FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/38UD/LRM/2025/0008**
Property	**:**	**Brook House, 24-26 Duke Street Henley on Thames, RG9 1UP**
Applicant	**:**	**Brook House (Henley) RTM Company Limited**
Representative	**:**	**K Brown, THP Solicitors**
Respondent	**:**	**Henley Brook Limited**
Representative	**:**	**Israel Cohen, Director**
Type of application	**:**	**Application in relation to the denial of the right to manage**
Tribunal	**:**	**Judge Wendy Banks Judge David Wyatt Dr Jan Wilcox**
Date of decision	**:**	**13 April 2026**

DECISION

Decision

The Tribunal:

(1) determines that the Applicant is (and was on the relevant date) entitled to acquire the right to manage Brook House, 24-26 Duke Street, Henley on Thames, RG9 1UP;

(2) observes that accordingly the right to manage will be acquired on a date 3 months from the date this order becomes final, in accordance with section 90(4) of the Commonhold and Leasehold Reform Act 2002 (the "**Act**");

(3) orders the Respondent, Henley Brook Limited, to pay £114 to the Applicant to reimburse the tribunal application fee paid by it.

Reasons

Background

1. By application dated 22 August 2025, the Applicant RTM company applied to the tribunal under section 84(3) of the Act for a determination that, on the relevant date, they were entitled to acquire the right to manage (“RTM”).

2. The Applicant states that the premises have 10 residential flats and one commercial unit which does not exceed 50% of the relevant floor area. By a claim notice dated 10 June 2025, the Applicant gave notice to the Respondent (and Gordel Group) that they intended to acquire the RTM “...Brook House, 24-26 Duke Street ... as shown edged red on the plan attached [to the claim notice] and registered under title number ON61029.”

3. By a counter notice dated 24 June 2025 the Respondent disputed entitlement, alleging that the non-residential element was 26.18% of the total internal floor area. After the Respondent was referred to the increase to 50% (brought into effect in March 2025) they indicated they withdrew their counter notice but are said not to have responded to requests to agree entitlement.

4. After the Applicant applied to the tribunal, the Respondent sent documents which sought to “retract” their “withdrawal”. They asserted that a car park owned by the Respondent (ON66170) and an access road/turning area owned by the local authority (ON88994) are part of the “functional premises” because there is no alternative access, so entitlement was disputed on the grounds that including those areas would take the non-residential element to 52.68% and the claim notice was not given to the local authority.

Directions

5. The matter came before the Tribunal on 14 November 2025 for Directions. At paragraph F Judge Wyatt pointed out that “the Respondent had made no cogent case that the application should be struck out or stayed for determination of these suggested “preliminary issues” on paper. They cannot dispute entitlement or participate in these proceedings on a piecemeal basis. They must now carry out all necessary investigations and produce a single comprehensive statement of case to explain any arguable grounds for disputing entitlement, and the parties must produce their other case documents, as directed below, to prepare for a final hearing”.

6. At paragraph 8 of the Directions, the Respondent was ordered to provide a statement of case to both the Applicant and the Tribunal by 5 December 2025. By paragraph 9, the Respondent was further directed to prepare a

bundle of the documents upon which it intended to rely and to lodge that bundle with the Tribunal by 19 December 2025.

7. The Tribunal notes that the Respondent did serve a witness statement from Israel Cohen, a Director of the Respondent company, dated 10 November 2025, together with a statement of case dated 5 December 2025.

8. The Applicant records in its statement of case that, as at 21 January 2026, the Respondent had not served any document bundle. On 11 February 2026, the Tribunal received an email from Karen Brown of THP Solicitors enquiring whether the Tribunal would consider a request to strike out the Respondent's statement of case prior to the hearing. The matter was referred to Judge Wyatt for case management directions. By email dated 12 February 2026, Judge Wyatt confirmed that the Tribunal had received no such application and directed that any request to strike out the Respondent's statement of case must be made formally using Form Order 1. In the absence of such an application, the matter was to proceed to the hearing listed for 24 March 2026.

9. Judge Wyatt further ordered that due to the Respondent's continuing failure to comply with directions despite earlier warnings, the Respondent was barred from further participation in the proceedings pursuant to rule 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the "Rules"). Both parties were directed to attend the hearing, at which the Tribunal would determine the matter and consider any application to lift the bar.

10. The hearing proceeded via CVP on 24 March 2026. Mr James Castle, counsel for the Applicant, appeared together with Mr Guy Smith, director of the RTM company, who attended as the Applicant's witness. No representative of the Respondent company was present. The Tribunal was satisfied that they had been notified of the hearing and considered that it was in the interests of justice to proceed in the Respondent's absence.

The relevant law

11. Section 72 of the Act sets out the following:

(1) This Chapter applies to premises if—

(a) they consist of a self-contained building or part of a building, with or without appurtenant property,

(b) they contain two or more flats held by qualifying tenants, and

(c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.

(2) A building is a self-contained building if it is structurally detached.

(3) A part of a building is a self-contained part of the building if—

(a) it constitutes a vertical division of the building,

(b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and

(c) subsection (4) applies in relation to it.

(4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it—

(a) are provided independently of the relevant services provided for occupiers of the rest of the building, or

(b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.

(5) Relevant services are services provided by means of pipes, cables or other fixed installations.

(6) Schedule 6 (premises excepted from this Chapter) has effect.

12. Section 79 sets out:

(1) A claim to acquire the right to manage any premises is made by giving notice of the claim (referred to in this Chapter as a "claim notice"); and in this Chapter the "relevant date", in relation to any claim to acquire the right to manage, means the date on which notice of the claim is given.

(7) The claim notice must be given to each person who on the relevant date is—

(a) landlord under a lease of the whole or any part of the premises,

(b) party to such a lease otherwise than as landlord or tenant, or

(c) a manager appointed under Part 2 of the Landlord and Tenant Act 1987 (c. 31) (referred to in this Part as "the 1987 Act") to act in relation to the premises, or any premises containing or contained in the premises.

(8) Subsection (6) does not require the claim notice to be given to a person who cannot be found or whose identity cannot be ascertained; but if this subsection means that the claim notice is not required to be given to anyone at all, section 85 applies.

(9) A copy of the claim notice must be given to each person who on the relevant date is the qualifying tenant of a flat contained in the premises.

(10) Where a manager has been appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the

premises, a copy of the claim notice must also be given to the tribunal or court by which he was appointed.

13. Section 90 sets out:

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

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

(3) For the purposes of this Chapter there is no dispute about entitlement if—
(a) no counter-notice is given under section 84, or
(b) the counter-notice given under that section, or (where more than one is so given) each of them, contains a statement such as is mentioned in subsection (2)(a) of that section.

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

14. Schedule 6 sets out:

(1) This Chapter does not apply to premises falling within section 72(1) if the internal floor area—

(a) of any non-residential part, or

(b) (where there is more than one such part) of those parts (taken together), exceeds 50% of the internal floor area of the premises (taken as a whole).

(2) A part of premises is a non-residential part if it is neither—

(a) occupied, or intended to be occupied, for residential purposes, nor

(b) comprised in any common parts of the premises.

(3) Where in the case of any such premises any part of the premises (such as, for example, a garage, parking space or storage area) is used, or intended for use, in conjunction with a particular dwelling contained in the premises (and accordingly is not comprised in any common parts of the premises), it shall be taken to be occupied, or intended to be occupied, for residential purposes.

(4)For the purpose of determining the internal floor area of a building or of any part of a building, the floor or floors of the building or part shall be taken to extend (without interruption) throughout the whole of the interior of the building or part, except that the area of any common parts of the building or part shall be disregarded.

The issues in dispute

15. As set out in paragraphs 3 and 4 above and expanded in the statement of case the issues raised by the Respondent were as follows:

Service of the Claim Notice:

16. The Respondent contended that the car park (title number ON66170) and the access/turning area (title number ON88994) formed appurtenant property because they were subject to rights benefitting the Property. They argued that the freeholder of ON88994 (South Oxfordshire District Council) was not served with the Claim Notice, and that such service was mandatory under paragraph 1(2) of Schedule 6 to the Act and paragraph 28 of *Gala Unity Ltd v Ariadne Road RTM Co Ltd* [2012] EWCA Civ 1372. They also relied on *FirstPort Property Services Ltd v Settlers Court RTM Company Ltd* [2022] UKSC 1, submitting that separation by a public highway is irrelevant when determining whether land is appurtenant. *(Point 1).*

Internal Floor Area / Non-Residential Percentage:

17. The Respondent asserted that the "functional premises" included the Property, the car park, and the access/turning land and that, when these were taken together, the non-residential proportion amounted to 52.68%. On that basis, they argued that the Premises exceeded the 50% non-residential threshold in section 72(1)(b) and Schedule 6 of the Act, thereby disqualifying it from the right to manage ("RTM"). *(Point 2).*

Validity of the Claim Notice:

18. The Respondent submitted that the Claim Notice described incomplete premises and failed to name a necessary party, rendering the notice incurably defective and requiring the application to be struck out under rule 9(3)(b) of the 2013 Rules. *(Point 3).*

Determination of the Issues

19. The Tribunal was greatly assisted by the oral submissions of Mr Castle and the Applicant's detailed Statement of Case.

Point 1 – Service of the Claim Notice

20. The Tribunal was referred to *Miltonland Ltd v Platinum House (Harrow) RTM Co Ltd* [2015] UKUT 236 (LC), and in particular the judgment of HHJ Bridge at paragraph 47:

"… The claim notice must specify the premises: for these purposes, 'premises' is a reference to the self-contained building, or part of a building. It is not however necessary for the claim notice to specify either that there is appurtenant property or, if there is, what that appurtenant

property is. If that were a requirement, it would be a requirement that would be impossible, with any degree of certainty to comply with. That is principally because 'appurtenant property' includes 'appurtenances', that is rights pertaining to the property, some of which will be contained expressly in the leases but others of which will take effect only by implication and which will therefore by definition be difficult, and often impossible, to list comprehensively."

21. The Tribunal accepts the Applicant's submission that the car park and the access/turning land does not form part of the "self-contained building or part of a building" for the purposes of section 78 and 79 of the Act. As such, South Oxfordshire District Council did not need to be served with the Claim Notice. They do not fall within section 79(6).

22. The Tribunal further finds that neither paragraph 1(2) of Schedule 6, nor *Gala Unity*, nor *FirstPort* imposes a requirement to serve the freeholder of every piece of appurtenant property. The Tribunal notes that the *Gala Unity* judgment relied upon by the Respondent extends only to 19 paragraphs and contains no such obligation, and that paragraph 41 of *FirstPort*—as cited by the Respondent—contains no relevant content supporting their position.

23. Accordingly, Point 1 fails. It is misconceived, unsupported by statute or authority, and wrong in law even if these areas were appurtenant property.

Point 2 – Non -Residential Element/Internal Floor Area

24. The Tribunal accepts the legal proposition that some appurtenant property forming part of the RTM claim must be included in the internal floor area calculation for the purposes of Schedule 6 (paragraph 1(3)).

25. However, the Tribunal finds as a matter of fact that both the car park and the access/turning land are external areas and have no internal floor area. They therefore do not form part of the internal floor area calculation and must be disregarded.

26. The Tribunal accepts the Respondent's own calculation that the non-residential internal floorspace of the Premises amounts to 26.18%. As this is below the 50% threshold, Schedule 6 does not apply to exclude the right to manage.

27. The Tribunal also notes that section 78 of the Act refers only to a building or a self-contained part of a building (with or without appurtenant property). Additionally, the Claim Notice itself referred solely to the Brook House title. The other titles relied upon by the Respondent appear to be separated from the Premises by Tuns Lane. Accordingly, Point 2 fails.

Point 3 – Validity of the Claim Notice

28. For the reasons given above in relation to Points 1 and 2, the Tribunal finds that the Claim Notice was valid and properly served on the correct parties.

The Respondent's argument that it was incurably defective is therefore without merit. Accordingly, Point 3 also fails.

Costs

29. Under Rule 13, the tribunal has discretion to order reimbursement of tribunal fees. In this case, no explanation has been provided as to why a counter-notice was served based on incorrect legislation, why it was subsequently withdrawn, or why that withdrawal was later rescinded. Further, owing to the Respondent's failure to attend the hearing, the Tribunal has received no explanation as to why the Respondent's statement of case is wrong in both law and fact, nor why legislation and case law have been misquoted.

30. In these circumstances, the Tribunal is satisfied that the Respondent was the cause of these proceedings and sought to delay their resolution. Even disregarding those matters, the Respondent has been unsuccessful and has made no submissions in opposition to the order proposed at the Directions stage. The Tribunal therefore orders the Respondent to pay £114 to the Applicant to reimburse the tribunal application fee.

31. The Tribunal also heard submissions from Mr Castle regarding the Respondent's conduct. The tribunal can only make an order in respect of costs if a person has acted unreasonably in bringing, defending or conducting these proceedings (Rule 13(1)). He submitted that it appeared the Respondent had relied upon a large language model to prepare both the counter-notice and the statement of case. He noted that the Respondent had cited legislative provisions inaccurately, including reliance on a "paragraph 28" of *Gala Unity*, despite that judgment extending to only 19 paragraphs, and a misquotation of paragraph 41 of *FirstPort*. Mr Castle submitted that these errors were indicative not of a litigant in person misunderstanding the law, but of material generated by artificial intelligence, confidently stating entirely untrue facts which could not reasonably be taken from the wording of the authorities named.

32. He further submitted that the argument that the car park and access land formed part of the "functional premises" bore similar hallmarks. This prompted a review of the counter-notice itself, which purported to rely on "section 72(1)(b)" and asserted that "not more than 25% of the internal floor area... is used or intended to be used for non-residential purposes." As Mr Castle correctly identified, this is not what section 72(1)(b) provides. The appropriate statutory route is section 72(6), which introduces Schedule 6, and paragraph 1(1) of that Schedule. He argued that this was not merely a misreading or paraphrasing but further evidence that the Respondent had adopted unreviewed AI-generated content. This may not itself be conduct in the proceedings, but may (together with the shifting positions taken before and after the time limit for application to the tribunal to determine entitlement to the right to manage) be relevant if conduct in the proceedings is found to be unreasonable.

33. Mr Castle submitted that a party who presents arguments produced by AI, without reviewing and assessing their correctness, behaves unreasonably. He noted that the Tribunal is designed to accommodate litigants in person, many of whom are capable of presenting coherent cases without resorting to "machine-generated nonsense". The Respondent does not seem small; it appears they paid £3.2 million for the Property and the car park in 2018. The use of such material, he argued, wastes the Tribunal's time and imposes unnecessary costs on the opposing party. It makes early determination more difficult.

34. The Tribunal notes these submissions. However, as the alleged use of AI and the consequences said to flow from it were not pleaded, and as the Respondent did not attend the hearing, Rule 13(6) prevents the Tribunal from making any order for costs at this stage. If the Applicant wishes to pursue such an order, it may make a formal application within 28 days of the date of this decision. Any such application must be made using Form Order 1, ask clearly at the top of the covering e-mail that it be referred to Judge Wyatt, set out all grounds relied upon and include any supporting evidence with a statement of costs. The Respondent will then have 28 days to reply in the same manner, and the matter will be referred back to Judge Wyatt for a determination on the papers pursuant to Rule 13. We have set out the above procedure for clarity and summarised the submissions made in relation to conduct because the Respondent did not attend the hearing; we should not be taken to be encouraging any costs application.

Name: Judge Wendy Banks **Date:** 13 April 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).