FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**HAV/21UF/LDC/2026/0117**
Property	**:**	**Eversley Court, Dane Road, Seaford, East Sussex, BN25 1FF**
Applicant	**:**	**McCarthy & Stone Retirement Lifestyles Limited**
Respondents	**:**	**The leaseholders of Apartments 1-12, 14 – 31, 33—52, Eversley Court, Dane Road, Seaford BN25 1FF (the Leaseholders)**
Type of Application	**:**	**To dispense with the requirement to consult lessees about major works *per s.*20ZA of the Landlord & Tenant Act 1985**
Tribunal Member	**:**	**Mr D W Cotterell FRICS**
Date of Decision	**:**	**9 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 automatic door works to Eversley Court, Dane Road, Seaford BN25 1FF (the Property) provided that the Landlord serves a copy of this decision on all of the leaseholders.**

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 made on 5 June 2026.

3. The Property is described as a "*Purpose built block of 51 flats comprising of one and two bedroom apartments, age-restricted community for the over 70s first occupied in March 2014*". The Applicants are the owners of the freehold.

4. The Applicants explains in their application that:

    a. The subject door replacement works will be a replacement of the existing defective entrance system with new doors, including the installation of operators, removal and disposal of the original doors, commissioning and safety testing.
    b. The subject works were completed on 22 April 2026 at a total cost of £10,998.00 inclusive of VAT.
    c. Consultation with leaseholders was undertaken throughout, including a residents' meeting on 27/02/2026.
    d. A Notice of Intention (N1) was issued the same day, supported by written updates and newsletters.
    e. Leaseholder feedback and initial concerns were considered, with ongoing communication via meetings, correspondence and noticeboard updates prior to confirming works.
    f. Dispensation was sought due to the urgent health and safety risk posed by the defective communal entrance doors leaving the building vulnerable and residents at risk.
    g. The existing system was beyond economical repair.
    h. Given the prolonged issues and inability to safely delay works, immediate replacement was necessary.

5. The Tribunal gave directions on 2 October 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.

6. 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.

7. The Tribunal has not been notified of any objections as advised in a letter to the Tribunal of 03 October 2026 received from McCarthy & Stone Management Services Limited, as agents on behalf of the freeholder.

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

The Law

9. 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.

10. 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*".

11. 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.

12. 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*".

13. 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).

14. 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*."

15. 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.

16. 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.

17. 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

18. The application explains that the works were required as an emergency measure in view of concerns over security to the building and its residents.

19. 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.

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

21. 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.

22. 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.