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

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| **Case reference** | : | HAV/43UJ/LDC/2026/0160 |
| **Property** | : | The Acorns, 51-60 Scarlett Oaks, 104 Portsmouth Road, Camberley, Surrey, GU15 1RD |
| **Applicant** | : | Wallace Estates Limited |
| **Representative** | : | JFM Block and Estate Management |
| **Respondents** | : | The leaseholders whose names are set out in the Appendix below |
| **Representative** | : | None |
| **Type of application** | : | To dispense with the requirement to consult lessees about major works under section 20ZA of the Landlord and Tenant Act 1985 |
| **Tribunal member** | : | Judge Taylor |
| **Date and Venue of hearing** | : | 9 November 2026, on the papers |
| **Date of decision** | : | 9 November 2026 |

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**DECISION**

## Decision of the Tribunal

The Tribunal grants the application for dispensation under Section 20ZA of the Landlord and Tenant Act 1985 in relation to the tree reduction/felling work detailed in the Application

## The application

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 ("the Act") from the consultation requirements in relation to certain "qualifying works" (as defined by the Act). The application was received on 11 September 2026.

2. This matter has been dealt with without a hearing pursuant to Rule 31 of the Tribunal Procedure Rules 2013 and the Tribunal's Directions dated 24 September 2026. No objections were received to that procedure.

3. The Property is described in the application as: *"Purpose Built block of 10 Flats just off Portsmouth road, built in 2005"*.

4. The Applicant is the Landlord of the Property. The Respondents are the leaseholders of the 10 apartments at the Property.

5. The Tribunal has been provided with a copy of the lease for Flat 9, the apartment, now owned by Samuel Curry (" the Lease"), as a sample of the leases of all the apartments. By clause 6 and the Fourth Schedule of the Lease, the Applicant covenanted (amongst other things) to " *...tend repair and maintain the Amenity Land...*". By clause 5.1 the leaseholders covenanted to pay their proportionate shares of the expenditure incurred by the Landlord in performing its obligations under the Fourth Schedule.

6. The qualifying works for which dispensation is sought are described in the application as the reduction/felling of a large English Oak tree that has died, to a safe level, together with the removal of timber and associated arisings and any necessary traffic management. The dead tree is said to be presenting a health and safety hazard by reason of potential branch or whole-tree failure.

7. There have been no replies to the application from the Respondents. The Applicant has confirmed to the Tribunal that no objections have been received to the application.

## The Issues

8. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works. The Tribunal has made no determination on whether the costs are payable or reasonable. If a leaseholder wishes to challenge the payability or reasonableness of those costs as service charges, including the possible application or effect of the Building Safety Act 2022, then a separate application under section 27A of the Act would have to be made.

## The Law

9. Section 20 of the Act and the Service Charges (Consultation Requirements) (England) Regulations 2003 require a landlord planning to undertake major works, where a leaseholder will be required to contribute over £250 towards those works, to consult the leaseholders in a specified manner.

10. It is possible to obtain dispensation from compliance with these requirements by an application such as this one before the Tribunal. Essentially the Tribunal must be satisfied that it is reasonable to grant dispensation.

11. Section 20ZA of the Act, subsection (1) provides as follows: *'Where an application is made to a 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.'*

12. The Supreme Court in the case of *Daejan Investments v Benson and others [2013] UKSC 14* set out certain principles relevant to consideration of applications under section 20ZA. Lord Neuberger, having clarified that the purpose of sections 19 to 20ZA of the 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'.*

## The Tribunal's decision

## The Applicant's case

13. The Applicant seeks dispensation on the grounds that it believes the Oak Tree in question should be reduced/felled as a matter of urgency because the dead tree presents a health and safety risk, both to the leaseholders and to users of the adjoining highway.

14. The Applicant relies on the evidence it has submitted. The Applicant has received a letter from the highways department of Surrey County Council dated 3 August 2026. This gives notice that the tree in question is a hazard and informs the Applicant of its potential liability for damage caused by the tree. It invites the Applicant to seek advice from an arboriculturist and to inform the Council of the intended course of action. Following receipt of that letter, the Applicant obtained advice on the works required and quotations from four arboricultural contractors. The recommended courses of action were either felling the tree to ground level or felling to a low fork in the tree at approximately 5m from ground level. The price range contained in the quotations is between £11,760 and £3,840 including VAT

15. The Applicant says it has commenced consultation with the leaseholders under section 20 Landlord and Tenant Act 1985 but seeks dispensation to allow the works to proceed quickly in view of the safety concerns.

16. The Applicant has confirmed to the Tribunal that it has sent a copy of the Application and the supporting documents, including those referred to above, to the leaseholder Respondents. The Tribunal's Directions dated 24 September 2026 notified the Respondents that if they wished to oppose the Application, they must return a reply form to the Tribunal. None of the Respondents have submitted a reply form to the Tribunal and the Applicant has confirmed it has not received any replies from the Respondents.

## Decision

17. As noted above, the primary question for the Tribunal is to what extent, if any, the leaseholders have been prejudiced by the failure to comply with the consultation requirements. The urgency of the works is not the test, although is relevant background information for the Tribunal to consider.

18. The Tribunal is satisfied on the evidence before it that the works set out in paragraph 14 above are within the Applicant's repairing obligation under the apartment leases.

19. There are several factors in this case to be considered when deciding whether the leaseholders will be prejudiced by a failure to comply with the consultation requirements. First, what, if anything, would the leaseholders have done differently if a consultation had been completed? The Respondents have not provided any evidence on this question. It is not for Tribunal to make any findings in the absence of any evidence from the Respondents and so the Tribunal is satisfied that there is no evidence of prejudice arising from a potential lost alternative course of action. Indeed, the fact that the Respondents have not objected to the Application suggests that they do not believe any prejudice to them will arise. Secondly, the Tribunal finds on the evidence before it that all the works are reasonably required to be completed urgently because of safety concerns. The Tribunal is satisfied that the Applicant is acting reasonably to respond quickly considering the tree hazard warning letter it has received from the highways department. The statutory consultation process has a fixed timetable which, if followed, would prolong the risk of injury/damage by falling branches or potential full tree collapse. Thirdly, the Applicant has obtained four competitive quotations for the work and so there is no apparent prejudice arising from the "market" not having been properly tested. Finally, as noted above, there have been no objections to this application from the Respondents.

20. For all of these reasons, the Tribunal is satisfied that there is no evidence that the Respondents would suffer prejudice by the granting of dispensation relating to the works.

21. In the circumstances set out above, the Tribunal considers it reasonable to dispense with the consultation requirements. Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.

**Appendix**
**The Respondents**

Samuel Mark Curry
Mr Jordan James Belony
Constantin Sava and Simona Sava
Claudiu Cojocaru & Ionela Simona Cojocaru
Ian Michael Brumwell Simpson & Sarah Louise Simpson
Mr Ian Michael Brumwell & Mrs Sarah Louise Simpson
Wendy Chart & Sally Booth
Mr J F & Mrs K P Cullen
Mr George Norman Dovey
Mr J F & Mrs K P Cullen

## 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.

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. Where possible you should send your further application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal to deal with it more efficiently.

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