



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

**Case reference** : **CHI/00HP/LIS/2023/0009**

**HMCTS code** : **P: PAPER REMOTE**

**Property** : **Flat 2 Verenna, 44 Springfield Road,  
Poole, BH14 0LQ**

**Applicant** : **Verenna Management Company Limited**

**Representative** : **Rebbeck Brothers Ltd (managing  
agents)**

**Respondent** : **Michael Hall**

**Representative** : **In person**

**Type of application** : **Payability of Service Charges: section  
27A of the Landlord and Tenant Act  
1985**

**Tribunal members** : **Judge Robert Latham  
Sarah Phillips MRICS**

**Date of  
Determination** : **26 July 2023**

**Date of Decision** : **1 August 2023**

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**DECISION**

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The Tribunal finds that the service charges and administration charges in dispute for the service charge years 2021/22 and 2022/23 are reasonable and payable.

### **Covid-19 pandemic: description of hearing**

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The Respondents have provided a Bundle of Documents which extends to 167 pages.

### **The Application**

1. Verenna is a development which consists of 14 apartments in a purpose built block. There are 12 two-bedroom apartments and two three-bedroom penthouses. This application relates to Flat 2 ("the Flat") which is a ground floor flat. Mr Michael Hall, the Respondent, is the tenant of Flat 2. He occupies his flat pursuant to a lease dated 5 July 2013. There are three parties to the lease: (i) the Landlord; (ii) the Management Company and (iii) the Tenant. The Applicant Management Company now also holds the landlord/freehold interest in Verenna development. The Applicant has appointed Rebbeck Brothers Ltd ("Rebbeck") to manage Verenna.
2. On 13 March 2023, Rebbeck issued this application on behalf of the Applicant. The Applicant seeks a determination of the reasonableness and payability of the service charges payable for the service charge years 2021/22 and 2022/23 pursuant to section 27A of the Landlord and Tenant Act 1985 ("the Act"). The total value of the dispute is £2,034.24. The Applicant requested a written determination.
3. On 22 May 2023, a Procedural Judge gave directions pursuant to which:
  - (i) The Applicant has filed its Statement of Case (at p.65-86) and its supporting documents (at p.69-149). The Service Charge Income and Expenditure account for 2021/22 is at p.138. The budget for 2022/3 is at p.74. The Applicant lists the service charge items which he asks this Tribunal to consider. The Applicant also provides the Respondent's Statement of Account (p.79-81). On 12 December 2022, there were arrears of £2,034.24. These have subsequently increased to £4,609.69.
  - (ii) The Respondent has filed his Statement of Case (at p.150-4) and supporting documents (at p.155-164). He contends that the conduct of the Management Company has been "illegal, unfair and unreasonable". The focus of his attack is against Mr Anthony Mellery-Pratt who is both a director of Rebbeck and the Company Secretary for the Applicant

Management Company. He suggests that this has created a conflict of interests. He suggests that Rebbeck resigned as managing agents on 22 September 2021. Previously, there had been no written management agreement. He "demands" that Mr Mellery-Pratt steps down immediately as Company Secretary. He complains that services have not been put out to tender. He disputes the manner in which the services are apportioned between lessees. He does not respond specifically to the service charge items raised by the Applicant. However, he concludes by stating that he has a "legitimate right to suspend contributions to challenge the current illegitimate and unfair arrangements between these two Companies".

(iii) The Applicant has filed a Reply (at p.165-6) responding to the allegations made by the Respondent. It has also provided a list of the 15 directors of the Applicant Management Company. The Tribunal notes that some of the apartments are held by joint tenants, both of whom are directors.

4. The Directions provided for a paper determination, unless either party requested an oral hearing. Neither party has done so. The Directions also provided that if the Applicant sought an order for the reimbursement of the tribunal fees that it has paid (£100) or if the Respondent sought an order under section 20C or Paragraph 5A of Schedule 11, these should be included in the written representations. No such representations have been made.

### **The Respondent's Lease**

5. The Respondent occupies the Flat pursuant to a lease dated 5 July 2013. There are three parties to the lease: (i) Whitelock & Company Limited (the "Landlord"); (ii) Verenna Management Company Limited (the "Management Company"); and (iii) Richard and Gwyneth Ball (the "Tenant"). The recital to the lease records that the Management Company has agreed to join in this lease and undertake obligations for the services, repair, maintenance, insurance and management of Verenna as set out in this lease. Further, the Landlord agreed to transfer to the Management Company, and the freehold of Verenna within a reasonable time following the grant of the last of the leases in Verenna. The "Site" is defined as "the land and buildings known as Verenna, 44 Springfield Road, Parkstone, Poole, BH14 0LQ registered at HM Land Registry with title number DT75242".
6. The Tenant's covenants to repair and maintain the Flat are set out in Schedule 4. The following provisions are relevant:
  2. "Service Charge: 2.1 The Tenant shall pay on account in advance to the Landlord or the Management Company (as appropriate) the estimated Service Charge for each Service Charge Year in two equal

instalments on each of the Rent Payment Dates." The Rent Payment Dates are 1 December and 1 June.

"4. Interest on Late Payment: To pay interest to the Landlord or the Management Company (as appropriate) at the Default Interest Rate on any Rent, Insurance Rent, Service Charge or other payment due under this lease and not paid within seven days of the date it is due, for the period from the due date until the date of actual payment, whether before or after judgment."

"7. Costs: To pay on demand the costs and expenses of the Landlord (including any solicitors', surveyors' or other professionals' fees, costs and expenses and any VAT on them) assessed on a full indemnity basis incurred by the Landlord (both during and after the end of the Term) in connection with or in contemplation of any of the following:

(a) the enforcement of any of the Tenant Covenants;

(b) preparing and serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;

(c) preparing and serving any notice in connection with this lease under section 17 of the Landlord and Tenant (Covenants) Act 1995; and

(d) preparing and serving any notice under paragraph 4(c) of Schedule 3."

"18. Membership of the Management Company:

18.1 The Tenant must within 2 working days of becoming the Tenant apply to the Management Company in accordance with its articles of association to become a member of the Management Company.

18.2 The Tenant must not withdraw from membership of the Management Company or dispose of any of the rights attaching to the membership of the Management Company whilst it remains the Tenant".

7. The Landlord's covenants to maintain repair, insure and manage the buildings and grounds are contained in Schedule 6, together with the right to collect a service charge from the lessees to cover the costs of the landlord's obligations. The Landlord's obligations include:

"2. Insurance. 2.1 To effect and maintain insurance of the Site against loss or damage caused by any of the Insured Risks with reputable insurers, on fair and reasonable terms that represent value for money, for an amount not less than the Reinstatement Cost subject to: (a) any exclusions, limitations, conditions or excesses that may be imposed by the insurer; and (b) insurance being available on reasonable terms in the London insurance market."

"4.2. Before or as soon as possible after the start of each service charge year, to prepare an estimate of the service costs for that year and the statement of the estimated service charge for that service charge year".

8. Schedule 7 provides for the "services" that the Management Company covenants to provide and for "service costs". Part 1 sets out the services which include:

"(d) cleaning, maintaining, repairing and replacing the lifts and lift machinery and equipment on the Common Parts";

(f) "cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Common Parts";

"(l) any other service or amenity that the Landlord or, until the Handover Date, the Management Company may in their reasonable discretion (acting in accordance with the principles of good estate management) provide for the benefit of the tenants and occupiers of the Site".

9. Schedule 7, Part 2 sets out the service costs. Service costs are the total of:

"(a) all of the costs reasonably and properly incurred or reasonably and properly estimated by the Landlord or, until the Handover Date, the Management Company to be incurred of:

(i) providing the Services; and

(vi) putting aside such sum as shall reasonably be considered necessary by the Landlord or, until the Handover Date, the Management Company (whose decision shall be final as to questions of fact) to provide reserves or sinking funds for items of future expenditure to be or expected to be incurred at any time in connection with providing the Services."

"(b) the costs, fees and disbursements reasonably and properly incurred of:

(i) managing agents employed by the Landlord or, until the Handover Date, the Management Company for the carrying out and provision of the Services or, where managing agents are not employed, a management fee for the same;

(ii) accountants employed by the Landlord or, until the Handover Date, the Management Company to prepare and audit the service charge accounts; and

(iii) any other person retained by the Landlord or, until the Handover Date, the Management Company to act on their behalf in connection with the Site or the provision of Services."

10. The Tenant's Proportion towards the service charge is defined as "one fourteenth or such other percentage as the Landlord or, until the Handover Date, the Management Company may notify the Tenant from time to time". Thus, each of the 14 tenants are required to contribute the same amount, regardless of the size of value of their flat.

### **The Law**

11. Section 19 of the Landlord and Tenant Act 1985 provides that any service charges must be reasonable:

"(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—

(a) only to the extent that they are reasonably incurred, and

(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;  
and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

12. Section 27A provides for the jurisdiction of this tribunal:

"(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to—

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made."

### **The Issues in Dispute**

13. The land and buildings known as Verenna have now been transferred to the Applicant who now holds the interests of both the Management Company and "Landlord" under the lease. All the tenants hold a share in the Management Company. The majority of the tenants have chosen to be directors. The Respondent's predecessors in title, Richard and Gwyneth Ball, were directors. Indeed, Richard Ball signed the original management agreement with Rebbeck in 2013/4 (see p.163).
14. On 7 July 2014, the Applicant appointed Mr Mellery-Pratt as its Company Secretary. He is also a director of Rebbeck, the managing agents. The Respondent suggests that this has created an impossible conflict of interest for him. He also complains that the Applicant had no written agreement with Rebbeck after the initial agreement signed in 2013/14. He accepts that on 8 June 2023, the Board agreed a new management agreement which is at p.114-131.
15. In about January 2020, the Respondent acquired the leasehold interest in the Flat. On 13 February 2020, he was certified as a member of the Management Company. The Respondent has chosen not to be a director of the Management Company. He criticises the manner in which the Management Company has been managed. His role as a mere shareholder is limited. The directors are responsible for the day-to-day management of the Company.
16. Up until 1 June 2021, Mr Hall promptly paid his service charges (see p.79). The service charge year ends on 30 November. Since that date, he has withheld his service charges because of his dissatisfaction at the manner in which the service charge account has been operated.
17. Mr Hall contends that on 22 September 2021 (at p.155), Rebbeck notified him that they were resigning with effect from 22 October 2021. On 27 September (at p.156), Hr Hall replied, stating that he was accepting their resignation.
18. Mr Mellery-Platt responds that Rebbeck had sent this letter as the Board of the Management Committee had voted not to proceed with the works recommended in a fire risk assessment. However, on 3 November

2023 at an Extraordinary General Meeting (minutes at p.158-163), the members agreed to proceed with the works. Prior to the meeting, the members had voted by email that Rebbeck should remain in post. Mr Mellery-Platt also points out that Rebbeck were appointed by the Board. Mr Hall was not a director and had no authority to accept the resignation.

19. Matters seem to have come to a head, when the Respondent had sight of the proposed budget for 2022/23. On 3 October 2022, he sent an email to the directors (at p.75):

"Not having received a copy directly a concerned neighbour of Verenna passed me a copy of a proposed budget for the forthcoming financial year 2023.

I have come to the conclusion the producer of this draft must've been sniffing drugs or some such other illegal substance before pressing the 'send-button'.

Mind you, it did make me laugh, I don't think my trousers will ever dry. Needless to say I will not be attending the meeting scheduled for October 20th being hosted by your spurious managing agent. Doing so would mean recognition of them which I don't. However, I will pass my proxy vote to a like minded owner who'll be voting to reject this ridiculous document.

To make life easier, I have attached a list of services I will contribute toward, services I won't be and services that I demand be put out to tender independent of your spurious agent. Key:- Green paying. Red definitely NOT paying. Blue put out to tender."

20. The Respondent provided a list of those items in the 2021/22 accounts and the 2022/23 budget that he challenges (at p.76-78). This has led to the Applicant's application for a determination that the disputed sums are payable under the lease and are reasonable. In his Statement of Case (at p.65-68), Mr Mellery-Pratt sets out why the sums in dispute are payable. In his Statement of Case in response (at p.150-154), Mr Hall does not specify why he considers that these items are either not payable or are unreasonable. He rather contends that he is entitled to suspend his payments because of his dissatisfaction with the manner in which the Management Company and Rebbeck are operated. In his Reply (at p.165-166), Mr Mellery-Pratt responds to these allegations.

21. On 3 November 2021, the budget was discussed at an Extraordinary General Meeting of the members of the Respondent Management Company. The minutes which are at p.158-163, describe this as a "Budget



Review Meeting". Mr Hall did not attend, but appointed Rita Monksfield (Flat 11) as his proxy. Twelve tenants approved the budget; Mr Hall and Ms Monksfield opposed it.

### **The Tribunal's Determination**

22. The Tribunal first address the Respondent's contention that he is entitled to withhold his payment of service charges because of the manner in which the Management Company and Rebbeck have been managed. We remind ourselves that our jurisdiction is restricted to the payability and reasonableness of the service charges that have been demanded. The Companies Court has the jurisdiction in respect of any complaint that the Management Company is not being managed in accordance with its articles of association and the relevant requirements of the Companies Act.
23. We set out our reasons briefly for concluding that Mr Hall has no legal right to withhold his service charges:
  - (i) The Respondent suggests that there is a conflict of interest created by Mr Mellery-Pratt being both the Company Secretary of the Management Company and a director of Rebbeck. We reject this suggestion. Under the Respondent's lease, the Management Company is integral to the provision of services for Verenna. The role of the Company Secretary is to ensure that the Company complies with the duties imposed on it by the Companies Acts. It is the directors who have the responsibility for approving the budget and giving instructions to the managing agents. It is not unusual for a managing agent to act as the Company Secretary for a tenant-controlled company.
  - (ii) The Respondent asserts that Rebbeck were not properly appointed by the Respondent to manage Verenna. In 2013/4, the Respondent appointed Rebbeck to manage Verenna. We have not been provided with a copy of the agreement. Mr Mellery-Pratt states that it was not time limited. There is no evidence to contradict this. Whilst Rebbeck tendered their resignation on 22 September 2021, the Respondent subsequently decided to keep them in post. We accept that Mr Hall had no authority, as a mere shareholder, to accept their resignation. There is no evidence that there was any disruption in the management services.
  - (iii) The Respondent disputes his 1/14 service charge contribution. He suggests that the two penthouses being substantially larger and more valuable than the other flats should pay more. Mr Hall's service charge contribution is specified in his lease. In law, there is no reason why a landlord should not allocate the service charge on this basis. Any tenant would have acquired their lease in the knowledge of the service charge that they would be required to pay.

(iv) Mr Mellery-Pratt (at p.166) describes how the Board has agreed that in order to facilitate communications, two directors have been appointed to give instructions on behalf of the Management Company to Rebbeck. The Respondent objects to this. The Tribunal is satisfied that this arrangement makes practical sense. The managing agents cannot be expected to take day to day instructions from 15 directors. There is no suggestion that individual tenants are unable to communicate with the managing agents in respect of matter which relate to their flats.

(vi) The Respondent points out the different signatures from his share certificate and the most recent management agreement. The Tribunal accepts Mr Mellery-Pratt's explanation that this is due to the E-sign facility which Rebbeck use to speed up the confirmation of important documents and avoid any possible postal delays.

24. To conclude, the Tribunal rejects Mr Hall's contention that the relationship between the Respondent Management Company and Rebbeck has been "illegitimate and unfair". There has been no justification for Mr Hall to have withheld his service charges.

25. The Tribunal turns to the service charge items which the Applicant asks us to find to be payable under the terms of the lease and reasonable in the 2021/2 accounts (at p.138) and 2022/3 Budget (at p.74):

(i) Accountancy: The following sums have been charged for (a) accountancy administration and (b) accountancy fee: 2021/22: (a) £50; (b) £696; 2022/23: (a) £50; (b) £655. We are satisfied that there is no duplication. The sum of £50 relates to the specialist management accountancy software used by Rebbeck. The larger sum relates to the preparation of the accounts by Carter and Coley. These are payable pursuant to Schedule 7, Part 2, paragraph (b) of the lease (see [9] above). The Respondent has adduced no evidence that these charges are unreasonably high.

(ii) Service the Management Company: The following sums have been charged for (a) Company Secretarial; (b) Confirmation Certificate; (c) Contribution towards storage; and (d) director's insurance: 2021/22: (a) £303; (b) -; (c) £-; (d) £169; 2022/23: (a) £312; (b) £13; (c) £36; (d) £200. The servicing of the Management Company is central to the provision of the services for Verenna. The Company records need to be kept in storage. All tenants are required to be members. It is in the interests of all tenants that the directors should have insurance. Indeed, members could be reluctant to act as directors if insurance is not in place. These sums are payable pursuant to Schedule 7, Part 1, paragraph (i)(l) (see [8] above). The Respondent has adduced no evidence that these charges are unreasonably high.

(iii) Electricity: 2021/22: £4,034; 2022/23: £6,500. The Respondent suggests that this should have been put out to tender. These sums are

payable pursuant to Schedule 7, Part 1, paragraph (i)(l) (see [8] above). The Applicant has adduced no evidence as to how it seeks to secure best value. However, the Respondent has adduced no evidence that these charges are unreasonably high.

(iv) Fire Safety: 2021/22: £5,160; 2022/23: £1,000. The Applicant contends that this expenditure is required to comply with statutory requirements. These sums are payable pursuant to Schedule 7, Part 1, paragraph (i)(f) (see [8] above). The Respondent has adduced no evidence that these charges are unreasonably high.

(v) Repairs and Maintenance: 2021/22: £2,356; 2022/23: £2,500. The Applicant states that all items of repair and maintenance are separately listed in a schedule to the service charge accounts which is provided after the end of each financial year. These sums are payable pursuant to Schedule 7, Part 1 (see [8] above). The Respondent has adduced no evidence that these charges are unreasonably high.

(vi) Building Insurance: 2021/22: £3,488; 2022/23: £4,200. The Respondent suggests that this should have been put out to tender. The Respondent has apparently also objected to this item on the grounds that the premium is excessive and that there are hidden commissions being taken by the managing agents. The Applicant states that each year the insurance is put out to the market by the brokers used by Rebbeck and the three quotations obtained are presented to the directors together with a statement of the commission that will be paid in respect of that premium. Each year the directors confirm that the commission may be taken. By Schedule 6, paragraph 2, the Landlord covenants to insure the Site (see [7] above). These sums are payable pursuant to Schedule 7, Part 2, paragraph (a)(i) (see [9] above). The Respondent has adduced no evidence that cheaper quotes could be obtained.

(vii) Engineering Insurance: 2021/22: £603; 2022/23: £770. The Respondent suggests that this should have been put out to tender. The Applicant responds that this statutory inspection is organised through Chubb Insurance Brokers who will advise them if they recommend a change of company. These sums are payable pursuant to Schedule 7, Part 1, paragraph 1(l) (see [8] above). The Respondent has adduced no evidence that cheaper quotes could be obtained.

(viii) Lift Maintenance: 2021/22: £1,789; 2022/23: £2,000. The Respondent suggests that this should have been put out to tender. The Applicant responds that the two lifts were originally installed by Dorset Lifts in 2012 and were already under the maintenance contract when Rebbeck took over the management in 2014. The lifts are made by Doppler and Dorset Lifts are the main agents for this company. Dorset Lifts are a local company who maintain and service many of the lifts managed by Rebbeck Bros and they have been found to be competitive in price and excellent in their service. In view of the fact that other lift

maintenance companies might have difficulty in sourcing parts for these lifts, Mr Mellery-Pratt can see no reason for changing to another maintenance contractor unless the cost of the maintenance contract falls out of line with the general level. These sums are payable pursuant to Schedule 7, Part 1, paragraph 1(d) (see [8] above). The Respondent has adduced no evidence that the charge is unreasonable.

(ix) Lift Telephone: 2021/22: £409; 2022/23: £450. The Respondent suggests that this should have been put out to tender. The Applicant notes that changing provider can often mean that new equipment needs to be installed at additional cost. Mr Mellery-Pratt is aware of the plan to switch off the PSTN phone network in 2025 and Rebbeck are already discussing with the lift engineers the most economic way to provide a telephone service in the lifts. These sums are payable pursuant to Schedule 7, Part 1, paragraph 1(l) (see [8] above). The Respondent has adduced no evidence that the charge is unreasonable.

(x) Management Fees: 2021/22: £3,138; 2022/23: £3,138. The Respondent states that he is definitely not paying this, given his dissatisfaction with Rebbeck. Mr Mellery-Pratt states that the management fee is agreed annually with the Board. These sums are payable pursuant to Schedule 7, Part 2, paragraph (b)(i) (see [9] above). The charge is £225 per flat. The Tribunal is an expert tribunal and is satisfied that this basic charge is reasonable and is at the lower end of the fees charged by managing agents. We reject the Respondent's suggestion that the quality of the service has been inadequate.

(xi) Reserve Fund Contribution: 2021/22: £2,500; 2022/23: £2,500. The Respondent complains that a reserve fund contingency has been established of £1,000 per flat. These sums are payable pursuant to Schedule 7, Part 2, paragraph (a)(vi) (see [9] above). The Tribunal is satisfied that these demands are reasonable. It is in the interests of tenants that a reserve fund is established for future major works. The landlord holds such funds on trust for the contributing tenants (section 42 of the Landlord and Tenant Act 1987).

26. In 2022/23, the service charge expenditure (excluding the contribution to the reserve fund) was £28,284, namely £1,178.50 per tenant. The Tribunal is satisfied that the sums demanded are reasonable and payable.

27. The Applicant also seeks a determination of the payability of certain administration charges:

(i) The Respondent has been charged four late payment fees of £42, in respect of the arrears that have arisen (see Statement of Account at p.79-81). This is payable pursuant to Schedule 4, paragraph 4 (see [6] above). The Respondent has made no submissions on these charges. We are satisfied that they are reasonable.

(ii) Rebbeck also charge a solicitor's referral fee of £180. This would also be payable pursuant to Schedule 4, paragraph 7 (see [6] above).

(iii) The Applicant also proposes to charge interest on the arrears at 4% above the base rate of Lloyds TSB Bank. Default Interest is payable pursuant to Schedule 4, paragraph 4 (see [6] above). The lease defines the Default Interest Rate as "4% above the base rate from time to time of Lloyds TSB Bank plc or, if that base rate is no longer used or published, a comparable commercial rate reasonably determined by the Landlord."

**Judge Robert Latham**  
**1 August 2023**

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made **by e-mail** to the First-tier Tribunal at the regional office which has been dealing with the case (rpsouthern@justice.gov.uk).

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).