FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/00HB/LDC/2026/0166
Property	**:**	131 Cromwell Road St Andrews Bristol BS6 5EX
Applicant	**:**	131 Cromwell Road (Management) Limited
Representative	**:**	Paul James Long
Respondent	**:**	Josie Connell & Jasper Wilkins -131a Paul Long and Gabrielle Connell -131b Nicola Shale – 131c
Representative	**:**	None
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	**:**	Mr I R Perry FRICS
Date of Decision	**:**	18th November 2026

DECISION

© CROWN COPYRIGHT 2026

Summary of the Decision

1. The Applicant is granted retrospective dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act in relation to roofing works required to prevent water ingress and damage to property. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.

Background

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 the 1985 Act. The application was received on 18th September 2026.

3. The Property is described as being "made up of three flats 131a (bottom flat), 131b (middle flat) and 131c (top flat). 131a and 131b each make up one floor and two bedrooms. 131c is a four-bedroom, two-storey maisonette." The Applicant believes the Property to have been built in 1871.

4. The Applicant explains that:

> "There are roof repairs which are urgently required prior to the onset of winter. The work is anticipated to begin place late September 2026 with a duration of 3-4 weeks. The scope of work is a roof refurbishment in line with the scope of an independent survey and includes stripping and rebuilding of flat roof as warm-roof construction, stripping and rebuilding rear and front dormer flat roofs as warm-roof construction, refurbishment of dedicated dormer rainwater goods (gutter and downpipe discharge assemblies), existing rainwater goods maintenance, refurbishment of front and side fascias and soffits, repair and refurbishment of pitched roof tiled area (including counter-battens upgrade), inspection and replacement of velux rooflight flashings, front dormer timber repairs and associated scaffolding and waste removal. An independent survey was commissioned by the management company, shared with all individual leaseholders and the scope of work was aligned accordingly.
>
> Notices were issued 27th August 2026 with a deadline for written observations of 3rd September 2026 (7 Days). The notice contained Part 1: The Urgent Cover Letter, Part 2: Stage 1 Notice (Notice of Intention) and Part 3: Stage 2 Notice (Statement of Estimates). The nature of the work as well as the need and urgency was outlined throughout, referring to the structural and electrical risks as a result of water ingress found in the top two floors of the building. The opportunity to nominate contractors within the 7 days was outlined alongside an invitation for observations. Two existing estimates were formally provided as part of the notice. Discussion and consultation took place via email over the next 7 days between leaseholders and management company. Due to our specific management situation, one owner from each flat is a director of the management company. Discussion via email also took place prior to the consultation period, in our capacity as management company directors.

> Making the building water-tight is urgent to prevent structural or electrical damage over winter and a shortening of the usual timelines is necessary to carry out the management company's obligations to the leaseholders and ultimate freeholder. We believe it is reasonable to grant dispensation on the basis of ensuring the structural safety of the building. In addition, we believe the leaseholders were consulted sufficiently over the course of the official consultation, as well as both before and after this period by virtue of communications taking place in earnest since spring 2026.The company directors being leaseholders and representing each flat has facilitated a situation where all five leaseholders have been kept informed, invited to make observations. Discussions took place before, during and after the shortened consultation period.

5. The Application included a copy of an urgent notice sent to all leaseholders on 26th August 2026 with a Stage 1 Notice, a Stage 2 Notice and reference to a preferred contractor. The estimated cost of the works was circa £43,000.

6. The Tribunal issued Directions on 7th October 2026 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any.

7. The Directions stated that Tribunal would determine the application on the papers received unless a party objected in writing to the Tribunal within 14 days of the date of receipt of the Directions. No party has objected to the application being determined on the papers.

8. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. This application is not about the proposed costs of the works, and whether they are recoverable from the leaseholders as service charges or the possible application or effect of the Building Safety Act 2022. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the Landlord and Tenant Act 1985 to determine the reasonableness of the costs, and the contribution payable through the service charges.

The Law

9. Section 20 of the Landlord and Tenant Act 1985 ("the Act") and the related Regulations provide that where the lessor undertakes qualifying works with a cost of more than £250 per lease, 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. The relevant section of the Act reads as follows:

> S.20 ZA Consultation requirements:

> Where an application is made to a Leasehold Valuation 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.

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.

18. There have been subsequent Decisions of the higher Courts and Tribunals of assistance in the application of the Decision in Daejan but none are relied upon or therefore require specific mention in this Decision.

Consideration

19. The Directions attached a reply form for the Respondents to complete to confirm whether they agreed with the application or not and if opposed, to provide a statement setting out why they oppose.

20. The Tribunal was provided with replies from all 5 leaseholders who all supported the Application.

21. On 20th October 2026, the Applicant's representative confirmed that they had not received any objections to the application from the Respondents.

22. Having considered the application and prior to undertaking this determination, I am satisfied that a determination on the papers remains appropriate, given that the application remains unchallenged.

23. The reason why dispensation from consultation requirements is said to be required is that roof refurbishment is required before the onset of wet winter months.

24. There has been no objection to the dispensation of the consultation requirements from any of the Lessees.

25. None of the Lessees have therefore asserted that any prejudice has been caused to them. The Tribunal finds that nothing different would be done or achieved in the event of a full consultation with the Lessees, except for the potential delay and potential problems.

26. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.

27. The Tribunal consequently finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the major works to the building as described in this Decision.

28. This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of roof refurbishment as detailed in the Application.

29. The Tribunal has made no determination on whether the costs are payable or reasonable. If a Lessee wishes to challenge the payability or reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

30. In reaching my decision I have taken account of the fact that no party has objected to the application. The leaseholders have had opportunity to raise any objection, and they have not done so.

31. As a condition of dispensation, the Applicant is required to send a copy of this decision to all leaseholders.

RIGHTS OF APPEAL

32. 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 by email at rpsouthern@justice.gov.uk

31. 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.

32. 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.

33. 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.