



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

Case reference : **BIR/44UC/LSC/2024/0007**

Property : **8 West Wing, Caldecote Hall,
Nuneaton, CV10 0UL**

Applicant : **Dennis Beard**

Representative : **None**

Respondent : **Caldecote Residents Management
Limited**

Representative : **Kenneth Taylor and Christina Harrison-
Flynn (Directors of the Respondent)**

**Type of
applications** : **(1) An application in respect of the
liability to pay and reasonableness of
service charges under section 27A of
the Landlord and Tenant Act 1985**
**(2)An application for an Order under
paragraph 5A of Schedule 11 of the
Commonhold and Leasehold Reform
Act 2002**

Tribunal member : **Judge C Goodall
Mr D Satchwell FRICS**

**Date and place of
hearing** : **3 March 2025 at Centre City Tower,
Birmingham**

Date of decision : **07 March 2025**

DECISION

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Background

1. On 16 April 2024, the Applicant applied for a determination of the payability of a service charge on his long leasehold flat at 8 West Wing, Caldecote Hall, Nuneaton (“the Property”) for the service charge years 2023/24 and 2024/25.
2. A case management conference held on 21 August 2024 resulted in an unsuccessful referral to arbitration but also clarified the scope of the question raised by the Applicant. The question was identified as:
 - the calculation of the reserve fund – whether this should be based on the square footage of the flats or on the number of units in the building; and
 - whether the amounts demanded towards the reserve fund in the years in question are reasonable
3. A further direction was made on 25 November 2024, noting that the Applicant had narrowed his application to the calculation of the reserve fund in future years.
4. Both parties provided bundles of documents. An oral hearing took place on 3 March 2025 at the Tribunal Hearing Centre at Centre City Tower, Birmingham. The Applicant and two directors of the Respondent management company attended.
5. This decision records the determination the Tribunal has made on the application and the reasons for that determination.

Law

6. Section 27A of the Landlord and Tenant Act 1985 (“the Act”) confers jurisdiction upon the Tribunal to determine the payability of a service charge. This case concerns the Respondents collection of a payment towards a reserve fund for future expenditure.
7. There is no question that a demand for a contribution to a service charge reserve fund is a service charge. It has to be a reasonable sum (section 19(2) of the Act).
8. Under section 27A, the Tribunal has jurisdiction to determine what amount is payable, by whom and to whom, and the date and manner of payment.

The Lease

9. The Applicant’s lease is dated 25 September 2009, and it is for a term of 999 years from 25 December 2004.

10. The Respondent is a named party to the lease but is not demised any land. Its role in the lease is that it is contracted to manage the property and to collect service charges to pay for its outgoings.
11. By virtue of clause 4(3) and the Sixth Schedule, the Applicant has to pay an “initial contribution” to the Respondent, which is defined in paragraph 1(6) of Part A of the Sixth Schedule as the specified sum of £1,240.68. Provision is made in paragraph 2(2) of Part A of the Sixth Schedule for that initial contribution to be varied each year. It can be increased if the “basic maintenance charge” (which essentially is the totality of all the costs incurred by the Respondent) exceeds the sums collected from all service charge payers. In this case, we have not been asked to review whether the Respondent has complied with the procedure for increasing the initial contribution.
12. Paragraph 1(5) of Part A of the Sixth Schedule expressly provides that the basic maintenance charge includes such sum as the Respondent shall in its discretion think fit as being a reasonable provision for expenditure likely to be incurred in the future in complying with the Respondents obligations in the lease.

The issue

13. As he explained at the hearing, the Applicant’s concern about the service charges levied as a contribution towards reserves was that the demand did not explain that the reserves were being collected towards specific anticipated expenditure in each category of service charge expenditure. He considered that the money was simply going into a general pot to eventually be used generally for non-specified purposes. Therefore, he argued, each contributor should put in an equal amount.
14. The Respondent’s position is that money intended to be spent in the future on costs that are not borne equally by all contributors, needs to be collected in the proportions under which it will eventually be spent, and so their practice, as explained below, was correct.

The Estate and how the costs are apportioned

15. Caldecote Hall is set in a 35 acre park, with a drive, fencing and parking areas, and comprises:
 - a. A building known as the Manor House, which contains a west wing containing eight flats and an east wing containing twelve flats, and four further flats which are within the overall curtilage of the building, but which are accessed externally. There are thus 24 flats in the Manor House. The Applicant’s flat is in the west wing;
 - b. A stand-alone property known as the Summer House;
 - c. A block of thirteen further residential units known as the Stable Block. The properties in the Stable Block are not managed by the

Respondent, but they are obliged to contribute to park maintenance costs;

- d. Three further units known as the Mews. The Respondent does not manage these properties, but their leasehold owners must contribute towards park maintenance costs;
 - e. Two freehold cottages called the Laundry Cottages (which also must contribute towards park maintenance expenses); and
 - f. A courtyard close to the Mews, and car parks beyond the Mews and around the Manor House and the Summer House.
16. Adding these residential units together, there are therefore 43 properties in total which are expected to make some contribution towards the Respondents costs.
17. The Respondent manages the park itself, by (inter alia) providing gardening and landscaping services.
18. Contributions towards the funds required to manage the whole establishment at Caldecote Hall come via a suite of leasehold and freehold obligations. As identified above, some properties bear only a contribution towards the park management costs. The Tribunal was not provided with any legal documents explaining the basis for contributions apart from the lease for the Applicant's property. Fortunately, that investigation is not required to determine this application.
19. In apportioning the costs between the various properties, the Respondent:
- a. Splits the annual operating costs for the running of the Respondent, insurance, legal costs, and maintenance of the park, driveway, fencing, and the park gates, between all 43 costs contributors equally;
 - b. Splits the costs of courtyard, car park, and bin store maintenance equally between 30 contributors, as the Stables owners have no liability for these costs;
 - c. Splits the lighting and water costs for the courtyard and car park adjoining the Manor House equally between the 24 leaseholders in that building;
 - d. Splits the cost of cleaning, lighting and chimney sweeping of the internal common parts of the Manor House equally between the twenty leasehold owners, as the other four lessees do not have access to the common parts;
 - e. Splits the maintenance of both wings of the Manor House, and the costs of fire protection, entry phone systems, window cleaning, cleaning of roofs and gutters between the twenty-four lessees in the

Manor House on the basis of the square footage of the residential units.

How the service charge is demanded

20. The Tribunal was provided with paperwork showing the way the service charge was demanded for the 2024/25 service charge year from the Applicant. The initial contribution was itemised in seven cost centres (SC1 – SC7). The Respondent explained that the sum demanded under each cost centre was apportioned between the contributors in the proportions set out in paragraph 19 above. The anticipated expenditure during the year was the sum of those seven amounts and it totalled £2,761.08. All the other service charge payers would have received a demand for a different amount as they all contributed in different proportions.
21. There then followed a demand for a contribution towards the reserve fund. This was for four separate sums, as the contributions towards each part of the reserve fund demand was apportioned differently between all contributors.
22. The first item was a demand for a contribution towards estate works (i.e. park management), and legal and professional costs. This should have been equally divided between 43 properties. We assume it was but have not been able to check.
23. The second item was a demand for repairs to the Mews; this was nil for the Applicant's demand as he does not contribute towards upkeep of the Mews.
24. The third item was towards repairs at the Manor House. We were informed that the reserve contribution requested was the applicant's proportion of a sum that was a contribution towards planned future expenditure on the fabric of the Manor House, in the proportions that the lessees of that property paid such sums (i.e. apportioned by square footage of each unit).
25. The fourth contribution was a reserve for driveway repairs, which the Respondents' representative explained was split equally between all payers.
26. The letters and explanations in the Respondent's bundle which sought to explain both the apportionment of the sums to be expended in each cost centre and the sums demanded as reserves did not spell out what proportion of those costs was requested. At the hearing, the Tribunal was able to prepare a schedule of specific percentages of the total cost each lessee of the Mansion House would have to contribute, based upon floor areas. The Applicant's contribution would be 5.85%. For items split 43 ways, the percentage would be 2.326%.

Determination

27. The Tribunal agrees with the Respondent's approach to demands for reserve funds. Best practice is that reserves should be established to cover anticipated and planned long term expenditure. Good managers should generally seek to avoid annual shortfalls on service charge expenditure not covered by reserves. We therefore agree with the Respondent's approach to the collection of reserves.
28. We determine that the Respondent is entitled to collect reserves towards planned long term maintenance in the proportions in which they will eventually be utilised. In this case, some claims for reserves are for equal amounts for each service charge payer; some are split on a square footage basis. We think that is the correct methodology.
29. We will say that we did not find the letters explaining the service charge collection process which accompany the actual demand particularly clear. We feel that the service charge payers should know the overall sum the Respondent seeks to collect within each category of cost centre from all the contributors and the percentage contribution of that overall sum sought from that service charge payer, as well as the actual amount the payer has to pay individually. That will allow clarity on the purpose and the apportionment of the request for a contribution towards the reserves.

Costs

30. The Applicant has requested an order under paragraph 5A of schedule 11 to the Commonhold and Leasehold Reform Act 2002. This order would prevent the Respondent from claiming its costs of this case directly from the Applicant.
31. The Respondent informed the Tribunal that it will not make a claim for costs, and it has no objection to such an order being made. We therefore so order.
32. The Respondent's representatives also confirmed that it did not propose to include any costs of the case within the service charge for this year.

Appeal

33. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
First-tier Tribunal (Property Chamber)