FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/18UC/LDC/2026/0090
Property	**:**	Isabel Court, Cowick Street, Exeter, Devon, EX4 1FL
Applicant	**:**	McCarthy & Stone Retirement Lifestyles Limited
Representative	**:**	None
Respondents	**:**	The leaseholders
Representative	**:**	None
Type of Application	**:**	To dispense with the requirement to consult lessees about major works pursuant to section 20ZA of the Landlord and Tenant Act 1985
Tribunal Members	**:**	Mr M E Williams FRICS
Date of Decision	**:**	13 November 2026

DECISION

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The Decision

1. **The Tribunal grants the application for dispensation under section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") from the statutory consultation requirements imposed on the landlord by section 20 of the 1985 Act in respect of the comprehensive communal areas and guest suite works.**

   This dispensation does not affect the Tribunal's jurisdiction upon any future application from the leaseholders to make a determination under section 27A of the 1985 Act, in respect of the reasonableness and/or cost(s) associated with the qualifying works.

Background and the Application

2. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the statutory consultation requirements imposed on the landlord by section 20 of the 1985 Act in respect of the works detailed below.

3. The application is dated 15 May 2026.

4. The Applicant simply describes the property as:

   'Purpose built block of 50 apartments comprising one and two bedroom apartments, age-restricted community for the over 55s which opened in 2012.'

5. The Applicant provides a description of the qualifying works, which states the following:

   'The works at Isabel Court comprised a comprehensive upgrade to the communal areas and guest suite, including the removal and disposal of existing items and the supply and installation of new furniture, flooring, soft furnishings, window dressings, accessories, lighting electrical works and project management. The works were instructed following the Section 20 consultation and were carried out between September and November 2023, completing on 16 November 2023. The initial costs informed to the homeowners were ranging from £37,991.98 to £42,751.94 inclusive of VAT. The total actual cost incurred was £59,982.48 excluding VAT plus £11,996.50 VAT, giving a final total of £71,978.98 including VAT.'

6. The Applicant sets out that some consultation has been undertaken in its application stating:

   'The statutory Section 20 Consultation was undertaken in relation to the proposed furniture and flooring décor upgrade at Isabel Court. Notice of Intention (N1) was issued to all Leaseholders in April 2023, inviting observations on the proposed works. This was followed by a Notice of

Estimates (N2) issued in June 2023, setting out contractor options and estimated costs and providing leaseholders with further opportunity to make observations within the prescribed consultation period.
A covering letter will also be sent to homeowners once the Directions are received.'

7. The Applicant states the following as the reasons why it is seeking dispensation of all or any of the consultation requirements:

'Dispensation is sought because the tender information provided to leaseholders did not identify the contractors for each estimate, lacked a breakdown of costs for key elements of the works, incorrect final costs due to an administrative error and included installation and decorative items that were not clearly competitively tendered or within the original consultation scope, creating a risk of non-compliance with Section 20 requirements, we emphasise that we have nevertheless endeavoured to follow the Section 20 process throughout.'

8. The Tribunal gave Directions ('the Directions') on 1 October 2026 listing the steps to be taken by the parties in preparation for the determination of the application.

9. The Directions, at paragraph 9, stated the Tribunal would determine the application on the papers, without a hearing in accordance with Rule 31 of the Tribunal Procedure Rules 2013, unless a party objected in writing to the Tribunal within 14 days of the receipt of these Directions.

10. The only issue for the Tribunal is whether or not it is reasonable for the Applicant to have dispensed with the statutory consultation requirements. This application is neither about the costs of the works carried out to date, nor is it about the costs of the proposed works and whether they are recoverable from the leaseholders as service charges, nor 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 1985 Act to determine the reasonableness of the costs, and their respective contributions payable through the service charge provisions in their leases.

The Law

11. Section 20 of the 1985 Act and the related Regulations provide that where the lessor undertakes qualifying works with a cost of more than £250 per lease per 12 month period, the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum per annum unless the required consultation processes have been undertaken or the requirement has been dispensed with by the Tribunal. An application to the Tribunal may be made retrospectively.

12. The relevant section of the 1985 Act reads as follows:

> S.20ZA(1) Consultation requirements: supplementary
> Where an application is made to [the appropriate 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.

13. In *Daejan Investments Limited v Benson and Others* [2013] UKSC 14, the Supreme Court set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of sections 19 to 20ZA of the 1985 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"*.

14. Furthermore, and following *Daejan v Benson*, the Tribunal has power to grant dispensation on terms.

Consideration and Decision

15. The Tribunal first considered whether it felt able to decide this application reasonably and fairly based on the papers submitted only, with no oral hearing. Having read and considered the papers and given that the application remained unchallenged the Tribunal decided it could do so.

16. Paragraph 13 of the aforementioned Directions stated that the Application form and accompanying documents would stand as the Applicant's Statement of Case.

17. In its application, the Applicant states the case is appropriate to be dealt with without a hearing (a paper determination).

18. The Directions include provisions in the event the Respondents oppose the application.

19. The Tribunal received no responses from the leaseholders.

20. The bundle includes a copy of a sample lease for an apartment at Isabel Court Cowick Street Exeter Devon EX4 1FL. The lease term commences on 1 June 2011 for a period of 125 years.

21. The Tenant covenants, in paragraph 1 of the Fifth Schedule:

> 'To pay the Rent and the Service Charge on the days and in the manner aforesaid without any deductions set off or counterclaim such Rent and Service Charge (save for any payment made on the date hereof) to be paid by Direct Debit (or in the event that the Tenant does not from time to time or at any time have a bank or similar account upon which a Direct

Debit facility is available by such other method of payment as the Landlord may reasonably approve)'

22. "Service Charge" is defined in paragraph 1.4 of the Fourth Schedule as:

'Service Charge" means the Tenant's share of the Annual Service Cost for any Year, and the amount of such share is calculated by multiplying the Annual Service Cost by the Service Charge Fraction.'

23. "Annual Service Costs is defined in paragraph 1 of the Fourth Schedule as:

'"Annual Service Cost" means the total of all costs expenses overheads payments charges loss and outgoings suffered or incurred by or on behalf of the Landlord in any Year in connection with the repair maintenance decoration renewal improvement and management of the Estate and the Building…'

24. The "Building" is defined in Clause 1. Definitions as:

'the building (s) forming part of the Estate and comprising apartments together with if appropriate residents' lounge(s) guest bedroom(s) and other communal facilities and known as or intended to be known as Isabel Court Cowick Street Exeter Devon EX4 1FL (being the main block and the annexe so marked on the Plan'

25. The Tribunal makes no finding as to whether the 2023 Consultation process, was or was not compliant with Section 20, on the basis it has no evidence before it on the matter and that no such finding is required to determine whether the Tribunal should grant dispensation.

26. The Tribunal finds that nothing different would be done or achieved in the event that a Section 20 compliant consultation process was completed.

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

28. Taking all the above into consideration and given that no objections to the application have been received from the Respondents, nor any of them asserting that any prejudice would be caused to them, the Tribunal consequently finds that it is reasonable for the Applicant to have dispensed with the consultation requirements under the 1985 Act relating solely to the works described in paragraph 5 above.

29. Thus, the Tribunal grants the application from McCarthy & Stone Retirement Lifestyles Limited dated 15 May 2026 for dispensation under section 20ZA of the 1985 Act from the statutory consultation requirements imposed on the landlord by the same.

RIGHTS OF APPEAL

30. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case. All communications must clearly state the Case Number and the address(s) of the premises.

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 days' 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 days' 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.