



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

Case Reference : **BIR/00CN/ERO/2025/0637**

Property : **Crowne Plaza, 1 Kings Cross Road,
London WC1X 9HX**

**Claimant
(Operator)** : **Cornerstone Telecommunications
Infrastructure Limited**

Representative : **Osborne Clarke LLP**

**Respondent
(Site Provider)** : **Firoka (Kings Cross) Limited**

Representative : **Freeths LLP**

Application : **Electronic Communications Code
Paragraph 20 (new site)**

Date of Order : **27th January 2026**

ORDER - COSTS

PURSUANT TO the Decision of the Tribunal (Judge Jackson and Mr RP Cammidge FRICS) dated 17th November 2025 dismissing the reference

AND UPON hearing Oliver Radley-Gardner KC for the Claimant and Jon Wills for the Respondent by way of remote video hearing held on 27th January 2026

IT IS ORDERED THAT

1. Pursuant to Paragraph 96(1) of the Code the Tribunal orders the Claimant to pay the Respondent's costs of these proceedings, summarily assessed, in the sum of £140,000.
2. The Respondent's application for compensation in respect of reasonable legal expenses under Paragraphs 25 and 84 is dismissed.
3. Payment of costs shall be made within 28 days of the date of this Order.

D Jackson
Regional Judge

REASONS

1. Mr RP Cammidge FRICS has now retired from judicial office and accordingly this is my decision in respect of costs following a two day hearing in Birmingham on 23rd and 24th October 2025.
2. Costs were determined by way of a remote video hearing on 27th January 2027. I am grateful to Oliver Radley-Gardner KC for his Submissions on Costs on behalf of the Claimant dated 23rd January 2026 and to Jon Wills for his Skeleton Argument on behalf of the Respondent also dated 23rd January 2026. I have considered a Bundle of documents running to 240 pages.
3. A reference under Schedule 3A of the Communications Act 2003 was received by the Tribunal on 4th June 2025 including an application for an order imposing an agreement for rights under paragraph 20 of the Electronic Communications Code requiring the parties to enter into a new agreement for the occupation by the Claimant of a new rooftop telecommunications site at the Crowne Plaza, 1 King's Cross Road, London. The Reference is one to which regulation 3(2), Electronic Communications and Wireless Telegraphy Regulations 2011 applies and must be determined by 3rd December 2025.
4. On 19th June 2025 I issued Directions requiring parties to exchange travelling draft of disputed terms, file and exchange statements of witnesses of fact, providing for

parties to apply for permission to adduce expert evidence and listing a final hearing on 23rd October 2025. On 11th August 2025 I issued Directions extending the final hearing to 2 days, 23rd and 24th October 2025, and giving permission for both parties to rely on expert evidence in the fields of (i) valuation and (ii) redevelopment. On 25th September 2025 I issued further Directions in respect of disclosure and further directions for the exchange of the travelling draft of disputed terms.

5. A Pre Trial Review took place on 14th October 2025 by way of remote video platform.
6. At the final hearing the Tribunal received oral evidence from Helen Main (Head of Delivery and Demand at CTIL) and Anne Lowry (Operations Director at Firoka). The Tribunal also heard from Mark Way (Chartered Structural Engineer) on behalf of CTIL and David Smith (Chartered Structural Engineer) on behalf of Firoka. The Tribunal considered Expert Reports of Stephen Sladdin MRICS on behalf of CTIL and Karen Callahan MRICS on behalf of Firoka. Under FTT Rule 19(3) expert evidence from the parties' valuation experts was given by written report only. The core Bundle ran to 1707 pages and the Supplemental Bundle to 270 pages.

Paragraph 96

7. Paragraph 96 of the Code provides:
 - (1) *Where in any proceedings a tribunal exercises functions by virtue of regulations under paragraph 95(1), it may make such order as it thinks fit as to costs, or, in Scotland, expenses.*
 - (2) *The matters a tribunal must have regard to in making such an order include in particular—*
 - (a) *the extent to which any party is successful in the proceedings, and*
 - (b) *any unreasonable refusal by a party to engage in alternative dispute resolution.*
8. The Respondent was clearly the successful party. The Respondent established an intention to redevelop within the meaning of Paragraph 21(5) and accordingly the reference under Paragraph 20 was dismissed.
9. However, I must have regard to the extent to which the Respondent was successful in proceedings.

Terms

10. The Tribunal was required to determine 49 terms in dispute as set out in the Schedule of Disputed Terms annexed to the Decision. The Tribunal said at paragraphs 107 and 108 of the Decision:

107. *We repeat the observations made by the Upper Tribunal in **Cornerstone Telecommunications Infrastructure Limited v University of The Arts London** [2020] UKUT 0248 (LC) at [70]:*

“We regard it as important not to duplicate safeguards; not to generate requirements for the transmission of information where that would be of little or no practical benefit to either party; and to give due respect to the professionalism of both parties.”

108. *We regret to say that those words appear not to have been heeded. As a result, the Tribunal has been asked to determine 49 points of dispute. Most could and should have been agreed without attempting to relitigate points previously determined by both the Upper Tribunal and by this Tribunal. As a result, very considerable costs have been incurred by both sides that could easily have been avoided.*

11. The Claimant was the successful party in respect of terms. Indeed, the Tribunal was told at the hearing that the Respondent, due to pressure of time, had only engaged in respect of terms to the extent that it was required to do so in accordance with the Directions of the Tribunal.
12. The Respondent’s costs in respect of disputed terms are disallowed firstly because the Respondent was not successful on that issue. Secondly the Respondents seeming lack of engagement and attempt to relitigate matters which have previously been the subject of Upper Tribunal determination is conduct which I take into account by analogy with CPR 44.2(5). In particular I find that it was not reasonable for the Respondent to pursue 49 disputed terms in the light of previous determinations of the Upper Tribunal (see CPR 44.2(5)(b)).

Valuation

13. The Respondent’s position on valuation was:

£30,800,000 (Thirty million eight hundred thousand pounds).

or an annual sum of

£6,393,000 (Six million three hundred and ninety three thousand pounds)

14. The Respondent’s valuation expert very fairly conceded that code valuations were outside her area of expertise (see paragraphs 98 and 99 of the Decision). The Claimant was, accordingly, entirely successful on the issue of consideration which the Tribunal determined in the sum of £6950p.a.
15. The Respondent’s costs in respect of valuation are disallowed firstly because the Respondent was not successful on that issue. Secondly the Respondents exaggerated valuation claim is conduct which I take into account by analogy with CPR 44.2(5). In

particular I find that although the Respondent has succeeded it has exaggerated its claim in respect of valuation (see CPR 44.2(5)(d)).

The Respondent's claim for costs

16. The Respondent claims:

- Litigation costs £251,687.21 [solicitors - £155,607.50; counsel's fees £56,378.50 and other expenses £39,701.21]
- Costs 5th December 2025 to date £15,132 [solicitors - £10,132 and counsel's fees £5,000]
- Transactional costs £26,860.50
- No claim is made for VAT.

17. On the basis of my determination, set out above, as to the extent to which the Respondent was successful, I disallow the following in respect of Litigation costs:

- £20,000 (Knight Frank valuation report)
- £24,528.50 (disputed terms in draft lease)

Standard basis

18. There is nothing in the conduct of the Claimant or the circumstances of the case which takes situation "out of the norm". I therefore assess costs on the standard basis.

19. I apply the following principles by analogy with CPR44.3:

- (1) the Tribunal will not allow costs which have been unreasonably incurred or are unreasonable in amount.
- (2) the Tribunal only allow costs which are proportionate to the matters in issue. Costs which are disproportionate in amount may be disallowed or reduced even if they were reasonably or necessarily incurred.
- (3) the Tribunal will resolve any doubt which it may have as to whether costs were reasonably and proportionately incurred or were reasonable and proportionate in amount in favour of the paying party.

20. I disallow the following costs as unreasonably incurred or unreasonable in amount:

- Costs in respect of "Witness Statement" reduced from £24528.50 to £4528.50. The sole Witness Statement was from Anne Lowry (Operations Director at Firoka). Ms Lowry gave evidence from her own knowledge of the progress of Firoka's redevelopment. The documents exhibited were entirely familiar to her in her role as Operations Director. The Respondent's claim for a total of 66.1 hours is unreasonable in amount for the preparation of a

witness statement given by a witness with personal knowledge of the matters stated therein.

- The attendance of multiple fee earners at the hearing is unreasonable. I reduce the claim by £6840 and allow the attendance of a single fee earner for 16.8 hours at £350 per hour = £5880.
- The claim for diarising in the sum of £1047.50 is disallowed.

Litigation Costs

21. Litigation costs £251,687.21 include solicitors' costs of £155,607.50. After deductions set out above solicitors' costs have been reduced as follows:

- £24,528.50 (disputed terms in draft lease)
- £6,840 (costs of attendance at hearing)
- £20,000 (Witness Statement)
- £1,047.50 (diarising)

22. Deducting those sums from £155,607.50 leaves £103,193.50.

Proportionality

23. As was explained by the Deputy Chamber President in **Cornerstone Telecommunications Infrastructure Limited v St Martins Property Investments Limited and another** [2021] UKUT 262 (LC) at [46] I must have regard to:

"...both the extent of the respondent's success and the proportionate cost of achieving it."

24. By analogy with CPR 44.3(2) the Tribunal will only allow costs which are proportionate to the matters in issue. Costs which are disproportionate in amount may be disallowed or reduced even if they were reasonably or necessarily incurred.

25. This was clearly an important piece of litigation for the Respondent. Although it did not stand to gain financially from the proceedings the financial consequences, if it were prevented from undertaking its redevelopment, would have been substantial. (see CPR 44.3(5)(a) and (b))

26. This was not complex litigation (see CPR 44.3(5)(c)). This was a two day hearing before the FTT involving one witness of fact from each side and a structural engineer from both sides. Expert valuation evidence was given by way of written report only. The law on redevelopment is so well known that both advocates dispensed with an Authorities Bundle. No complex issue of law arose. Litigation before the FTT should be conducted in a proportionate manner. These were not proceedings before the Upper Tribunal or the High Court.

27. I find that extent of the respondent's success and the proportionate cost of achieving it is £80,000.

Litigation costs – counsel’s fees and other expenses

28. Counsel’s fees are £56378.50 together with a further £5000 for the costs hearing. Counsel attended at the PTR, two days of the final hearing and again for the costs hearing. In addition, counsel drafted the Response, submissions in respect of disclosure, detailed written submissions for trial and post trial final written submissions.
29. I determine that the proportionate counsel’s fees to cover all the work done by counsel in this case (including costs hearing) is £50,000.
30. In respect of “Other expenses” I allow DSA (structural expert) in the sum of £5,500 and together with travel and subsistence in the sum of £1510.21 and £66 for HMLR searches.

Costs from 5th December 2025

31. The total claim for the period from 5th December 2025 is £15,132. Solicitor’s costs are £10,132 and counsel’s fees £5,000. I have already dealt with counsel’s fees and have included them in the total set out at paragraphs 28 and 29 above.
32. In respect of solicitor’s costs, I allow a broad brush figure of £3000 to include statement of costs (£1,175), work on bundle for costs hearing (£330) and attendance of a single fee earner at the remote hearing (2 hours @ £350 p.h.=£700).

Total

33. My summary assessment of Litigation costs (to include costs hearing) is:

- £80,000 (solicitors)
- £50,000 (counsel)
- £3,000 (costs)
- £5,500 DSA (structural report).
- £1576.21 (other expenses)

Total = £140,076.21, say, £140,000.

Compensation (Transactional Costs)

34. The Respondent seeks its Transactional costs of £26,860 under paragraphs 25 and 84. In addition, at the hearing, Mr Wills also sought to recover Carter Jonas surveyor fees (£12,625) which had originally been claimed as Litigation Costs. The total claim for compensation amounts to £39,485.50.
35. Paragraph 25 provides:

“If the court makes an order under paragraph 20 the court may also order the operator to pay compensation to the relevant person for any loss or damage that has been sustained or will be sustained by that person as a result of the exercise of the code right to which the order relates.”

36. Despite Mr Wills best efforts to persuade me otherwise I find that Paragraph 25 is clear. Compensation is only available where an order is imposed. I therefore have no jurisdiction to make an order for compensation as the reference under Paragraph 20 has been dismissed.
37. In the alternative I have also considered whether any part of the total claim of £39,485.50 is recoverable as Litigation costs.
38. In respect of Carter Jonas surveyor fees (£12,625) the only involvement of Paul Williams of that firm was during 2024 and 2025, when he was instructed by the Respondent to negotiate the terms of the proposed Code agreement (see paragraph 17 of the Decision). Carter Jonas was not involved in any way with the litigation which commenced with the issue of the reference in June 2025. Accordingly, the sum of £12,625 is not recoverable as part of Litigation costs.
39. The claim for Litigation costs under the heading “disputed terms in draft lease” is £24,528.50 in respect of 70.8 hours. The claim under Transactional costs under the heading “working on draft lease” is £19,603 in respect of 58.3 hours. It would therefore appear that the Respondent has spent 129.1 hours at a cost of £44,131.50 considering terms. That claim is wholly inconsistent with what I was told at the hearing that the Respondent had only engaged in respect of terms to the extent that it was required to do so in accordance with the Directions of the Tribunal.
40. I have already determined that the Respondent should not be entitled to its costs in respect of terms as it was not in any way successful in that regard. Further, I find that costs in respect of 58.3 hours spent under the heading of “working on draft lease” have been unreasonably incurred and are unreasonable in amount. It is clear that there is duplication between the claim for Litigation costs in respect of “disputed term in draft lease” and Transactional Costs for “working on draft lease”. Costs of £26,860 in respect of “working on draft lease” claimed as Transactional costs are also disallowed as Litigation costs.

D Jackson
Regional Judge