FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference: CAM/26UH/LAC/2025/0008

Property: 55 Four Acres, Stevenage, SG1 3PL

Applicant: Michal Bresinski

Respondent: Stevenage Borough Council

Type of Application: Service Charges

Tribunal members: Tribunal Judge Granby (Chair), Tribunal Judge Lloyd

Date of Decision: 03 March 2026

Date of Hearing: 26 February 2026

DECISION

Introduction

1. This is an application for a determination of the payability of service charges made by the Applicant leaseholder, Michal Bresinski in respect of demands made by the Respondent freeholder Stevenage Borough Council.

2. The subject property is 55 Four Acres, Stevenage, SG1 3PL ("No.55").

3. The Lease is dated 4 March 1991 for a term of 4 March 1991 to 3 March 2116 between the Respondent on the one part and Derrick Dockerty and Caroline Edith Dockerty on the other part ("the Lease").

4. The case has had an unfortunate procedural history, at one stage the Application was struck out. The effect is that the material from the Applicant that had been admitted by the Tribunal is somewhat limited. In addition to the application on form Leasehold 1 there is an undated statement of case (appearing at p.66-67 of the hearing bundle). A brief witness statement dated 12 December 2025 addressing procedural issues which, very properly, does not address the substantive issues and the Applicant's comments on the Scott Schedule at p.64 of the bundle.

5. The Respondent was represented by Ms Imam of counsel who produced a helpful skeleton argument. The Tribunal is grateful to both the Applicant and Ms Imam for their assistance.

6. In her skeleton argument Ms Imam noted that the figures used by the Applicant in the Scott Schedule, and responded to by the Respondent, were taken from an earlier estimate rather than being the final figures reflected in the final demand dated 23 May 2022 ("the final demand"). The Applicant explained that he had had difficulty accessing e-mails at the time he completed the Scott Schedules and had drawn the figures from the wrong document.

7. An amendment to the application may not have been necessary to enable the Tribunal to consider the final demand as it was clear from the application and the statement of case that the Applicant wished the Tribunal to determine the payability of the final sums he was asked to pay. However, lest that be wrong, the parties both consented to an amendment to the application to a determination of the payability of the final demand and the Tribunal allows any necessary amendment.

8. The total amount of the final demand was £12,245.62

Summary

9. The Tribunal determines that, save in respect of electrical works (the Applicant's share being £2,358.80 and a corresponding adjustment to

the management fee (being 6% of the total recoverable cost) the sums demanded in the final demand are payable in full.

10. The Tribunal declines to make any order for re-imbursement of the fees paid by the Applicant or an Order under s.20C of the Landlord and Tenant Act 1985 – the Applicant's statement of case contains no offers and makes no concession on the payability of almost all of the items (although the Applicant was clear in the hearing there were amounts he would pay for many of the items). On the pleaded cases the Respondent is, overwhelmingly, the successful party and, as set out above the Application has not had a happy procedural history.

Background

11. 55 Four Acres is a ground floor maisonette, the first floor maisonette is known as 55A Four Acres and is let by the Respondent to a secure tenant. Structurally the two maisonettes are the end of a short structure of houses of 1960's construction, that next door is known as 53 Four Acres and is divided from 55 Four Acres at ground level by an alleyway that leads to stairs to 55A – 55A spans the alleyway at first floor level so that it shares a party wall with 53 Four Acres at first floor level.

12. At some point in the 2010's the Respondent contemplated a programme of major works to its low and medium rise housing stock, this appears to have been under the ambit of the Decent Homes Standard programme of improvement to social housing stock.

13. The Respondent undertook a consultation process for a Qualifying Long Term Agreement (in effect seeking to have one principal contractor for the programme) and served the requisite notices between 30 March 2017 and 30 May 2018 ultimately appointing Mullaley and Wates.

14. A survey report was undertaken of 55 and 55A Four Acres – the date of the report is 19 October 2018 ("the survey report"), it appears the

inspection that proceeded the report took place on 27 September 2018 as that is the date stamped on the photographs.

15. The report is reasonably detailed and itemises work to be undertaken in enumerated paragraphs accompanied by photographs.

16. The survey report was provided to the Applicant (and his wife) under cover of letter dated 23 January 2019 comprising the first notice under Schedule 3 of The Service Charges (Consultation Requirements) (England) Regulations 2003 ("the first notice") ("the regulations").

17. There was some dispute as to what other documents were supplied with this notice – the second page of the notice consists of a table of works to be undertaken (the Applicant's estimated contribution being 50% of the "Block Cost" accordingly being £21,289.88) and continues "A description of the works and breakdown of costs are included within this notice".

18. The Applicant denied anything other than the survey report was provided with the notice. During the course of the hearing the Respondent supplied the documents said to have been provided with the first notice – these were said to be "Residents Information Pack" dated October 2018 (essentially repetitious of the survey report) and documents entitled "How to Read Your Estimate" and "FAQ's". With sight of those documents the Applicant maintained his position that nothing else had been contained with the first notice and Ms Imam, while maintaining the case that the documents had been sent, fairly accepted that there was little further she could take the matter in cross examination (Ms Imam, however, made submissions as to the law that we address below).

19. The Tribunal accepts that the Applicant only received the first notice and the survey and not the other documents supplied during the course of the hearing.

20. The wife of the Applicant wrote to the Respondent by way of a letter dated 12 February 2019 making an extensive series of comments on the proposed works based on the survey report (responding to many items 'item by item').

21. A substantive response was sent by a Ms Brydon (described as "Major Works Officer") on 5 March 2019. This letter made some minor revisions to the specification (for example removing works for redecoration of the passageway as Ms Brydon agreed they were unnecessary) and making minor revisions to the costs (for example removing 33% of the costs of works to the path, at £51.85 on the basis that it was shared with number 53).

22. Works were undertaken and a completion certificate is dated 26 November 2019.

23. The Respondent subsequently made a demand dated 2 November 2021 for £16,725.21.

24. The Applicant then wrote to the Respondent by way of a letter dated 15 November 2021 referring to the stress and worry caused by the cost of major works in circumstances where the Applicant had only owned the flat for (it was said) 2.5 years. The Applicant's letter then went on to make a series of specific points above particular works the most significant of which were roofing which the Applicant said covered number 53 as well as 55/55A and electrics which the Applicant said did not need to be replaced.

25. There then followed further correspondence between the Applicant and the Respondent's officers the result of which was the revised final demand that forms the subject matter of this application – that dated 23 May 2022. The major revision being that 33% of the cost of roofing works has been removed before the costs was notionally split between the two maisonettes.

Applicable Law

26. To be payable, a service charge must be recoverable under the terms of the Lease. The lease is described more fully below.

27. S.19 (1) of the Landlord and Tenant Act 1985 provides:

    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...

28. The leading case on what is reasonable is *The London Borough of Hounslow v Waaler* [2017] EWCA Civ 45 where the Court of Appeal held that what was reasonable was a question of outcome not simply of process.

29. In *Gell v 32 St John's Road (Eastbourne) Management Co Ltd* [2021] EWCA Civ 789; [2021] 1 W.L.R. 6094 the Court of Appel reaffirmed the longstanding proposition derived from *Yorkbrook Investments Ltd v Batten* (1985) 18 HLR 25 that it is for the party challenging the payability of a service charge to raise a prima facie case on their pleadings that a service charge is not reasonable in amount.

30. In *Sovereign Network Homes v Hakobyan & Ors* [2025] UKUT 115 (LC) (per the President) the Upper Tribunal affirmed that the process in this Tribunal is adversarial not inquisitorial – the function of the Tribunal is to resolve the dispute as identified by the parties on their pleaded case, there are very limited circumstances in which it is appropriate for the Tribunal to take point of its own motion.

31. In *Aviva Investors Ground Rent GP Ltd v Williams* [2023] UKSC 6; [2023] A.C. 855 the Supreme Court held that, where a lease provided for variable apportionment of the service charge to be determined by the landlord, the Tribunal's jurisdiction under s.27A of the Landlord and Tenant Act 1985 did not usurp the contractual discretion of the landlord in determining the apportionment. The Tribunal is only entitled to determine what is within its jurisdiction – i.e. what service charges are (or would be) payable.

32. In *Bradley v Abacus Land 4 Ltd* [2025] EWCA Civ 1308; [2026] H.L.R. 5 the Court of Appeal considered the application of *Aviva* and held that the applicable test was whether the landlord had acted in accordance with the contract, The landlord would have acted in breach of contract only if it could be said to have acted unreasonably, or to have not exercised a reasonable discretion. That decision would be flawed only if it was one that no reasonable landlord could have reached.

The Lease

33. Clause 1 of the Lease, inter alia, defines "the building" as "the building consisting of Nos 55 and 55A Four Acres Stevenage"…EXCEPTING AND RESERVING thereout the main structural parts of the building of which the flat forms part including the roof foundations and external parts thereof….

34. By clause 2 (2) (i) of the lease the Applicant is to pay "a proportionate part of the expenses and outgoings incurred by the Council in the repair maintenance renewal and insurance of the building the provision of services therein and the other heads of expenditure as the same are set out in the Third Schedule hereto subject to the following terms and provisions:

    ….

(e) The annual amount of the Service Charge payable by the Tenant as aforesaid shall be calculated by either (a) dividing the aggregate of the said expenses and outgoings incurred by the Council in the year to which the Certificate relates by the aggregate of the ratable values (in force at the end of each year) of all the flats (excluding any caretakers accommodation) in the building… and then multiplying the resultant amount by the ratable value (in force at the same date) of the flat or (b) using such other method of calculation as should be deemed by the Council fair and reasonable

35. The Third Schedule includes:

1. The expense of maintenance repairing redecorating and renewing amending cleaning repointing painting graining varnishing whitening colouring and where the Council shall deem desirable or expedient improving the building and all parts thereof and all the appurtenances apparatus and other things thereto…

   ….

3. The cost of floor covering (including carpeting) re-carpeting cleaning decorating and lighting the passages landings staircases an other parts of the building enjoyed or used by the Tenant in common with others and of keeping the other parts of the building used by the Tenant in common as aforesaid and not otherwise specifically referred to in this Schedule in good repair and condition

Discussion and schedule

Apportionment

36. Many of the Applicant's complaints are about the apportionment of charges between No.'s 55/55A on the one part and No.53 on the other – a central thrust of the applicants case was that where No.53 had some

benefit a proportion of the cost (be it 33% or some lower figure to reflect the extent of the benefit) should be attributed to No.53.

37. The Applicant does not complain in his statement of case about apportionment under the terms of the Lease – only invoking s.19 of the Landlord and Tenant Act 1985 although both the statement of case and the Scott Schedule mention in places that the works do not benefit the Applicant's flat.

38. The pleading point is sufficient to resolve the apportionment questions – the Applicant has not placed apportionment in issue in his statement of case and neither the Respondent nor the Tribunal should have to guess what case is being made.

39. However, in the event that that is wrong it would make no difference to the outcome for the following reason:

40. The lease operates by identifying in the third schedule the works of which the landlord can recover the cost, these are, principally, works to the building.

41. The apportionment clause then provides a mechanism for identifying the division of those costs. The (a) method is purely arithmetic, based on ratable values. As Ms Gibson (the Respondent's witness) explained in her evidence (which the Tribunal accepts) ratable values are no longer produced, the Respondent has alternatively used the alterative method of apportionment namely "such other method of calculation as should be deemed by the Council fair and reasonable". The covenant is clearly drawn so that should all of the flats in a building be let on the same terms the apportionments will add up to 100% (which would be inevitable under the (a) method as a matter of arithmetic). In the event the Respondent has used insurance values, as No.55 and No.55A are valued equally for insurance purposes this has produced a 50/50 split, this method is not only not one that no reasonable landlord would adopt it is eminently sensible.

42. Accordingly if the works fall within the categories for which the Respondent is entitled to recover then the Respondent is entitled to recover half subject to following the mechanism in the lease and the constraints of statute, that the Respondent has made concessions does not affect the general principle.

43. What the Respondent could not do (and has not sought to do, at least in the final demand – from the material in the bundle the position *may* have been different in respect of the roof works in the October 2021 demand) is undertake works to the building and No.53 and then simply attribute all of the cost to the building.

44. It also makes no difference to payability whether particular works confer a benefit on the Applicant – that is not how the lease provides for division of costs and forms no part of the test under s.19 LTA 1985. The High Court considered a similar argument in *Broomleigh Housing Association Ltd v Hughes* [1999] E.G. 134 (C.S.) where the Court (David Vaughen QC, sitting as a Deputy Judge) rejected the leaseholders argument that she should not have to pay for the cost of new windows when she had received no new windows as "no doubt… wrong in law" as there was no mechanism in the lease to allow it to happen.

Consultation

45. The Applicant complains that the Respondent did not "properly consult" under Section 20 of the Landlord and Tenant Act 1985.

46. As developed orally this appeared to have two strands, firstly that there was insufficient granularity to the Respondent's first notice under Schedule 3 of the Regulations (the attenuated form of consultation where a Qualifying Long Term Agreement is in place). The second is that the Respondent took insufficient heed of the Applicant's observations.

47. In respect of the second point the Tribunal agrees with the Respondent that the obligation to consult is not an obligation to agree. It is, however,

more than an obligation to inform, in *Waaler* at para 53 Lewison LJ held:

"What this means is that the landlord must conscientiously consider the lessees' observations and give them due weight, depending on the nature and cogency of the observations. In the light of this statutory obligation to consult, it is impossible to say that the tenants' views are ever immaterial. They will have to be considered in every case. This does not of course mean that the lessees have any kind of veto over what the landlord does; nor that they are entitled to insist upon the cheapest possible means of fulfilling the landlord's objective. But a duty to consult and to 'have regard' to the lessees' observations entails more than simply telling them what is going to happen."

48. The Tribunal is satisfied that the Respondent did conscientiously consider the Applicants observations and made a substantive response including real (if minor) changes of plan as a result.

49. As to granularity, para. 1 (2) (a) of Schedule 3 of the Regulations requires that a "general description" of the works be provided or be available for inspection. The Respondent's primary case is that the first notice itself is a sufficient "general description" of the works. It is unnecessary for the Tribunal to consider that point because that notice was accompanied by a relatively granular survey to which the Applicant and his wife were able to make a relatively forensic response – in combination at least the Applicant was informed of the general description of the work (indeed, in large part, the specific description of the work) and had more than enough information to engage effectively with the consultation.

50. The Tribunal is accordingly satisfied that the Respondent consulted appropriately. It is possible that this conclusion would not apply to electrical works discussed below but as the Tribunal has found that they are not payable on other grounds it is unnecessary to decide if they were not payable for (any) lack of consultation.

Items in the Schedule

51. This decision will not repeat against each item the discussion above. Where the Applicant's case at the hearing differed from the that in the Scott Schedule (in light of the Respondent's evidence) we address the argument as it was presented at the hearing.

52. General requirements: the Applicant says that this cost should have been divided with No.53, that is wrong for the reasons given above and the amount demanded is payable in full.

53. Roofing: The Tribunal is satisfied that the Respondent was not obliged to wait until the roof had fallen into disrepair to replace it (indeed the Respondent could not do so as it must keep the roof in repair), there was specific evidence in the form of the survey report that the work was required (i.e. the Tribunal is satisfied that the work was no simply swept up in a large programme) and there is no challenge to the price. The sum demanded is payable in full.

54. Fascia/ Soffit: the Applicant says that this cost should have been divided with No.53, that is wrong for the reasons given above and the amount demanded is payable in full.

55. Gutters/ Downpipes: the Applicant says that this cost should have been divided with No.53, that is wrong for the reasons given above and the amount demanded is payable in full.

56. Chimney works: this is conceded and is payable in full.

57. Roofing sundry works: the Applicant now accepts works were done but says that this cost should have been divided with No.53, that is wrong for the reasons given above and the amount demanded is payable in full.

58. External wall Insulation. The photographs show a line of paint at ground level, the Applicant questions why this did not make its way around the whole building as one might expect as something explained in the final

demand as damp related. The demand refers to a specification that is not before the Tribunal. Work has clearly been done, it is not suggested that the work is unnecessary or overpriced. While it does look somewhat odd that the coating was not applied all the way around the building the Tribunal does not consider that this raises a prima facie case to challenge payability and the amount demanded is payable in full.

59. Doors. It was explained in evidence that this relates to a door to the electrical cupboard. The Appellant questions if it provides “a little bit” of benefit to No.53 and accordingly says that this cost should have been divided with No.53, that is wrong for the reasons given above and the amount demanded is payable in full.

60. Windows. The single communal window replaced forms part of the building. The Applicant says that this cost should have been divided with No.53, that is wrong for the reasons given above and the amount demanded is payable in full.

61. Repairs/ Redecoration. This item appeared to be conceded. If that is wrong then the only argument was that relating to benefit which is wrong for the reasons given above, the amount demanded is payable in full.

62. Works to boundary wall. As originally drawn the scope of works included works to neighbouring garages, in the event the Respondent has not attempted to recover the cost of any such works from the Applicant. The Respondent is still seeking to recover the cost of works to the boundary wall (item G9 in the invoice). Works to the boundary wall fall within the matters the landlord is entitled to recover under the lease and the amount is payable in full.

63. External fencing. This item relates to part of the cost of replacement of rod and poll fencing from the boundary of the shared area of the building, the tribunal is satisfied that the amount charged relates only to the boundary fence recoverable under the lease it is accordingly recoverable in full.

64. Landscaping works. This item was conceded and is payable in full.

65. Sundry items. This item was conceded and is payable in full.

66. Scaffolding. The Applicant submits that the scaffolding was erected for 6 months and only actually required for two days. Ms Gibson's evidence (which the Tribunal accepts) was that the Respondent has discounted the cost by 50% and only charged for the time the scaffolding was in place for rechargeable works. Ms Gibson also pointed out in oral evidence out that this works programme was impacted by the Covid 19 pandemic. The Applicant has not provided any alternative quotes and the Tribunal is aware, from general knowledge, that scaffolding is quite expensive. Although the scaffolding may have been up for a long time, which may well have made any leaseholder expecting to pay part of the cost uneasy, overall the amount actually sought appears reasonable and it is payable in full.

67. Lateral electrics. This item is described in the Scott Schedule as "Unnecessary". A similar observation was made in the Applicant's letter of 15 November 2021 where he states "There was absolutely no need for new electrics". The survey report paragraph 8.01 states simply "Test and upgrade within the communal areas as required".

68. The entry in the 'details of completed works' provided with the demand states "Building Services – Electrical – As per Archetype V". There is no explanation as to what Archetype V means, and Ms Gibson was unable to assist the Tribunal beyond very general knowledge that "Archetype" referred to a type or system of wiring. The item having being, the Tribunal finds, properly called into issue by the Applicant and the Tribunal having no information as to what was done or why it was done the Tribunal determines that the amount payable by the Applicant is £0. It might be that had the Respondent provided more information it would have succeeded on this point but, within the framework established by

the parties respective cases, the Tribunal has to do the best it can with the evidence provided.

69. Contingency. This does not feature in the final demand and so does not fall for determination.

70. Management fee. There is no challenge to a fee of 6% for the major works undertaken. As (before management fees) the Tribunal has determined £9,193.67 to be payable the management fee should have been (and is determined to be) £551.62.

71. The total amount payable is accordingly **£9,745.27**.

Appeals

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpeastern@justice.gov.uk .

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.