony resulting in analogue services being withdrawn by the end of January 2027 and unless the system is upgraded, says the Applicant, the current system will cease to operate reliably or become unsuitable, and consequently residents will be unable access to emergency assistance.

    b. The time required for full consultation would reduce the period available for tendering, mobilisation, installation, testing and commissioning before that fixed deadline. The required works comprise:
        i. New 4G/5G dispersed Careline alarm units within apartments and communal facilities.
        ii. New emergency alarm pendants for apartments.

iii. Replacement and upgrade of apartment smoke and heat detection equipment.
iv. Upgrades to communal area alarm and detection equipment.
v. Associated cabling, commissioning, testing and certification works required to bring the system into full operation.

c. As the Property is a retirement development for residents aged over 60. The Careline system is an important part of the safety and support arrangements at the development.

d. It intends to obtain competitive tenders, assess the quotations against the same specification and provide leaseholders with information about the proposed works and costs. In accordance with the requirements of Section 20 of the Landlord and Tenant Act 1985, a Notice of Intention was served on all leaseholders on 14th September 2026.

e. To avoid delay, The Applicant says it intends to proceed immediately with obtaining competitive tenders for the works.

f. It intends to instruct the appointed contractor to commence the works at the earliest available opportunity to ensure that the 27 January 2027 deadline can be met.

6. The Applicant asserts that leaseholders will not suffer relevant financial prejudice from the grant of dispensation as they will retain the opportunity to receive information, raise observations and scrutinise the costs. The Applicant will be required to demonstrate that all service charges are reasonably incurred and reasonable in amount .

7. The Tribunal gave directions on 22 September 2026 that respondents should complete a reply form and return it to the Tribunal and to the Applicant; and, if they opposed the application to include a statement setting out why, evidence of what they may have done differently (if the Applicant had to comply with the full statutory consultation process) and to provide copies of all documents to be relied upon.

8. The Tribunal determined that the application would be decided on the papers without a hearing in accordance with rule 31 of the Tribunal Procedure Rules 2013 not having received an objection on that point.

9. The Tribunal has not been notified of any outstanding objections and proceeds in this determination on an assumption that no others have been received.

10. The Tribunal has given careful consideration to the information provided to it.

The Law

11. Section 20 of the Landlord and Tenant Act 1985 ("the Act") and the related Regulations provide that where the lessor intends to undertake major works with a cost of more than £250 per lease in any one service charge year the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement has been dispensed with by the Tribunal. An application may be made retrospectively.

12. Section 20ZA provides that on an application to dispense with any or all of the consultation requirements, the Tribunal may make a determination granting such dispensation "*if satisfied that it is reasonable to dispense with the requirements*".

13. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of Daejan Investment Limited v Benson et al [2013] UKSC 14.

14. The leading judgment of Lord Neuberger explained that a tribunal should focus on the question of whether the lessee will be or had been prejudiced in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor to comply with the regulations. The requirements were held to give practical effect to those two objectives and were "*a means to an end, not an end in themselves*".

15. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if able to engage in a consultation process. If the lessee advances a credible case for having been prejudiced, the lessor must rebut it. The Tribunal should be sympathetic to the lessee(s).

16. Where the extent, quality and cost of the works were in no way affected by the lessor's failure to comply, Lord Neuberger said as follows: "*I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be- i.e. as if the requirements had been complied with.*"

17. The "*main, indeed normally, the sole question*", as described by Lord Neuberger, for the Tribunal to determine is therefore whether, or not, the Lessee will be or has been caused relevant prejudice by a failure of the Applicant to undertake the consultation prior to the major works and so whether dispensation in respect of that should be granted.

18. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges of works arising or which have arisen.

19. If dispensation is granted, that may be on terms. 14. The effect of *Daejan* has been considered by the Upper Tribunal in Aster Communities v Kerry Chapman and Others [2020] UKUT 177 (LC), although that decision primarily dealt with the imposition of conditions when granting dispensation and that the ability of lessees to challenge the reasonableness of service charges claimed was not an answer to an argument of prejudice arising from a failure to consult.

Decision

20. The application explains that a replacement and upgraded alarm call system is required at the Property, that replacement needs to be achieved before the end of January 2027 and is, accordingly, urgent.

21. The Tribunal is satisfied that it is reasonable in the circumstances for consultation regarding the proposed remedial works to be to be dispensed with on this application, because the Tribunal does not consider that the Leaseholders will be prejudiced by the proposed works being carried out.

22. In reaching its decision the Tribunal has taken account of the fact that no objections remain, and because the leaseholders may still challenge the reasonableness and the charges for the works in due course.

23. The Tribunal therefore directs that the dispensation is conditional upon the Applicant or their agent sending a copy of this decision to all the leaseholders so that they are aware of the same.

24. For completeness the Tribunal confirms in making this determination that it makes no findings as to the liability to pay or the reasonableness of the estimated costs of the works.

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 to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.

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.

5. Either party seeking to appeal a decision are referred to form RPPTA.
