



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

**Case reference** : **CAM/00MX/LSC/2025/0657**

**Property** : **Apartments 8 and 10 Westhorpe House,  
Westhorpe Park, Marlow SL7 3FJ**

**Applicant** : **Thorsten Polleit**

**Representative** : **In person**

**Respondent** : **Windmill Hampton Hill Limited**

**Representative** : **Colin Deehan**

**Type of application** : **Application for a determination of  
liability to pay and reasonableness of  
service charges**

**Tribunal** : **Judge A. Arul  
Ian Perry BSc FRICS**

**Date of hearing** : **20 January 2026**

**Date of decision** : **2 February 2026**

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**DECISION AND REASONS**

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## **Decisions of the Tribunal**

- (1) The Tribunal determines that, for the purposes of section 27A of the Landlord and Tenant Act 1985, the service charges payable for the Property in respect of the 2023, 2024 and 2025 service charge years are as set out in this decision and its Annex.
- (2) The application for an order under section 20C of the Landlord and Tenant Act 1985 is granted.
- (3) The application for an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 is granted.
- (4) There being no application for reimbursement of fees, no order is made in respect of the same.

## **REASONS**

### **The Application**

1. By an application dated 12 June 2025, the Applicant seeks a determination under section 27A of the Landlord and Tenant Act 1985 (“the Act”) as to the liability to pay and reasonableness of service charges for the properties known as apartments 8 and 10 Westhorpe House, Westhorpe Park, Marlow SL7 3FJ (together “the Property”). The application relates to the service charge years 2023, 2024 and 2025.
2. The Applicant also seeks an order under section 20C of the Act/paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) preventing or limiting the Respondent’s ability to seek the costs of these proceedings or associated administrative costs via a service charge.
3. On 15 September 2025, the Tribunal gave directions following a case management hearing (“the Directions”). The critical dates in the Directions (as amended on 19 September 2025) were for the Respondent to send to the Applicant all relevant service charge accounts and estimates for the years in dispute by 6 October 2025 and for the Applicant to send to the Respondent a copy of the lease for apartment 10, a completed schedule of disputed items, summary of his responses, copy quotations and any witness statements by 15 October 2025. The Respondent was to annotate the schedule with its comments and serve this along with any supporting documents or statements by 12 November 2025. The schedule to be annotated is the Scott Schedule referred to herein. The Applicant could then, if he wished, send a brief supplemental reply by 26 November 2025. The Respondent was to prepare a bundle for use at the hearing by 10 December 2025. There was some slippage in this timetable, by a few days, which it is not necessary to repeat here. By

the time of the hearing each party had in its or their possession the other party's documents for at least several weeks.

4. In the case management hearing, it was identified that Colin Deehan, the director of Windmill Hampton Hill Limited, was named in the application but Westhorpe Estate Management Company Limited had managed the Property since August 2024, after which time Cleaver Management Company Limited had taken over.

### **The Hearing**

5. The hearing took place remotely using the CVP platform.
6. Mr Polleit appeared in person and Mr Deehan appeared for the Respondent.
7. The documents before the Tribunal comprised a bundle from the Applicant which ran to 217 pages. This included copies of the application, the leases for both apartments, the Scott Schedule annotated only by the Applicant, together with some service charge budgets and demands and supporting invoices and related correspondence covering periods from 2023 to 2025. The Tribunal also had a bundle from Mr Deehan, which ran to 94 pages. This bundle had a copy of the Directions, management company contracts, some financial information and correspondence. In addition, a compressed electronic file containing 32 individual files had been filed by Mr Deehan. The Tribunal clarified that this comprised the documents which had made up the Respondent's bundle, so there were no new documents to be considered. There ought to have only been one bundle, but we were content to proceed with both.
8. There were no formal witness statements produced by the parties; however, each had produced a written statement of case. The Tribunal took the view that it was not necessary to hear witness evidence given the issues and a fair hearing could proceed on the basis of submissions only.
9. The Tribunal sought clarification from the parties at the start of the hearing as to who the correct Respondent should be. Both parties clarified that this was Windmill Hampton Hill Limited, as the freeholder. During submissions, it became apparent that arrangements (such as bank accounts) for a freestanding company to manage the site had not been finalised, albeit there was now a contract with Cleaver Management Company Limited. On this basis, and the given the parties' positions at the start of the hearing, we proceeded on the basis that Windmill Hampton Hill Limited is the correct Respondent.
10. The Tribunal had before it a copy of a second application dated 11 September 2025 involving the same parties, Property and service charge years but relating to heat and hot water bills. We heard submissions from each party, who both took the view that these were individually recharged to the Property and therefore fell outside of the service charge. The Respondent had seen the application but not been formally invited by the tribunal service to respond. There had been no directions relating

to this second application nor exchange of evidence. In those circumstances, we considered that it would not be possible, nor fair and just, to consider the second application at the hearing. It will therefore be the subject of further directions, and a further hearing, if the parties are not able to resolve their differences on the issues which it raises in the meantime.

11. The majority of the hearing was therefore spent working through the Scott Schedule. The Scott Schedule covered challenges to three service charge years; 2023, 2024 and 2025. The Tribunal went through each item of challenge in turn and heard submissions, and were pointed to documentary evidence in the bundles, where possible. There were common themes across the items and some overarching arguments, and we address those in our decision below.
12. No inspection of the Property was requested, and the Tribunal did not consider that one was necessary to determine the issues.

### **The Issues**

13. The primary issues to be determined in this case were:
  - (i) A determination under section 27A of the Act in respect of the service charges payable for the years 2023, 2024 and 2025, in particular whether the relevant charges are payable under the leases and are reasonable;
  - (ii) Whether an order under section 20C of the Act and/or paragraph 5A of Schedule 11 to the 2002 Act should be made i.e., an order to reduce or extinguish the Applicants liability to pay an administration charge in respect of litigation costs; and
  - (iii) Whether any fees relating to these proceedings paid by the Applicants should be reimbursed by the Respondent.
14. In relation to the determination of payability and reasonableness of service charges, there were specific matters to consider as noted at paragraph 8 of the Directions. There were:
  - (i) Whether the service charge and insurance had been correctly apportioned;
  - (ii) Whether the management fees were reasonable;
  - (iii) Whether gas charges fall within the service charge; and
  - (iv) Whether consultation under section 20 of the Act applied to any costs and, if so, whether it was carried out/the effect of not carrying it out.

## **The Property and Lease**

15. The Respondent is the registered freehold proprietor of the Property, having acquired it from receivers on 8 March 2023.
16. The Property comprises apartments 8 and 10, which form part of a block of 28 residential leasehold apartments, within an estate of 33 apartments, each of which pays the service charge in accordance with a percentage under their lease. For some of the service charge periods in dispute, not all of the apartments have been completed and only 10, of which the Property comprises 2, were completed and occupied. The percentage of service charge payable by each apartment was a matter in issue and is dealt with below in our decision and reasons; however it is of note that the two leases differ.
17. The Property forms part of a larger building known as Westthorpe House. This sits in a u-shape, and the Property comprises 2 out of the 10 apartments in the wing on the West side. This was sometimes referred to as the Manor House or the Old Building. The remainder of the building, the Northeast and East side (sometimes referred to as the New Building) comprises 18 further apartments which were still being constructed when the Applicant purchased the Property (apartment 8 in February 2021 and apartment 10 in October 2022). We were told by Mr Deehan that these 18 apartments were completed in around October 2024; the Applicant believed it was a few months earlier. Finally, there is a building known as the Coach House, which sits separately to the Main Building, to the East, and was originally ear marked for 3 dwellings but appears to have had 5 apartments constructed. Therefore, there were 10 apartments constructed initially, then a further 18, then a further 5. The estate, known as Westthorpe Park, therefore comprises 33 dwellings.
18. We were provided with a copy of the signed copy of the lease for apartment 8, which is dated 18 February 2021, and an unsigned copy of the lease for apartment 10, which is dated October 2022. The leases are between (1) Hencan Country Homes Ltd (2) Westthorpe House Two Ltd (3) Richard Keith Roe and Abdullahi Jambo, and (4) Thorsten Polleit and Ruth Polleit Riechert. Westthorpe House One Ltd is also a party to the apartment 10 lease. The leases each provide for a term of 999 years from 1 January 2018.
19. It was common ground that the leases for the 2 apartments comprising the Property contained similar provisions to each other, however there are two important distinctions which are noted below.
20. There were no material disputes as to most of the lease provisions, so it is not necessary to set those all out in full here. Clauses 5 and 6 require the Tenant and the Superior Landlord (now the Respondent) to perform the covenants respectively at Schedules 4 and 6.
21. Paragraph 2 of Schedule 4 requires the Tenant to pay an estimated Service Charge in two equal instalments on the Rent Payment Dates and provides for a process of reconciliation with provision for payment or

credit of any difference between estimated and actual service charge. It also provides for payment of Insurance Rent as defined and on the terms of any notice requiring payment. Paragraph 5 of Schedule 4 deals with liability to pay other rates, taxes or outgoings.

22. Paragraph 2 of Schedule 6 requires the Landlord (now the Respondent following acquisition in March 2023 and the dissolution of Hencan Country Homes Limited, Westhorpe House One Ltd and Westhorpe House Two Ltd in October 2025) to procure that the Superior Landlord complies with paragraphs 1, 2 and 3 of Schedule 7.

23. Paragraph 1 of Schedule 7 imposes obligations on the Superior Landlord to effect, maintain and provide information relating to insurance for the Estate. Paragraph 3 of Schedule 7 imposes obligations on the Superior Landlord to provide the Services.

(i) Paragraph 3.2 states: *“Before or as soon as possible after the start of each Service Charge Year, the Superior Landlord shall prepare and send the Tenant an estimate of the Service Costs for that Service Charge Year and a statement of the estimated Service Charge for the Service Charge Year.”*

(ii) Paragraph 3.3 states: *“As soon as reasonably practicable after the end of each Service Charge Year, the Superior Landlord shall prepare and send to the Tenant a certificate showing the Service Costs and the Service Charge for the Service Charge Year.”*

(iii) Paragraph 3.4 states: *“To keep accounts, records and receipts relating to the Service Costs incurred by the Superior Landlord and to permit the Tenant, on giving reasonable notice, to inspect the accounts, records and receipts by prior appointment with the Superior Landlord (or its managing agents).”*

24. Part 1 of Schedule 8 sets out the Services. This includes cleaning and maintenance of various aspects of the Common Parts and the Retained Parts.

25. Part 2 of Schedule 8 sets out the Service Costs. It includes, amongst other things,

*“All of the costs reasonably and properly incurred or reasonably and properly estimated by the Superior Landlord to be incurred of ... providing the Services ... the supply and removal of electricity, gas, water, sewage and other utilities to and from the Retained Part ...”*

and

*“... The costs, fees and disbursements reasonable and properly incurred of ... managing agents employed by the Superior Landlord for the carrying out and provision of the Services or, where managing agents are not employed, a management fee for the same ...”*

and

*“... accountants employed by the Superior Landlord to prepare and certify the service charge account ...”*

26. The defined terms are set out at clause 1 of the leases, the pertinent definitions for apartment 8 being:

(i) Apartments: *“any premises forming part of the Buildings that are capable of being let and occupied as a single private dwelling (except the Property and the Retained Parts).”*

(ii) Buildings: *“the Main Building and the Coach House.”*

(iii) Coach House: *“the former coach house building forming part of the Estate comprising five Apartments.”*

(iv) Common Parts: *“these are: (a) the front door, entrance hall, passages, staircases and landings of the Building; (b) the external paths, driveways, yard, staircases, garden, Bicycle Shed and Refuse Area; and (c) the Visitors’ Car Parking Area ... that are not any part of the Property or the Apartments and which are intended to be used by the Apartment Tenants.”*

(v) Estate: *“the land and buildings known as Westhorpe House, Marlow Road, Marlow, Bucks SL7 3RQ registered at HM land Registry with title number BM259559 shown edged in blue on Plan 1.”*

(vi) Head Lease: *“the Lease dated 29 March 2018 as made between (1) Hencan Country Homes Ltd and (2) Westhorpe House One Ltd.”*

(vii) Insurance Rent: *“(a) the Tenants Proportion of the premiums (including IPT) that the Superior Landlord expends (after and discount or commission is allowed or paid to the Superior Landlord), and any fees and other expenses that the Superior Landlord reasonably incurs, in effecting and maintaining insurance of the Estate in accordance with its obligations in paragraph 1 of Schedule 7 including any professional fees for carrying out any insurance valuation of the Reinstatement Value ...”*

(viii) Main Building: *“the main building forming part of the Estate comprising 28 Apartments.”*

(ix) Management Company: *“Westthorpe House Ltd (company registration number 12196413) ...”*

(x) Retained Parts: *“all parts of the Estate other than the Property and the Apartments including: (a) the main structure of the Buildings including the roof and roof structures, the foundations, the external walls and internal load bearing walls, the structural timbers, the*

*joists, the guttering and the structure of the balconies (including any balcony railings or walls); (b) all parts of the Buildings lying below the floor surfaces or above the ceilings; (c) all external decorative surfaces of: (i) the Buildings; (ii) external doors; (iii) external door frames; and (iv) external window frames; (d) the Common Parts; (e) the Parking Spaces; (f) the Service Media at the Estate which do not exclusively serve either the Property or the Apartments; and all boundary walls fences and railings of the Estate.”*

(xi) Service Charge: *“the Tenant’s Proportion of the Service Costs.”*

(xii) Service Charge Year: *“is the annual accounting period relating to the Services and the Service Costs beginning on 1 January in 2018 and each subsequent year during the Term provided that the Superior Landlord may from time to time (but not more than once in any calendar year) change the date on which the annual accounting period starts and shall give written notice of that change to the Tenant as soon as reasonably practicable.”*

(xiii) Service Costs: *“the costs listed in Part 2 of Schedule 8,”*

(xiv) Services: *“the services to be provided by the Superior Landlord and listed in Part 1 of Schedule 8”.*

27. The Lease Particulars for apartment 8 define the ‘Tenant’s Proportion’ as: *“3.50% of the service charge.”*

28. The defined terms as set out at clause 1 of the lease for apartment 10 are in similar form, save for the following material differences:

(i) Main Building: *“the main building forming part of the Estate comprising 33 (or as varied by the Landlord) Apartments.”*

(ii) Management Company: *“Westthorpe House (Marlow) Ltd (company registration number 13527466) ...”*

29. The Lease Particulars for apartment 10 define the ‘Tenant’s Proportion’ as: *“A fair and reasonable proportion as determined by the Lessor of the service charge.”* (Note: Lessor is not defined, all references to the legal equivalent of a lessor are to Landlord or Superior Landlord).

30. Mr Deehan summarised the management history, which was not materially disputed by the Applicant. AMS Marlow Ltd trading as Alba Management Services (“Alba”) had managed the apartments which had been constructed (i.e., 1 to 10) and had a contract which rolled over one year at a time. Mr Deehan said that, during the purchase process, he formed the view that Alba had not cooperated well with his solicitors, so their involvement ended shortly after completion. A handover took place. Sperrin Management Limited were going to take over but never actually became involved (see below regarding transfer of funds to them) and so management of the completed apartments was handled ‘in-

house', along with the remaining partially constructed estate. By in-house, Mr Deehan was referring to the Respondent and its associated companies. In May 2024 he entered an agreement with Cleaver Property Management Limited ("Cleaver"), who took over management from 1 July 2024.

31. The above summarises the central features of the leases and the Scott Schedule helpfully sets out the matters and sums in issue which had given rise to these proceedings. A further analysis is set out below with our findings and reasons.

### **The Law**

32. The law applicable in the present case is as follows:

33. Section 19 of the Act states:

*19.— Limitation of service charges: reasonableness.*

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 provision 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.*

....

34. The Tribunal's jurisdiction to address the issues in section 19 is contained in section 27A of the Act, which states the following:

*27A Liability to pay service charges: jurisdiction*

- (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.*

35. In construing the meaning of words used in the leases, the Tribunal is concerned to identify: “*What a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the contract to mean*”. In making this determination the Tribunal must focus: “*on the meaning of the relevant words...in their documentary, factual and commercial context.*” (Lord Neuberger in the case of *Arnold v Britton* [2015] UKSC 36 at [15]).

### **The parties’ submissions and the Tribunal’s determination**

36. The Tribunal is required to determine the question of what a fair sum of service charge should be for each of apartment 8 and 10 in respect of the 2023, 2024 and 2025 service charge years.

37. The parties' respective positions were set out in the Scott Schedule and elaborated upon in their statements of case and in oral submissions.
38. There were two significant preliminary points which we consider it appropriate to address.
39. Firstly, the Service Charge Year under the leases is clearly defined as commencing on 1 January in each year, unless the Landlord serves notice of a change. Historically, it appeared that budgets, and reconciliation accounts, were produced for the period 1 October in one year to 30 September in the next. Alba produced a budget/estimated account for the period 1 October 2022 to 30 September 2023. The budget was not challenged by the Applicant. An actual account was never produced, and therefore never certified or served on the Applicant (thus, he could not challenge a final account, yet). A budget was produced by Cleaver for the period 1 July 2024 to 31 December 2024. A further budget was produced by Cleaver for the period 1 January 2025 to 31 December 2025; thus bringing things back into line with the Service Charge Year as defined in the leases. The Applicant told us that he had, since the start of these proceedings, received an account of actual figures for the part year 1 July 2024 to 31 December 2024. There was no account of actual figures for the preceding or subsequent period. Mr Deehan told us that he had agreed with the other 8 apartment owners (being apartments 1, 2, 3, 4, 5, 6, 7 and 9) a broad-brush figure of £10,000 for Service Costs for the period 1 October 2023 to 30 June 2024 (although he said this went back to March 2023 when Alba discontinued their services). This was apportioned by apartment size. This was designed to draw a line under those historical periods without a detailed reconciliation exercise. There was a dispute of fact as to whether the Applicant had agreed to this; he denied doing so, whereas Mr Deehan noted that emails had been copied to all 10 apartment owners and the Applicant had not objected.
40. Secondly, we drew to the parties' attention during the hearing that there was very limited information in relation to individual items of service charge expenditure in either bundle. Indeed, a primary complaint from the Applicant was the need for what he described as an accounting exercise. We took this to mean the reconciliation process provided for by the leases, which would provide for a certified account of actual expenditure as against budgeted expenditure. There is also the mechanism under paragraph 3.4 of Schedule 7 to inspect receipts supporting those accounts. The Applicant further contended that certification under the leases required some verification by an external qualified person.
41. Based on the above, we considered that, without an actual account/reconciliation for the 2023, 2024 and 2025 service years (as defined by the leases), or sufficient supporting receipts, it was not possible to determine the final sums payable. We considered it more appropriate to determine the amounts properly payable under the leases by way of a budget for each of those periods, having regard to the cross over in budgets covering different periods of time compared to the

defined Service Charge Year. It is open to the Applicant, or any apartment owner, if and when a reconciliation is carried out, to seek a final determination. This may also include exercising the inspection rights under paragraph 3.4 of Schedule 7 to the leases.

42. As noted earlier in this decision, there were some overarching points raised and we address these in turn:

Apportionment

43. The Applicant seeks a determination as to whether the Service Costs and Insurance Rent have been correctly apportioned.
44. Mr Deehan said that the insurance had been provided by the same broker, albeit the insurer changed. He informed us that, during the construction of the remaining apartments in the Estate, one insurance policy was taken out to cover the completed apartments, and another policy covered the incomplete ones.
45. In relation to apartment 8, the Tenant's Proportion is defined as 3.5%. It is clear that, at the time of the lease, only 10 apartments existed and perhaps less than the 33 overall were envisaged for the future. By way of example, the definition of Main Building refers to 28 apartments, which is the closest multiplier for 3.5% per apartment to divide the Service Costs across the apartments equally. In any event, this is a fixed percentage and nothing in the lease gives either party the unilateral right to change it; even if more or less apartments were eventually built than first envisaged.
46. In relation to apartment 10, the Respondent can charge a fair and reasonable proportion. The definition of Main Building in the lease refers to 33 apartments. In determining reasonableness, we note that the lease refers neither to the size of the apartments nor to a percentage. This does not take matters forward on the issue of fairness i.e., whether the Respondent has exercised its discretion properly. Our view is that the Respondent can decide and apply the proportion and the relevant legal test is simply whether this is contractually legitimate. In *Hawk v Eames* [2023] UKUT 168 (LC) the Upper Tribunal confirmed that there is no statutory restriction on a freeholder's power to make any apportionment so any concepts of fairness, reasonable or otherwise must derive from the wording in the lease itself.
47. Our view is that an approach which apportions by apartment size, or equally amongst apartments of broadly similar size, is not in itself an unreasonable approach. We were shown an email exchange including one dated 12 August 2024 from another leaseholder to the Respondent with what appear to be all other leaseholders copied in. This is shown at page 87 of the Respondent's bundle. This includes a table splitting the notional £10,000 Service Costs for the period 1 October 2023 to 30 June 2024 (assuming that the period 1 April 2023 to 30 September 2023 was covered by Alba's 1 October 2022 to 30 September 2023 budget and invoiced on account). The split is in proportion to the square footage of

each apartment. We do not consider that this is an unreasonable approach but it cannot apply to apartment 8 without the Applicant (and his wife as joint owner) agreeing. It can apply to apartment 10 for periods postdating it, although it appears to have been restricted to 10 apartments and for future service charge apportionment would need to apply to all 33 apartments.

48. The Applicant's position is that the apportionment was not agreed. As above, we do not consider that the Applicant's agreement is needed for apartment 10, provided the apportionment is fair and reasonable. In relation to the defined period against which the £10,000 notional Service Costs was levied, splitting by size is in our view reasonable. We do not consider that the Applicant's silence in relation to the email of 12 August 2024 can amount to acceptance of the apportionment. However, as we have said, his acceptance was not required for apartment 10.
49. In terms of the Service Costs to be apportioned, the Respondent has attempted to re-align the Service Charge Year to 1 January to 31 December. There is a budget of £53,434 for the period 1 October 2022 to 30 September 2023. The Respondent has abridged this period to March 2023 so we take the budget for 1 October 2022 to 31 March 2023 to be £26,717 (being the first half of that budget). There is then a budget of £10,000 plus the remaining £26,717 for the period 1 April 2023 to 30 June 2024, a budget of £28,730.50 for the period 1 July 2024 to 31 December 2024 and a budget of £65,608 for the period 1 January 2025 to 31 December 2025.
50. There have been no actual figures produced other than for the period 1 July 2024 to 31 December 2024, the reconciliation of which has not been challenged in these proceedings.
51. The above-mentioned apportionment, 3.5% for apartment 8, and in proportion to apartment size for the remaining 32 apartments (subject to the Tenant's Proportion defined in each lease), would apply to the above budgeted figures and any actual figures or determined by a tribunal in future. We did not have the sizes of all 33 apartments to determine the precise percentage. For budget purposes we consider that an equal split would therefore be reasonable for apartment 10, which is 3.03%.
52. In relation to the Insurance Rent, this is calculated by reference to the Tenant's Proportion so would be determined in the same way. We note that the Insurance Rent is payable separately to the Service Charge. We accept the evidence in the Respondent's bundle that apartments 1 to 10 were covered by AXA and this was then moved to Aviva at a cheaper cost. The unfinished apartments were covered separately. We had no direct evidence of another insurance policy covering those other apartments, however we have inferred that one was likely to exist from the quoted building values. In 2023, AXA were insuring £6.5m in declared building value, which was significantly less than the combined value insured by Aviva in 2025 of over £9m. We noted that this was split across three

different building valuations, which corresponded to the Manor House/Old Building, New Building and Coach House. We accept Mr Deehan's explanation that there was a revaluation after the remaining apartments were constructed.

### Management Fees

53. The Applicant seeks a determination as to whether the management fees charged by the Respondent (itself or by Cleaver) are reasonable. This is based on the proposition that there has been an increase in cost since Alba's involvement. There was no challenge to Alba's budgeted fee of £10,380, although it would be open to the apartment leaseholders to seek a determination once actual figures are available by reference to the scope and quality of work actually undertaken.
54. We do not accept that there has been an increase in management fees. The budgeted cost for the period 1 October 2022 to 30 September 2023 was £10,380. The Alba contract was a one-year renewable contract and provided for annual fees of £8,250 plus VAT, which would total £9,900; slightly below the budgeted fee.
55. The Cleaver contract was also a one-year renewable contract with the same annual fee of £8,250 plus Vat, which would total £9,900. In the half year budget for the period 1 July 2024 to 31 December 2024, Cleaver have budgeted for £4,950, which would equate to an annual charge of £9,900. In the full year budget for the period 1 January 2025 to 31 December 2025, Cleaver have budgeted for £9,900. It would have been reasonable to increase those fees, for example in line with inflation, reflecting increased contractor costs, or to reflect the additional work arising from the larger portfolio since the other apartments were completed. They have not sought to do so in the budget. As Alba's fee was not challenged for budget purposes, and this level of fees is in our experience in line with what we would expect for similar sized properties, we cannot see that maintaining the same level of fees for two further service charge years is unreasonable. As we have noted, the proposed fee is £9,900 for 2024 and 2025 is in fact slightly less than Alba had budgeted for 2023.

### Consultation

56. The Applicant seeks a determination as to whether consultation under section 20 of the Act applied to any costs and, if so, whether it was carried out/the effect of not carrying it out. There was no evidence of any consultation, the Respondent's position being that it was not required. The Respondent also contended that there were 23 unfinished apartments owned by the Respondent who would have had a vote and hence able to have outvoted the 10 occupied apartments.
57. Section 20 is engaged where there is a long-term contract, defined as lasting more than 12 months. In our experience, one-year renewable contracts are often used by block management agents because they potentially bypass the need for consultation. We were shown a copy of

the contract with Cleaver dated 1 May 2024 which was missing the page referring to the term. However, we were shown a copy of a further contract dated 27 May 2024 proving for a fixed term running between 1 May 2025 and 30 April 2026. We consider it likely that the initial contract was therefore entered into for a period of one year or less and the current contract is also for a period of one year or less.

58. We therefore find that section 20 of the Act was not engaged and there was consequently no obligation under those provisions to consult with leaseholders in relation to a change of managing agent. If there had been such an obligation, then there was no consultation and no dispensation given for a failure to consult so the charge to leaseholders would have been limited to £250 per apartment. We also find that there is no contractual obligation to consult under the leases.

#### Gas Charges

59. An issue raised in the Directions is whether gas charges fall within the Service Costs (and therefore the Service Charge after apportionment). Our view is that these do not form part of the Service Costs. The parties both considered these to be re-charged to each flat and therefore not a Service Cost.

#### Additional points

60. There were some additional points of challenge by the Applicant which we determine as follows:
61. The Applicant contended that there has been an increase in the Service Costs overall, of about 59%, or in any event a substantial increase. We would expect to see an increase in principle to reflect inflationary pressures including increased contractor costs. We would not expect to see one at the level alleged. We do not find that there has been such an increase, however. The Applicant was comparing the 2022-2023 figures with 2025, which we do not think was a fair comparison. We recognise that this has not been a straightforward exercise due to the Service Charge Years adopted not all corresponding with the leases or each other. In addition, the budget for the period 1 January 2025 to 31 December 2025 includes the Insurance Rent, which had not been included in previous budgets. We have set out more detailed calculations in the Annex to this decision, which explains why we consider that, in fact, the Service Costs have reduced between 2023 and 2025.
62. The Applicant contended that there was a surplus held by Alba upon termination of their management of the Property of £23,465.86 which was unaccounted for. We agree that this sum has not been accounted for in the sense of an actual account corresponding with the budget showing a carry forward figure.
63. However, we were shown draft accounts comprising an income and expenditure sheet dated 17 January 2024 apparently produced by Cleaver. Draft accounts are not the same as final accounts and an income

and expenditure sheet is not the same as a balance sheet. Therefore, we must find that, strictly speaking, the sum has not been accounted for. The real point in contention appears to whether that money had been legitimately adjusted upwards or downwards by later expenditure. That can only come when a final account is produced.

64. To the extent that the Applicant continues to be concerned over whether the sum was physically received and retained, it would be prudent for the Respondent to provide a bank statement evidencing the money passing from Alba to Cleaver. We cannot order the Respondent to do this, however this may avoid further time and costs to the parties. When actual figures are determined, if this money is accounted for, any set off of expenditure for purposes permitted under the leases will no doubt become apparent.
65. Mr Deehan told us that the money was transferred from Alba to another company that he was a director of - Sperrin Management Limited. This was in anticipation of that company managing the Property. This did not happen and the Respondent managed the Property itself, therefore the funds were simply transferred back. We had no documents verifying this however it seems to us that the physical location of the money is secondary to how it is accounted for, as we have addressed above.
66. Connected with the above points, the Applicant queried whether there is a bank account being used exclusively for management of the Property and the Estate. This is out of the scope of our jurisdiction under s27A of the Act; however we did note that invoices requiring payment on account of estimated service charges bear the Respondent's name and bank details and therefore payments appear to be being made directly to it. Whilst we cannot decide on this, we consider it recognised practice for there to be a separate designated account.
67. A further issue raised by the Applicant is the absence of certification of accounts under paragraph 3.3 of Schedule 7 to the leases. We would expect the final account to include a full itemised breakdown of expenditure together with a comparison of budget to actuals and then total, together with apportionment to the flat concerned and a final figure, together with supporting receipts. We would expect managing agents to certify the accuracy however we do not read the leases as meaning that it is compulsory to obtain external verification or certification. Therefore we do not find a breach of the leases in not using, for example, an accountant. We have found that the leases have not been complied with in that no reconciliation accounts have been provided at all (except 1 July 2024 to 31 December 2024 which we were not provided with a copy of) so as to be certified at all. We would also note that we have seen many instances where it is recognised good practice to involve an accountant.
68. The Annex attached sets out our decision on the sums it would be reasonable to budget for in each of the 2023, 2024 and 2025 service

charge years in the context of the above matters and we find accordingly. In summary, the budgets shall be:

- (a) 2023 (covering the period 1 October 2022 to 30 September 2023):  
**£53,434**
- (b) 2024 (covering the period 1 September 2023 to 30 June 2024):  
**£10,000**
- (c) 2025 (covering the period 1 January 2025 to 31 December 2025):  
**£65,608.**

69. As we have noted above, there were general challenges to issues such as apportionment, however there were limited challenges to specific items of expenditure. Therefore, in the absence of further information, we have set the budgets from the accounting information available. This does not negate the Applicant's right to final/reconciliation accounts and to request inspection of documents supporting those accounts. Nor to seek a determination from a tribunal as to the final payability or amounts. We have set out in the Annex how apportionment should apply to the budgeted sums.
70. In relation to the applications under section 20C of the Act and paragraph 5A of Schedule 11 to the 2002 Act, the Applicant invited us to restrict the ability of the Respondent to recover costs related to these proceedings via a service charge. Mr Deehan indicated that the Respondent did not intend to levy such cost, either for expenditure or administrative costs. He mentioned the accountant's fees for any final accounts however in our view these would likely fall under paragraph 1.2.2 of Part 2 of Schedule 8 to the leases. Such costs did not properly constitute costs of these proceedings or administrative charges arising from the proceedings but were, instead, ordinary costs arising from the leases. That said, we consider it appropriate to make an order for the avoidance of any doubt. In our view, the strict terms of the leases providing for budgets, actual figures and reconciliations had not been adhered to and there was a lack of transparency over expenditure. The Respondent's paperwork was not orderly nor comprehensive. The Applicant had brought the challenges appropriately, for example in relation to the apportionment of Service Costs. We find that it is just and equitable to make an order under section 20C of the Act and paragraph 5A of Schedule 11 to the 2002 Act in respect of any costs incurred in these proceedings.
71. The Applicant did not seek reimbursement of any Tribunal fees paid and accordingly the Tribunal makes no order in respect of the same.

**Name: Judge A. Arul**

**Date: 2 February 2026**

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).