



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

Case Reference : **BIR/00CN/EOM/2025/0004
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Property : **Cell Site No. 10976, Eaton House,
1 Eaton Road, Coventry, CV1 2FJ (1)
Cell Site No. 10976, Little Heath West
situate at Eaton House, Coventry, CV1 2FJ (2)**

Claimant : **Friargate JV Project Limited**

Representative : **Eversheds Sutherland (International) LLP**

Respondent : **Telefonica UK Limited**

Representative : **Osborne Clarke LLP**

Application : **Electronic Communications Code
Paragraph 40 (Removal of ECA)**

Date of Order : **6th January 2026**

COSTS

PURSUANT TO my Order of 14th October 2025

IT IS ORDERED THAT

1. Pursuant to Paragraph 96(1) of the Code the Tribunal orders the Respondent to pay the Claimant's costs of these proceedings, summarily assessed, in the sum of £14,100.
2. Payment of costs shall be made within 28 days of the date of this Decision.

D Jackson
Regional Judge

REASONS

I have considered the following:

- Claimant's Statement of Costs dated 23rd October 2025
- Respondent's Costs Submissions dated 10th November 2025
- Claimants Costs Submissions dated 21st November 2025
- Claimant's Statement of Costs (23rd October – 14th November 2025) dated 10th December 2026
- Respondent's Costs Submissions dated 22nd December 2025

A reference under Schedule 3A of the Communications Act 2003 ("the Code") was received by the Tribunal on 23rd June 2025 including an application for an order under paragraph 44(1) and 44(5) of the Electronic Communications Code requiring removal of ECA.

On 23rd July 2025 I issued Directions requiring the Respondent to file a Response by 21st August 2025 and listing the reference for CMH on 4th September 2025.

The Respondent failed to comply with my Directions. At CMH on 4th September 2025 the Claimant was represented by Tom Morris of counsel. The Respondent failed to attend.

On Mr Morris' application I issued a Barring Warning (dated 9th September 2025). The Respondent again failed to comply and on 14th October 2025, being satisfied that I should make an order under paragraph 44(1) of the Code, I ordered that:

1. *The Respondent must within 50 days from the date of this Order remove its electronic communications apparatus from the Sites and restore the Sites to their condition before the apparatus was placed on the land*
2. *The Respondent shall pay the Claimant's costs of and occasioned by this reference, to be summarily assessed on paper pursuant to rule 13(7)(a) of the First-tier Tribunal (Property Chamber) Rules*

On 23rd October 2025 the Tribunal received an application from solicitors instructed by the Respondent to suspend my Order. I refused that application, without troubling the Claimant, on 27th October 2025.

On 29th October 2025 the Respondent made a further application to extend time, to lift the bar and to set aside.

On 10th November 2025 I issued Directions in respect of the application to lift the bar and set aside. By my calculation the removal date was 3rd December 2025. Accordingly, I issued a tight timetable including requiring the Respondent to make submissions by 13th November and the Claimant to respond by 19th November 2025.

On 13th November 2025 the Respondent's solicitors wrote to the Tribunal:

"The Respondent has now completed its investigation and has concluded that the third-party service provider responsible for distributing incoming correspondence to the Respondent (including any special deliveries) did receive the relevant notices and documents but unfortunately failed to pass these to the Respondent."

Accordingly, by Order dated 13th November 2025 the Respondent's application to lift the bar and set aside was withdrawn.

In respect of the Statement of Costs dated 23rd October 2025 the total amount claimed is £22,166.70 (inclusive of VAT). The Respondent's primary submission is that amount is disproportionate given that there was no substantive engagement from the Respondent. I agree.

In particular the Respondent claims £3,346.80 (10.8 hours) in respect of "Preparation of docs for trial (including bundles)". There was no trial. My Directions listed the reference for CMH with a time Estimate of 30 minutes on 4th September 2025. No Direction was given, nor was any Direction sought, in respect of trial bundles. No preparation for trial was required. The amount claimed is wholly unreasonable.

A further sum of £2669.30 is claimed in respect of "Witness Statement". Permission was not sought to file a Witness Statement for use at the CMH. In any event the Witness Statement (made on 29th August 2025) was made by the solicitor having conduct of this matter. The Witness Statement itself was brief (under 4 pages) exhibiting, for the most part, copies of various statutory notices. A total of 9 hours is claimed for its preparation. That amount is wholly unreasonable.

Further the Claimant seeks 10.2 hours (£2782.80) in respect of "Drafting Statement of Costs". That amount is again, wholly disproportionate, in the context of proceedings which consisted of a single 30 minute CMH.

Clearly the Claimant has been successful. However, it has considerably overstated the costs of achieving that success in the absence of any opposition from the Respondent. I summarily assess the Claimant's reasonable and proportionate costs in the sum of £6000 to which must be added the undisputed costs of counsel in the sum of £2750.

In respect of the period 23rd October – 14th November 2025 the Claimant seeks costs in the sum of £7218 (inclusive of VAT). The Respondent concedes that the application made on 29th October 2025 will have been reviewed and strategy considered. However, there was no substantive correspondence between the parties, and the application was withdrawn before the Claimant was required to make a substantive response.

Instructing counsel was a reasonable step bearing in mind the tight timetable. However, 4.7 hours, having regard to counsel's previous involvement, is excessive.

I summarily assess the Claimants reasonable and proportionate costs for the period 23rd October – 14th November 2025 in the sum of £3000.

The total allowed is £6000 + £2750 + £3000 = £11750. The Claimant has confirmed at paragraph 5.1 of Claimant's Costs Submissions dated 21st November 2025 that VAT is properly recoverable. Accordingly, VAT in the sum of £2350 must be added, making total of £14,100.