In the FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Property	:	**Princes Park North, 52 Prince of Wales Road, London NW5 3LN**
Case 1		
Case reference	:	**LON/OOAG/LSC/2025/0636**
Applicants	:	**Matthew Harvey** **Andrew & Lynette Clarke** **Alistair Law** **Ross Brown**
Respondents	:	**The Riverside Group Ltd** **Hazlewood Group Ltd**
Representative	:	**Trowers & Hamlin for TRG** **Nicholas & Co for HG**
Case 2		
Case reference	:	**LON/OOAG/LSC/2025/0800**
Applicant	:	**The Riverside Group Ltd**
Respondent	:	**Hazelwood Group Ltd**
Type of Application	:	**Payability of service charges**
Tribunal	:	**Judge Nicol** **Mr J Stead** **Mr J Francis**
Date and venue of Hearing	:	**14th October 2025** **10 Alfred Place, London WC1E 7LR**
Date of Decision	:	**15th October 2025**

DECISION

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(1) The service charges in relation to the provision of traffic marshals are not payable.

(2) The costs incurred by The Riverside Group Ltd and Hazelwood Group Ltd in connection with the proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge in accordance with section 20C of the Landlord and Tenant Act 1985.

Relevant legal provisions are set out in the Appendix to this decision.

Reasons

1. Princes Park North is one of two blocks, containing 19 flats. The South block contains 36 flats on long leases and a medical centre.

2. Behind the blocks is Talacre Community Sports Centre for which vehicular access is along Dalby Street, alongside the blocks. Marshals are employed to manage the traffic. Two applications have been made under section 27A of the Landlord and Tenant Act 1985 challenging the payability and the costs of the traffic marshals for the years from 2016 to date. The parties are:

   - Hazelwood Group Ltd ("Hazelwood"), the freeholder of the blocks and some of the surrounding land which includes Dalby Street. They are Respondents in both applications.
   - The Riverside Group Ltd ("TRG"), the head lessee of the North block since 26th April 2023, one of the Respondents in the "636" application and the Applicant in the "800" application.
   - The lessees of four of the shared ownership leases in the North block who are the Applicants in the "636" application ("the Applicants").

3. The Tribunal heard the applications on 14th October 2025. The attendees were:

   - Three of the Applicants, namely Mr Law (who spoke on their behalf), Mr Clarke and Mr Brown;
   - Mr Stephen Willmer, counsel for TRG, accompanied by his instructing solicitor;
   - Mr Robert Gregory, TRG's witness;
   - Mr Will Beetson, counsel for Respondent, also accompanied by his instructing solicitor; and
   - Mr Daniel Goodwin, Hazelwood's witness.

4. The relevant documents were contained in a bundle of 981 pages. Mr Beetson and Mr Willmer also provided skeleton arguments.

5. On 10th January 2006 the local authority, the London Borough of Camden ("Camden"), entered into a planning agreement with Trac Properties Ltd and Community Housing Association to develop the land where the subject property now stands, to include some affordable housing. The freehold of the land passed to Cornwall Overseas

Developments Ltd ("Cornwall"). Community Housing Association forward-purchased 19 affordable units in the proposed development and then became part of the One Housing Group ("OHG"). During ongoing discussions, Ms Judith Raymond of OHG wrote two letters:

- On 23rd May 2008 she said, amongst other things, that the service charges payable by lessees of the affordable units would be affordable subject to conditions which included the terms of the leases being amended at Cornwall's cost "to the effect that the marshalls' costs shall be excluded from the service charge and shall not otherwise be payable by the Tenant thereunder." Mr Assaf Laznik counter-signed the letter on behalf of Cornwall confirming that he agreed the conditions, including this one.
- On 3rd June 2008 she informed Camden that, "it has been agreed that under the arrangements to be put in place between OHG and [Cornwall] marshalling costs will not fall upon OHG or our tenants but will be borne exclusively by the freehold owner/developer."

6. Camden entered into a further planning agreement with Cornwall on 30th September 2008, as part of which Cornwall agreed to provide traffic marshals. In particular, clause 2.34 defined the Traffic Marshalling Brief:

> the management requirements appended at Schedule Six hereto (or such other strategy as may be agreed by the Council from time to time) to be met by the Owner for the security access management and transport marshalling for the public at large in connection with the operation of the Development the Talacre Open Space and the Leisure Centre
>
> (See also clauses 4.11, 4.15, 4.20 and 5.6)

7. Cornwall thereafter developed the blocks as intended. On 3rd September 2014 they entered into a lease of the North block with OHG. In December 2014, Cornwall's interest passed to Hazelwood. In 2016 OHG granted sub-leases to 5 of the flats, including those of the Applicants. In 2023 OHG's interest passed to TRG.

8. The head lease contains nothing express about the marshalling. Contrary to the agreement referred to in the 2008 correspondence, Hazelwood passed on the costs of the marshalling through its service charge to OHG who then passed them on, along with the rest of the service charges, to its lessees. According to the accounts for the years 2017 to 2022 inclusive, the annual costs for "Concierge/marshalling/patrolling" varied between £75,220 and £87,691, being around 38-45% of the total expenditure (except for 2021 when it dropped to 25% due to an increase in other expenditure).

9. Mr Beetson submitted that Hazelwood were entitled to include the marshalling costs in the service charges due to the following provisions of the head lease:

1 DEFINITIONS

"Common Parts" means (to the extent that the same have from time to time been completed in accordance with the Development Agreement) the roadways pathways and other external areas of the Estate

"Estate" means all that land and premises at Dalby Street, London Borough of Camden as the same is shown edged green and comprised in the Landlord's freehold title NGL637463 and shown edged orange on the Plans.

"Service Charge" means the payments to be made by the Tenant in accordance with the provisions of Schedule 4;

6.2 The Tenant covenants with the Landlord (but by way of indemnity only) to observe and perform all covenants restrictions and other provisions and matters contained or referred to in the Property and Charges Registers of the Landlord's freehold title number NGL637463 insofar as the same relate to or are capable of affecting the Premises or the rights granted to the Tenant and to indemnify the Landlord in respect thereof.

7.3 The Tenant agrees and covenants with the Landlord to pay the Service Charge in accordance with the provisions of Schedule 4 and to comply with all its obligations under Schedule 4.

SCHEDULE 4

Service Charge

<u>Part 1</u>

1. Interpretation

(A) In this schedule except where the context otherwise requires the following words and expressions have the following meanings:-

"<u>the due proportion</u>" means the fair and proper proportion of the total costs attributed to the Premises by the Landlord acting properly and in accordance with the principles of good estate management

"service charge period" means the period of twelve months ending on and including 31st December in each year or such period as the Landlord may determine from time to time

"the total costs" means all proper costs and expenses properly incurred by the Landlord in

(i) providing the services specified in parts 2 and 3 of this Schedule

(ii) engaging managing agents for the Block and the Estate

(iii) engaging accountants to audit the summary of total costs and to provide other services in connection with the service charge

(iv) providing and supplying such other services or facilities making such other payments or carrying out such other repairs and works (including the replacement of plant and machinery) as in the reasonable opinion of the Landlord may be necessary or expedient to maintain the Block and/or the Estate and may be for the benefit of some or all of the tenants or occupiers thereof and defraying incidental and associated costs, charges and overheads

(B) In calculating the due proportion to be paid by the Tenant the Landlord may apply the same or different percentages to constituent elements of the total costs…"

Part 3

2. Such other works and/or services in relation to the Common Parts and boundaries of the Estate as are provided from time to time by the Landlord (acting reasonably)

10. Paragraph 1(A)(iv) of Part 1 of Schedule 4 to the lease and paragraph 2 of Part 3 are what is commonly known as "sweeper" clauses in that they aim to "sweep up" or include management functions not expressly addressed in other clauses. Of course, giving a clause such a label does not define its meaning or extent. Interpreting a contractual term requires ascertaining the objective meaning of the language in the context of the contract as a whole: *Wood v Capita Insurance Services Ltd* [2017] UKSC 24; [2017] AC 1173.

11. In *Gilje v Charlgrove Securities* [2001] EWCA Civ 177 the Court of Appeal made the trite point that, if a landlord seeks to recover money from a tenant, "there must be clear terms in the contractual provisions said to entitle him to do so".

12. Mr Beetson submitted that the words of the aforementioned paragraphs of the lease are wide enough to include the marshalling. However, as the Supreme Court in *Wood* emphasised, contractual interpretation is not a matter of taking the words literally. They must be read in context. Taken literally, it is difficult to see what the sweeper clauses could not possibly cover.

13. The Tribunal is not satisfied that the parties intended that the sweeper clauses in this lease should include the marshalling for two main, inter-related reasons:

(a) The parties clearly expressed their intentions in the 2008 correspondence. It was 6 years before the lease was executed but there is no reason to think the parties changed their minds. Mr Beetson pointed out that a party's subjective intention is irrelevant but this is the intention of both parties, objectively and clearly expressed prior to the formation of the contract. Both Mr Willmer and Mr Beetson suggested that the agreement made in the 2008 correspondence might simply have been forgotten as a reason why marshalling is not mentioned in the lease but that is not the same thing as establishing a reason to think either party had altered their position.

(b) A sweeper clause is normally intended to provide for unanticipated costs of a relatively minor nature. In this case, the costs of marshalling were neither unanticipated nor minor. They were clearly required by the planning agreement and would have been in the minds of all those involved in setting up the head lease. The costs were equivalent to two-thirds of all the rest of the service charge expenditure. It beggars belief that, if the parties had genuinely intended that the lessees should pay for the marshalling, they would not have made express provision in the lease.

14. Hazelwood's arguments gave the impression of resting on an assumption that a freeholder is entitled to pass on all the costs of managing a property through the service charge. There is no such assumption. There is nothing intrinsically wrong with the idea that the developer and their successors in title should pay for the marshalling. As always, it comes down to what the lease says.

15. For these reasons, the Tribunal has concluded that the costs of marshalling are not relevant costs to be taken into account for the service charges and so the service charges representing those costs are not payable.

16. The Applicants applied for an order under section 20C of the Landlord and Tenant Act 1985 that TRG should not be permitted to recover any of their costs of these proceedings through the service charge. TRG do not currently intend to try to recover their costs in this way. TRG made a similar application against Hazelwood who do intend to do so.

17. The Tribunal is satisfied that it is just and equitable to make section 20C orders against both TRG and Hazelwood. Hazelwood have recovered substantial sums of money from the Applicants, through TRG, to which they are not entitled. Mr Beetson sought the Tribunal's sympathy on the basis that Hazelwood acted on a genuine belief without any objection from TRG for many years but that cannot justify seeking yet further payment from the Applicants. They and TRG have had to take these proceedings to establish their legal position and should not be penalised for doing so.

Name: Judge Nicol **Date:** 15th October 2025

Appendix A – relevant legislation

Landlord and Tenant Act 1985

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -

- (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
- (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -

- (a) "costs" includes overheads, and
- (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(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 provisions 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.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) The application shall be made—

- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
- (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
- (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the

application is made after the proceedings are concluded, to any residential property tribunal;

(c) in the case of proceedings before the Upper Tribunal, to the tribunal;

(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

Section 27A

(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.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
  (a) the person by whom it would be payable,
  (b) the person to whom it would be payable,
  (c) the amount which would be payable,
  (d) the date at or by which it would be payable, and
  (e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
  (a) has been agreed or admitted by the tenant,
  (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  (c) has been the subject of determination by a court, or
  (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Commonhold and Leasehold Reform Act 2002

Section 90

(1) This section makes provision about the date which is the acquisition date where a RTM company acquires the right to manage any premises.

(2) Where there is no dispute about entitlement, the acquisition date is the date specified in the claim notice under section 80(7).

(3) For the purposes of this Chapter there is no dispute about entitlement if —

(a) no counter-notice is given under section 84, or
(b) the counter-notice given under that section, or (where more than one is so given) each of them, contains a statement such as is mentioned in subsection (2)(a) of that section.

(4) Where the right to manage the premises is acquired by the company by virtue of a determination under section 84(5)(a), the acquisition date is the date three months after the determination becomes final.

(5) Where the right to manage the premises is acquired by the company by virtue of subsection (5)(b) of section 84, the acquisition date is the date three months after the day on which the person (or the last person) by whom a counter-notice containing a statement such as is mentioned in subsection (2)(b) of that section was given agrees in writing that the company was on the relevant date entitled to acquire the right to manage the premises.

(6) Where an order is made under section 85, the acquisition date is (subject to any appeal) the date specified in the order.

Schedule 11, paragraph 5A

(1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.

(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.

(3) In this paragraph—
(a) "litigation costs" means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and
(b) "the relevant court or tribunal" means the court or tribunal mentioned in the table in relation to those proceedings.

Proceedings to which costs relate	***"The relevant court or tribunal"***
Court proceedings	The court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court
First-tier Tribunal proceedings	The First-tier Tribunal
Upper Tribunal proceedings	The Upper Tribunal
Arbitration proceedings	The arbitral tribunal or, if the application is made after the proceedings are concluded, the county court.