



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

Case reference	:	CAM/00KA/LSC/2023/0063 CAM/00KA/LSC/2024/0009 CAM/00KA/LSC/2023/0041 CAM/00KA/LAC/2024/0001 CAM/00KA/LSC/2024/0604
Property	:	Napier House, 17-21 Napier Road, Luton, LU1 1DU
Applicant	:	Various Leaseholders of Napier House as set out in the Schedule to the Decision
Representative	:	Jay Silva, Leaseholder and Mitul Sudhir Patel
Respondent	:	Assethold Limited
Representative	:	Andrew Gibbs-Ripley, Counsel instructed on behalf of Eagerstates Ltd
Type of application	:	Application for permission to appeal
Tribunal members	:	Judge Bernadette MacQueen Roland Thomas, MRICS
Venue	:	10 Alfred Place, London WC1E 7LR
Date of decision	:	7 July 2025

DECISION REFUSING PERMISSION TO APPEAL

DECISION OF THE TRIBUNAL

1. The tribunal has considered the Respondent's request for permission to appeal dated 10 June 2025 and determines that:
 - (a) it will not review its decision; and
 - (b) permission be refused.

2. You may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be made no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
3. Where possible, you should make your further application for permission to appeal on-line using the Upper Tribunal's on-line document filing system, called CE-File. This will enable the Upper Tribunal to deal with it more efficiently and will enable you to follow the progress of your application and submit any additional documents quickly and easily. Information about how to register to use CE-File can be found by going to this web address: <https://www.judiciary.uk/wp-content/uploads/2023/09/20230927-PD-UT-Lands-Chamber-CE-File.pdf>
4. Alternatively, you can submit your application for permission to appeal by email to: Lands@justice.gov.uk.
5. The Upper Tribunal can also be contacted by post or by telephone at: Upper Tribunal (Lands Chamber), 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (Tel: 020 7612 9710).

REASONS FOR THE DECISION

6. The test for whether to grant permission to appeal is whether there is a realistic prospect of success.
7. In the present case, the tribunal does not consider that any ground of appeal has a realistic prospect of success.
8. For the benefit of the parties and the Upper Tribunal (Lands Chamber), the tribunal records below its comments on the grounds of appeal and any procedural points raised.

Use of Artificial Intelligence

9. In considering the Respondent's grounds of appeal, the tribunal noted that the Respondent relied on a number of cases. However, on close scrutiny, the tribunal was unable to find some of the cases that were referenced. Further the tribunal found that in a number of the cases quoted, incorrect references were used and in many of the cases the tribunal did not recognise the case summary provided.
10. The tribunal is aware of the growing use of artificial intelligence and it would appear that an AI tool was used to prepare the Respondent's grounds of appeal. This has resulted in the tribunal's resources being disproportionately engaged in order to consider the cases relied on by the Respondent.

Ground 1 - the decision shows that the tribunal wrongly interpreted or wrongly applied the relevant law

11. The Respondent asserted that they were not afforded a fair opportunity to participate meaningfully in the proceedings.
12. The relevant sections of the tribunal's decision in relation to this point are at paragraphs 5 to 10 and can be summarised as follows:
 - The Respondent failed to produce case documents by 28 February 2025 and therefore, pursuant to Directions made on 13 February 2025, the Respondent was automatically barred from further participation in these proceedings.
 - On 4 March 2024, the Respondent produced their case documents. This was considered by a procedural judge prior to the hearing who determined that the Applicant should include the Respondent's documents in the hearing bundle. This would mean that, in the event that the tribunal panel hearing the matter decided to lift the ban, the documents produced would be available and could be relied upon by the Respondent at the hearing.
13. At the start of the hearing, the tribunal heard representations from both parties and determined that the bar should be lifted so that the Respondent could participate fully in proceedings. The reasons for this are set out at paragraph 10 of the decision. The Tribunal therefore does not accept that the Respondent was not afforded a fair opportunity to participate meaningfully in proceedings.
14. Further, in the Respondent's grounds of appeal, the Respondent asserted that the Respondent's evidence was discounted. However, the tribunal's decision records the evidence before the tribunal, the submissions made and the reasons for the tribunal's decision.
15. The Respondent included two cases within their grounds for appeal which have been cited as:
 - Osborn v Parole Board [2013] UKSC 61 [2] [68]-[72]
 - Petzl v Avison [2014] UKUT 0065 (LC)
16. Having performed a search on BAILLI, Westlaw and Find Case Law, it has not been possible to find Petzl v Avison [2014] UKUT 0065 (LC). It may be that this case is not authentic and AI may have been used to reference this case.
17. Regarding Osborn v Parole Board, the decision is concerned with the circumstances in which a parole board should hold an oral hearing. When reading the full judgement, it is difficult to see why the tribunal has been referred to this case, and in particular paragraphs 68-72.

18. Further, and in any event, the tribunal notes that the Respondent did not rely on these cases at the hearing.

Ground 2 - The tribunal took account of irrelevant considerations or failed to take account of relevant considerations or evidence, or there was a substantial procedural defect

19. The Respondent stated in their grounds of appeal that the tribunal misapplied section 19(1) Landlord and Tenant Act 1985 as it substituted its own version of cost reasonableness absent of expert evidence.
20. The Tribunal considered the documents before it, heard both parties at the hearing, and has recorded its findings within its decision.
21. The Respondent has quoted three cases in this section of their grounds of appeal as follows:
- Forcelux Ltd v Sweetman [2001] EWCA Civ 1217
 - Anchor Trust v Wandsworth LBC [2007] EWCA Civ 1051
 - Waaler v London Borough of Hounslow [2017] EWCA Civ 45
22. The tribunal found that the reference [2001] EWCA Civ 1217 relates to the case of Director General of Fair Trading v Proprietary Association of Great Britain (Costs) and not Forcelux Ltd. Further, and in any event, the tribunal does not recognise as an accurate summary the proposition made by the Respondent that Forcelux Ltd is authority that “the test is not whether the Tribunal would have incurred the same cost, but whether the costs fall within a range of reasonable responses”. Instead, the tribunal notes that Forcelux set out a two-stage test namely (1) was the decision-making process reasonable? (2) is the sum to be charged reasonable in the light of market evidence?
23. The tribunal was not able to find Anchor Trust v Wandsworth LBC [2007] EWCA Civ 1051. Instead the tribunal found that the reference [2007] EWCA Civ 1051 related to the case of Mohanaei v Mohanaei. The summary for this case was as follows:
- “A judge had been right to hold that the appellant had not provided any funds towards the purchase of a property by the respondent and right to hold that the appellant was not entitled to remuneration on a quantum meruit basis for help provided to the respondent in his property dealings.”
24. Therefore, the tribunal does not accept the Respondent’s position that Anchor Trust v Wandsworth LBC [2007] EWCA Civ 1051 is authority for the proposition that “the test is not whether the Tribunal would have incurred the same cost, but whether the costs fall within a reasonable response”.
25. Finally, the Respondent stated that the Court of Appeal in Waaler v London Borough of Hounslow “reaffirmed that a proper reasonableness analysis must include the landlord’s rationale at the time, not hindsight”.

The tribunal does not accept this as an accurate summary of the case. Instead the tribunal notes that in that case the Court of Appeal stated that reasonableness has to be determined by reference to an objective standard, not by the lower standard of rationality.

26. Further, and in any event, the tribunal notes that the Respondent did not rely on these cases at the hearing.

Ground 3 – Improper Reliance on leaseholder quotations and substitution of tribunal’s own expertise

27. The Respondent asserted that the tribunal’s use of alternative quotations without verifying their comparability or assessing the scope of works was incorrect as the tribunal must not substitute its own view without adequate expert or evidentiary basis.
28. The tribunal had before it four different schedules of items in dispute relating to service charge years 2021 to 2024. The Applicant provided comparative quotations in relation to just two service charge items, namely insurance costs and managing agent fees.
29. The tribunal considered the comparative quotations provided by the Applicant in relation to insurance and set out its findings at paragraphs 36 to 43. Further, the tribunal set out how it assessed the comparative quotations in relation to managing agent fees at paragraphs 46 to 48 of its decision.
30. The Respondent relied on two cases within their grounds of appeal namely:
- Fairman v UKCC [2014] UKUT 479 (LC)
 - Sheffield City Council v Oliver [2017] UKUT 349 (LC)
31. The tribunal was not able to find Fairman v UKCC [2014] UKUT 479 (LC). It may be that this case is not authentic and AI may have been used to reference this case. The Respondent asserted that this case held that “the Tribunal must not substitute its own view without adequate expert or evidentiary basis”. The tribunal does not accept the authenticity of this case.
32. With regards to Sheffield City Council v Oliver, it may be that the Respondent meant to refer the tribunal to Oliver v Sheffield City Council [2017] EWCA Civ 225. The citation used by the Respondent appears to relate to a UKUT decision. However, even if this is what the Respondent meant, the tribunal does not recognise this case to be authority for a “standard test which cautions against over-reliance on alternative estimates unless accompanied by proper evidence of equivalence and viability” as the Respondent asserts.
33. Further, and in any event, the tribunal notes that the Respondent did not rely on these cases at the hearing.

Ground 4 – Misapplication of section 24 Land Registration Act 2002 and Confusion over Title

34. The tribunal accepted the Respondent's right to demand service charges. Despite this finding, the Respondent stated in their grounds of appeal that "its [the tribunal's] protracted discussion of registration status led to confusion over legal standing. This unduly coloured the Tribunal's assessment of payability and was legally irrelevant."
35. The issue of title and the Respondent's ability to demand service charges was an argument advanced by the Applicant. The tribunal heard representations from both parties and made a decision which accepted the Respondent's position. The arguments put forward and the tribunal's decision are set out at paragraphs 17 to 26 of its decision.
36. The Respondent quoted two cases within this section of their grounds of appeal, namely:
 - Ellis v APL Co Ltd [2011] EWCA Civ 1088
 - Lambeth LBC v O'Kane [2013] UKUT 0538 (LC)
37. The tribunal was unable to find Ellis v APL Co Ltd [2011] EWCA Civ 1088 or Lambeth LBC v O'Kane [2013] UKUT 0538 (LC). It may be that these case are not authentic and AI may have been used.
38. Further, and in any event, the tribunal notes that the Respondent did not rely on these cases at the hearing.

Ground 5 – Misapplication of Schedule 11, Paragraph 5A CLRA and Section 20C LTA 1985 – Costs Orders

39. The tribunal does not accept that it applied schedule 11 paragraph 5A CLRA 2002 and section 20C LTA 1985 in a blanket manner as asserted by the Respondent. The tribunal set out its reasons for its decision at paragraphs 85 to 87.
40. The Respondent referred to two cases in their grounds of appeal, namely:
 - Garside v RFYC Ltd [2011] UKUT 367
 - Willmott Dixon Housing Ltd v Secretary of State [2009] EWCA Civ 1044
41. Garside v RFYC Ltd [2011] UKUT 367 has had mixed judicial consideration and in any event, the tribunal does not recognise this case as authority for the submission made by the Respondent "that it is not enough to show that the leaseholders were successful; there must be consideration of whether the landlord acted unreasonably".

42. The Tribunal was unable to find *Willmott Dixon Housing Ltd v Secretary of State* [2009] EWCA Civ 1044. The case under this reference was *Pablo Star Ltd v Emirates Integrated Telecommunications Co PJSC (t/a DU)* Court of Appeal (Civil Division) [2009] EWCA Civ 1044 14 Oct 2009. This case is not authority for the proposition that “a blanket order excluding cost recovery was excessive and wrong in law” as submitted by the Respondent.
43. Further, and in any event, the Tribunal notes that the Respondent did not rely on these cases at the hearing.

Ground 6 – Failure to Provide Adequate Reasons – Breach of Public Law Principles

44. The tribunal does not accept that it failed to give adequate reasons. The decision was 78 pages in length and provided a determination in relation to each matter in dispute.
45. The Respondent quoted two cases in their grounds of appeal namely:
- *Flannery v Halifax Estate Agencies Ltd* (2000) 1 WLR 377
 - *South Bucks DC v Porter (no.2)* [2004] UKHL 33
46. Both these cases emphasise the importance of giving reasons. The Tribunal has provided reasons for its decision.

Name: Judge Bernadette MacQueen

Date: 7 July 2025