FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**HAV/24UJ/LDC/2026/0096**
Property	**:**	**Bucklers Court, Anchorage Way, Lymington, SO41 8JN**
Applicant	**:**	**Fairhold Homes Limited**
Applicant's Representative	**:**	**JB Leitch Limited**
Respondents	**:**	**The Leaseholders at Bucklers Court**
Type of Application	**:**	**To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985**
Tribunal Members	**:**	**Mr D W Cotterell FRICS** **Ms C Barton MRICS**
Date of Hearing		**11 September 2026**
Date of Decision	**:**	**11 November 2026**

DECISION

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Summary of the Decision

1. **The Applicants are granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord for lift repair works, redecoration of common parts, and recarpeting works, at Bucklers Court, Anchorage Way, Lymington, SO41 8JN (the Property) as detailed further below, provided that the Landlord serves a copy of this decision on all the leaseholders and displays a copy within the common parts of the Property.**

The application and the history of the case

2. The Applicants seek 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 2 June 2026.

3. The Property is described as a 3-storey purpose-built block consisting of 37 one- and two-bedroom retirement flats. The Applicant is the owner of the freehold.

4. The Applicant explains that there are 3 areas of works in the scope of the application.

5. Firstly in relation to the Property's lifts: a condition report identified where the lift should be refurbished or replaced and concluded that the majority of the components of the lift needed replacement and safety upgrades. On 14 April 2024 a lift fault caused a passenger to be trapped. Another incident on 24 April 2024 was caused by the lift over-travelling the top floor. The Applicant's contractor, Classic Lifts were commissioned to: remove the old system, supply and install new, modify the existing operating panel, install new landing push stations, together with new landing position indicators on all three floors. The lift works were completed between 15 May 2024 and 3 June 2024.

6. Secondly in relation to internal decoration of the communal areas and, thirdly, replacement of the carpets to the corridor, main lobby, and communal lounge. The Applicant instructed Calico Decorating and Kimbers Flooring Specialists to provide these works.

7. The Applicant relates that On 25/03/24, a Notice of Intention was sent to all leaseholders regarding the lift works, inviting observations and to propose a contractor. The Applicant says that no written observations were received during the relevant period. On 10/05/24, a Notice of Estimates was sent in respect of the Lift Works; 2 quotations were obtained and Leaseholders were invited to make

written observations by 14/06/24. Then on 17/06/24 a Notice of Reasons was issued regarding the lift works, mentioning that Classic Lifts had been appointed and estimates received were open for inspection.

8. With regard to decorations and carpeting, on 30/09/24, a Notice of Intention was sent to leaseholders who were invited to make observations and propose a contractor by 04/11/24. Then on 15/04/25, a Notice of Estimates was sent to leaseholders attaching 2 quotations for decoration and 3 for carpeting. The lowest estimates showed a total cost of the Internal Decoration and was anticipated to be £17,033.52, including VAT and observations were invited by 20/05/25).

9. The Applicant admits that the Notice of Estimates, however, did not include reference to the nominated contractors from whom estimates were obtained. In error, the Notice of Estimates stated "*that there were no observations or contractor nominations received in the relevant period and an explanation that the nominated contractors were approached but their estimates discounted, due to being more expensive than the others, was unfortunately omitted from the Notice*".

10. The applicant set out its grounds for the application as, in short:

    a. The Lift Works were required to be carried out due to fire safety, reliability and end of equipment life concerns. The urgency made it impractical to fully comply with the statutory consultation requirements "*…without risking further deterioration, increased repair costs and inconvenience to residents*".
    b. The Internal Decoration and Carpet Replacement Works were an obligation under the Lease and omission of contractor nominations rendered the section 20 consultation defective, however: "The Applicant has taken reasonable steps to obtain competitive estimates and ensure that the costs of the Works are reasonable and represent value for money".
    c. The Applicant had provided leaseholders with as much information as it reasonably could and giving opportunity to propose contractors and make observations.

Hearing & Evidence

11. The Tribunal gave directions on 5 June 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, if such were not already included in the Applicant's bundle.

12. The application was objected to by Respondents' Form on 24 June 2026 by Janet Drewitt who holds a Power of Attorney on behalf of Mr T Margetts, the leaseholder of flat No.9.

13. The Tribunal determined that the application would require a hearing and the application was heard by the Tribunal on 11 September 2026. Attending for the Applicant was Ms Lauren Walker of J B Leitch the Applicant's solicitors and Ms Fisher of counsel. Ms Drewett appeared in person.

14. Ms Fisher set out the Applicant's case explaining the rationale for the subject works and the sequence of consultation that had taken place. She submitted that the question for the Tribunal was to consider whether the loss of opportunity caused by the failure of the freeholder to comply with consultation requirements cause the leaseholders to pay more for those works than they would have done had consultation been correctly carried out. She drew the Tribunal's attention to the principles examined in Daejan Investments Ltd v Benson [2013] UKSC 54, Holding & Management (Solitaire) Limited v Leaseholders of Sovereign View [2023] UKUT 174 (LC), and Aster Communities v Chapman [2021] 4 WLR 74.

15. Ms Drewitt related the sequence of events highlighting the failure of consultation. She submitted that she (and other residents) had lost the opportunity to see any scope of works and to nominate contractors, noting that although the lift works might have had a degree of urgency, the redecoration works did not. Due, in her submission, to the freeholders failures, she had suffered a genuine loss of opportunity to participate in the appointment of contractors and the terms of such appointment.

16. The Tribunal is grateful to the parties and their representatives for their submissions and other information provided to it, and to which it has given careful consideration.

The Law

17. 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.

18. 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".

19. 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.

20. 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*".

21. 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).

22. 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*."

23. 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.

24. 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.

25. 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

26. In consideration of the all the evidence before it and the parties' submissions, the Tribunal is satisfied that it is reasonable in the circumstances for consultation regarding the works described in the application, being the lift repair works, the redecoration of common parts, and recarpeting works all be dispensed with on this application, because the Tribunal does not consider that the Leaseholders were prejudiced by the works being carried out.

27. In reaching its decision the Tribunal has taken account of the fact that the leaseholders may still challenge the reasonableness and the charges for the works in due course.

28. 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, and displaying a copy of this decision within the common pats of the Property.

29. 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.