FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/00HY/LDC/2026/0141
Property	**:**	Kitcheners Court, Hill Street, Trowbridge, Wiltshire. BA14 8LA
Applicant	**:**	Kitcheners Court Management Company Ltd
Representative	**:**	None
Respondents	**:**	Lindsey Bowen – flat 1 Nigel Henry – flat 2 Four Hills Estates Ltd- flats 3, 5 & 6 Rui Da Costa – flat 4 LeighAnn Day – flat 7 Chantal Pretorius – flat 8
Representative	**:**	Helen Starkie in her capacity as attorney for LeighAnn Day of flat 7 only.
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 flood certified front door replacement 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 5th August 2026.

4. The Applicant describes the property as:

   'Kitcheners Court is a Grade II* Listed building, dating back to 1760. The building was originally a public house, recorded as the King Of Prussia in 1788. And later renamed, the Kitcheners Arms in 1914.

   In the 1980s, the main building was converted into 6 flats, over three floors, with the external, single-storey adjoined buildings forming an additional two flats.

   Following the conversion, the 8 flats, a mix of one and two bed properties, was collectively renamed, Kitcheners Court.'

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

   'The proposed works concern the replacement of the main building's certified flood-defence entrance door and frame. A routine service was arranged with the original supplier of the existing system; during this visit the contractor confirmed that the active-flood seal is compromised which in addition to damage to the door and frame, has determined that a full replacement is required, as it has been established that a repair is not feasible.

The industry guidance for a specialist system replacement of this nature is a 12-week lead time, for manufacture and installation. Due to this significant production period, there is a requirement for the deposit to be paid immediately, to trigger the manufacture to commence. This would enable the full flood-defence to be restored as swiftly as possible.'

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

'A Section 20 Stage 1 Notice of Intention has been issued to all leaseholders at Kitcheners Court, advising them of the proposed replacement of the certified flood-defence system on the entrance of the main building. Leaseholders have been informed of the reason the full replacement is required and that they may make observations, contractor nominations and requests to inspect the specifications regarding the proposed works, within the statutory 30-day consultation period, beginning from the date the notice was issued (Wednesday 5th August 2026).

The landlord is following the statutory consultation in full; the only departure is that payment must be made now to permit the manufacture because the 12-week lead time makes it impossible to delay.'

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 due to the necessity to promptly restore the full flood-defence protection to the main building. Due to the substantial lead time for manufacture of a specialist flood-defence system, the landlord is keen to mitigate avoidable delays resulting from the timescale of full consultation period.

Due to significant distance between the original supplier's location (Preston) and the property address (Wiltshire), options have been investigated to ascertain whether a like-for-like flood-defence system could be sourced more readily (and cost effectively) within the local area. Despite an extensive search, no viable alternatives could be found to supply and install a new system offering a similar level of flood defence, to the existing specifications.

This application has been submitted on the basis that prompt action by the landlord is necessary to mitigate risk to the main building or any of its residents.

If payment is delayed to complete the 30/60-day consultation and only then the 12-week manufacturing period commences, this would postpone reinstatement of the primary flood-defence system beyond a safe threshold. Therefore payment must be made now to avoid any delay while the Tribunal responds because manufacture cannot begin without it.

Once the Tribunal has determined the application, the landlord will follow its direction and the statutory Stage 1 & Stage 2 consultation will continue in full during the 12-week manufacturing period.'

8. The Tribunal gave Directions ('the first Directions') on 11th August 2026 listing the steps to be taken by the parties in preparation for the determination of the application.

9. Following the first Directions, the attorney for the lessee of flat 7 objected to the application and it also became clear that the lessee of flats, 3, 5 and 6 were not Mr Godfrey, as innocently noted in the application, but rather Four Hills Estates Limited.

10. Therefore, further Directions ('the further Directions') were given on 21st September 2026, which set out further steps to be taken.

11. The Directions, at paragraph 20, 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 7 days of the receipt of these Directions.

12. 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

13. 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.

14. 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.

15. 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"*.

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

Consideration and Decision

17. 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 the nature of the single challenge to the application it decided it could.

18. Paragraph 15 of the first Directions stated that the Application form and accompanying documents would stand as the Applicant's Statement of Case.

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

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

21. Helen Starkie, in her capacity as attorney for the lessee of flat 7, objected to the application on 20th August 2026. There were four objections, which ultimately focused on the cost of works and delays on the part of the Applicant.
    a. A local company may be able to provide the same service for considerably cheaper.
    b. Whether the works could be completed under an insurance claim.
    c. The Director's state it is urgent, but they have been aware of the door's condition for months and have not been proactive in sourcing a replacement.
    d. As appointed attorney she is under a duty of care to ensure that the leaseholder of flat 7's limited monies are spent wisely.

22. The Applicant responded to each of these fully in their response of the 26th August 2026.

23. These objections relate solely to the proposed cost of the works. If, following the Applicant's response and any further correspondence arising from the Applicant's offer to liaise more fully and directly regarding this issue, Ms Starkie remains dissatisfied, the appropriate course would be to make an

application under section 27A for a determination of the reasonableness of those costs.

24. The Tribunal received no other responses from the leaseholders.

25. Following the further Directions the Applicant confirmed that by the 2nd October 2026, they received no objections from Four Hills Estates Limited in relation to flat 3, 5, & 6.

26. The bundle includes a copy of the lease for Flat 1, Kitcheners Court, Hill Street, Trowbridge. The lease term commences on 1st January 1984 for a period of 999 years.

27. The Tenant covenants, in clause 2:

THE Lessee for the mutual protection of the Lessor and of other Lessees of the Flats and the Business premises HEREBY COVENANTS with the Lessor to observe and perform the covenants and obligations on the part of the Lessee set out in the Sixth Schedule

28. Paragraph 18 of the Sixth Schedule sets out the following:

'18. The Lessee shall pay to the Lessor a service charge being nineteen per cent of the costs and expenses expected to be incurred by the Lessor by reason and incidental to:-
(i) Performing and observing its obligations under the seventh schedule …'

29. The Landlord covenants, in Clause 3:

'THE Lessor relying on the covenants on the part of the Lessee herein contained HEREBY COVENANTS with the Lessee to observe and perform the covenants and obligations on the part or the Lessor set out in the Seventh Schedule.'

30. Paragraph 4 of the Seventh schedule states as follows:

'The Lessor shall keep the Maintained Property and fixtures and fittings therein and additions thereto in a good and tenantable state of repair decoration and condition including the renewal and replacement of any worn and damaged parts…'

31. The Tribunal granting dispensation will allow for a new flood certified door to be installed, in stye considered appropriate by the local authority and Historic England.

32. The Tribunal finds that nothing different would be done or achieved in the event that a full consultation process was completed.

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

34. Taking all the above into consideration and given the nature of the only objections and given that none of the Respondents asserted 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.

35. Thus, the Tribunal grants the application from Kitcheners Court Management Company Limited dated 5th August 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

36. 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.

37. 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.

38. 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.

39. 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.