FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/38UB/LRM/2026/0001**
Property	**:**	**61-66 Calthorpe Street, Banbury, OX16 5EX**
Applicant	**:**	**Counting House RTM Company Limited**
Representative	**:**	**Roger Hardwick, Brethertons LLP**
Respondent	**:**	**Ground Rent Trading Limited**
Type of application	**:**	**Application in relation to the denial of the Right to Manage**
Tribunal	**:**	**Judge Bernadette MacQueen**
Venue	**:**	**Paper determination**
Date of decision	**:**	**4 August 2026**

DECISION

Decision

(1) The tribunal determines that the Applicant is entitled to acquire the right to manage 61-66 Calthorpe Street, Banbury, OX16 5EX.

(2) The Respondent shall pay £114 to the Applicant to reimburse the application fee paid.

Reasons

Application

1. By an application dated 21 January 2026, the Applicant RTM company (company number 16584229) applied to the tribunal under section 84(3) of the Commonhold and Leasehold Reform Act 2002 ("the Act") for a determination that, on the relevant date, it was entitled to acquire the right to manage the property.

Background

2. 61-66 Calthorpe Street, Banbury, Oxfordshire OX16 5EX ("the Property") is a mixed-use development comprising residential flats and commercial premises, together with all appurtenant property. The Property includes a purpose-built block containing eighteen flats held under long leases.

3. The Applicant, an RTM company, was incorporated on 15 July 2025. The Respondent is the registered freeholder of the Property, which is held under title number ON218791.

4. By a claim notice dated 16 October 2025, the Applicant served notice on the Respondent pursuant to section 79 of the Commonhold and Leasehold Reform Act 2002 ("the Act"), stating its intention to acquire the right to manage the Property with effect from 25 February 2026.

5. The claim notice was also served on the long leaseholders of the two commercial units situated on the ground floor of the Property, as they are landlords of part of the Property. Neither of these parties served a counter-notice.

6. The Respondent purported to serve a counter-notice pursuant to section 84 of the Act, dated 24 November 2025, in which it disputed the Applicant's right to manage the Property on the following grounds:

    (i) "Failure to satisfy statutory eligibility requirements under section 72(3A) (non-residential floor-space threshold).

(ii) Failure to provide required particulars under Section 2 of the RTM Regulations (fatal procedural defects).

(iii) Mixed-use building with two commercial demises: claim notice does not address the statutory consequences.

(iv) Description of the Premises is unclear and insufficient, despite the residential part forming a single building above ground level.

(v) The RTM Company is not entitled to acquire the Right to Manage."

7. The tribunal made directions on 26 May 2026 requiring the parties to prepare and file a bundle of documents. In compliance with those directions, the Applicant provided a helpful statement of case. The Applicant also prepared a comprehensive hearing bundle comprising 114 pages, containing the relevant correspondence, notices, and supporting documentation. The tribunal has considered those documents in detail.

8. The Respondent has neither submitted any documentation to the tribunal nor made any representations in these proceedings.

Expert Evidence

9. By an application dated 9 June 2026, the Applicant sought permission to rely upon the expert evidence of John Byers FRICS. A copy of the application was provided to the Respondent, but no representations were received in response.

10. On 9 July 2026, I considered the application and granted permission for the Applicant to rely upon Mr Byers' expert report in relation to the issue of whether the internal floor area of the non-residential parts of the Property exceeds 50% of the total internal floor area of the premises taken as a whole, disregarding any common parts of the building, such that paragraph 1 of Schedule 6 to the Act applies.

Paper Determination

11. The directions issued on 26 May 2026 provided for the application to be determined at an oral hearing, with a hearing window between 27 July 2026 and 4 September 2026. This provision was made in light of the grounds advanced by the Respondent in its counter-notice, in particular the issue of whether the non-residential floor area exceeded the statutory threshold. The hearing was subsequently listed to take place by Cloud Video Platform on 27 July 2026.

12. The Respondent did not comply with the tribunal's direction requiring the filing of a bundle of documents by 8 July 2026. Nor did it otherwise correspond with the tribunal, including by providing dates to avoid as required by the directions.

13. In those circumstances, the tribunal wrote to the parties on 9 July 2026 indicating that it was minded to determine the application on the papers, without an oral hearing, on the basis of the documents that had been filed in accordance with the tribunal's directions. The parties were invited to make written representations regarding the proposed paper determination by 4.00 pm on 17 July 2026. The tribunal also notified the parties that the matter would be determined during the week commencing 27 July 2026, being the week in which the oral hearing had already been listed.

14. The Applicant confirmed that it was content for the matter to be determined on the papers. No response was received from the Respondent.

15. As neither party requested an oral hearing, pursuant to rule 31(3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Rules"), the parties are deemed to have consented to the determination of these proceedings without a hearing. I was satisfied that an oral hearing was not necessary for the fair and just determination of the issues in dispute in light of the lack of engagement by the Respondent. Accordingly, I directed that the application be determined on the papers during the period already allocated for the oral hearing, of which both parties had previously been notified, together with the timetable for determination.

Issues

16. The sole issue in dispute is whether on the date on which the notice of claim was given, the Applicant was entitled to acquire the right to manage the premises specified in the notice.

Legal framework

17. Chapter 1 of Part 2 of the Act provides for the acquisition of rights in relation to the management of premises to which the Chapter applies by a company, referred to as an RTM company (section 71(1), 2002 Act).

18. Section 72 of the Act describes the premises to which Chapter 1 applies and requires that they must consist of a self-contained building or part of a building.

19. Section 73 of the 2002 Act explains what an RTM company is. Section 73(2) provides that:

"A company is an RTM company in relation to premises if

(a) it is a private company limited by guarantee, and

(b) its articles of association state that its object, or one of its objects, is the acquisition and exercise of the right to manage the premises."

20. The RTM Companies (Memorandum and Articles of Association) (England) Regulations 2009, made under section 74(2), prescribe model articles of association

21. A claim to acquire the right to manage is made by giving notice of the claim under section 79 of the 2002 Act (referred to as a "claim notice"); and the date on which a claim notice is given is referred to as the "relevant date". Section 79(3) provides that the claim notice must be given by an RTM company which complies with subsections (4) or (5), which concern the number of qualifying tenants who must be members of the RTM company.

22. Section 80(2) of the 2002 Act requires that a claim notice must specify the premises and state the grounds on which it is claimed that they are premises to which the Chapter applies.

23. A person who is given a claim notice by an RTM company may give a counter-notice either admitting the entitlement of the company to acquire the right to manage or contesting it (section 84(1), 2002 Act). An RTM company which receives a counter notice disputing its entitlement may apply to this tribunal for a determination that on the relevant date it was entitled to acquire the right to manage the premises (section 84(3)).

24. By section 90(2) of the 2002 Act, where there is no dispute about entitlement the right to manage is acquired on the date specified in the claim notice (which by section 80(7) must be at least three months after the last date for giving a counter-notice). Where the right is acquired by virtue of a determination by the FTT the acquisition date is three months after the determination becomes final (section 90(4)).

Applicant's Position

25. The Applicant's position is set out in its statement of case dated 5 June 2026. Its primary submission is that no valid counter-notice was served and that the purported counter-notice is therefore invalid and of no effect.

26. In response to the grounds raised in the purported counter-notice, the Applicant relies upon the expert report of John Byers FRICS (pages 94

to 114 of the hearing bundle). John Byers concludes that the non-residential floor area comprises some 33% of the total internal floor area of the Property, excluding common parts. The Applicant therefore submits that the Property satisfies the requirements of the Act, as the non-residential floor area does not exceed 50% of the total internal floor area.

27. In response to the Respondent's various assertions that the Applicant failed to provide the particulars required by Schedule 2 to the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010, the Applicant submits that the claim notice was in the prescribed form set out in Schedule 2 to those Regulations. The Applicant further contends that none of the matters identified in the purported counter-notice, including floor area calculations, plans, or drawings, are prescribed particulars required to be included in a claim notice. Accordingly, the Applicant submits that the alleged omissions do not affect the validity of the claim notice.

28. In response to the Respondent's assertion that the claim notice fails to address the statutory implications of the mixed-use nature of the Property, the Applicant submits that the matters said to be omitted are not matters that the legislation requires to be included in a claim notice. As to the Respondent's further contention that the description of the Property is unclear or insufficient, the Applicant submits that the claim notice, being in the prescribed form, adequately identifies the premises over which the right to manage is claimed.

29. Accordingly, the Applicant invites the tribunal to determine that, as at the date on which the claim notice was given, it was entitled to acquire the right to manage the Property.

Respondent's Position

30. The Respondent did not respond to the Applicant's solicitors' email of 11 December 2025, which was sent in reply to the counter-notice and a copy of which appears at pages 51 to 53 of the Applicant's bundle. Furthermore, the Respondent failed to comply with the tribunal's directions and did not file any documents or evidence in these proceedings.

Findings

Validity of the Counter Notice

31. Section 84(2) provides:

> "A counter-notice is a notice containing a statement either-

(a) admitting that the RTM company was on the relevant date entitled to acquire the right to manage the premises specified in the claim notice, or

(b) alleging that, by reason of a specified provision of this chapter, the RTM company was on that date not so entitled

and containing such other particulars (if any) as may be required to be contained in counter-notices, and complying with such requirement (if any) about the form of counter-notices, as may be prescribed by regulations made by the appropriate national authority.

32. The Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010 provides as follows:

> *"5.Additional content of counter-notice*
>
> A counter-notice shall contain (in addition to the statement referred to in paragraph (a) or (b) of section 84(2) (counter-notices) of the 2002 Act)—
>
> (a) a statement that, where the RTM company has been given one or more counter-notices containing such a statement as is mentioned in paragraph (b) of section 84(2) of the 2002 Act, the company may apply to a … tribunal for a determination that, on the date on which notice of the claim was given, the company was entitled to acquire the right to manage the premises specified in the claim notice;
>
> (b) a statement that, where the RTM company has been given one or more counter-notices containing such a statement as is mentioned in paragraph (b) of section 84(2) of the 2002 Act, the company does not acquire the right to manage the premises specified in the claim notice unless—
>
> (i) on an application to a … tribunal, it is finally determined that the company was entitled to acquire the right to manage the premises; or
>
> (ii) the person by whom the counter-notice was given agrees, or the persons by whom the counter-notices were given agree, in writing that the company was so entitled; and
>
> (c) the information provided in the notes to the form set out in Schedule 3 to these Regulations."

33. Regulation 8 provides that:

> "8 (1) Notices of invitation to participate shall be in the form set out in Schedule 1 to these Regulations...
>
> (3) Counter-notices shall be in the form set out in Schedule 3 to these Regulations"

34. In this case, the counter-notice does not comply in all respects with the form prescribed by regulations 5(c) and 8(3), and Schedule 3, of the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010. However, the omitted material consists of information explaining the right to refer a dispute to the tribunal and the tribunal's role in determining such disputes.

35. The Applicant relies upon *Triplerose Ltd v Mill House RTM Co Ltd* [2016] L & T 23. However, that case concerned the omission of the notes accompanying a Notice Inviting Participation, which was held to render the notice invalid. That situation is distinguishable from the present case. Here, the omitted information relates to the tribunal's involvement in the statutory process rather than information necessary to identify the nature or effect of the notice itself.

36. In *A1 Properties (Sunderland) Ltd v Tudor Studios RTM Co Ltd* [2024] UKSC 27; [2024] 3 WLR 601, the Supreme Court held that, where a statutory procedural requirement does not expressly prescribe the consequences of non-compliance, the court or tribunal must ascertain Parliament's intention by considering: (a) the purpose served by the requirement, having regard to the statutory scheme as a whole; and (b) the circumstances of the particular case, including any prejudice or injustice that may result from treating the statutory process as valid notwithstanding the non-compliance. The Supreme Court further observed that where property rights are affected, it will generally be inferred that Parliament intended there to be a reasonable degree of certainty concerning those rights and that parties should be afforded a fair opportunity to raise objections.

37. Applying that approach, I am satisfied that the omissions in the present counter-notice do not invalidate it. The counter-notice expressly states that it is given pursuant to section 84 of the Act, identifies that the Respondent disputes the RTM Company's entitlement to acquire the right to manage, and sets out the grounds upon which that contention is based. The omitted information merely explains the right to apply to the tribunal and the tribunal's function within the statutory scheme. No prejudice has arisen from that omission. The dispute has in fact been

referred to the tribunal and both parties have been afforded a full opportunity to present their respective cases.

38. Accordingly, I am satisfied that the counter-notice is valid notwithstanding its failure to include all of the prescribed information. I therefore proceed to consider the substantive grounds relied upon by the Respondent in support of its contention that the Applicant was not entitled to acquire the right to manage the Property.

“Failure to satisfy statutory eligibility requirements under section 72(3A) (non residential floor-space threshold)”

39. I do not accept the Respondent's contention that the claim notice is invalid because it does not contain floor area calculations, measurements, plans, or other evidence demonstrating that the non-residential floor area comprises 50% or less of the total internal floor area. I accept the Applicant's submission that there is no statutory requirement for such information to be included within a claim notice.

40. In advancing this objection, the Respondent appears to rely upon "section 72(3A)" of the Act. However, no such provision exists. I infer, as the Applicant has submitted, that the Respondent intended to refer to paragraph 1 of Schedule 6 to the 2002 Act. That paragraph excludes from the right to manage any premises in which more than 50% of the internal floor area, excluding common parts, is occupied or intended to be occupied for non-residential purposes.

41. As to the non-residential floor area, I accept the Applicant's evidence that the commercial units are confined to the ground floor of the Property, with three floors of residential accommodation above. I accept the expert report of John Byers BSc FRICS ACIArb dated 11 June 2026, including his description of the Property and his conclusion that the non-residential proportion is approximately 33%. No evidence has been submitted by the Respondent to challenge those conclusions. On the evidence before me, I am satisfied that the non-residential floor area does not exceed 50% of the total internal floor area of the Property.

42. Accordingly, I find that the non-residential threshold in paragraph 1 of Schedule 6 is not exceeded and that the Property is premises to which the right to manage provisions of the Commonhold and Leasehold Reform Act 2002 apply. The Property is therefore capable of being the subject of the exercise of the right to manage.

“Failure to provide required particulars under Schedule 2 of the RTM Regulations (fatal procedural defects)”

43. I do not accept the Respondent's contention that the claim notice fails to provide sufficient particulars of the Property to enable the landlord to

understand the extent of the premises over which the right to manage is claimed, the configuration of the building, the parts to be managed by the RTM company, or the relationship between the commercial and residential elements of the development.

44. I accept the Applicant's submission that the claim notice follows the prescribed form set out in Schedule 2 to the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010. In particular, the notice states that the Applicant seeks to acquire the right to manage "*61-66 Calthorpe Street, Banbury OX16 5EX (being a mixed-use building including flats and commercial units) together with appurtenant property*". I accept the Applicant's evidence that this description mirrors that contained in the Respondent's freehold title and clearly identifies the Property to which the claim relates.

45. Nor do I accept the Respondent's contention that the claim notice fails to identify which parts of the commercial premises are included within, or excluded from, the claim. The notice makes clear that the Applicant seeks to acquire the right to manage the building known as 61-66 Calthorpe Street, Banbury, together with its appurtenant property. I therefore find that the Property is readily identifiable from the description provided and there is no ambiguity as to the premises that are the subject of the claim.

46. Accordingly, I find that the claim notice contains the particulars required by Schedule 2 to the Regulations. The alleged deficiencies identified by the Respondent do not disclose any failure to comply with the prescribed requirements, and I therefore conclude that the claim notice is not defective in this respect.

"Mixed-use Building with two commercial demises: Claim notice does not address the statutory consequences"

47. I accept the Applicant's submission that the matters which the Respondent alleges are missing from the claim notice are not matters required by the Act or the Regulations to be included within such a notice. In particular, there is no requirement for a claim notice to identify the commercial leases, explain the rights of commercial tenants, or set out how management responsibilities are to be divided between the commercial and residential parts of the Property.

48. I therefore accept the Applicant's position that the omission of such information does not affect the validity of the claim notice. I further accept the Applicant's submission that the manner in which the RTM company exercises its management functions, including any practical arrangements concerning the commercial and residential elements of the Property, is a matter to be addressed following the acquisition of the right to manage. It is not a prerequisite to the validity of the claim notice that such matters be detailed in advance.

“Description of the Premises is unclear and insufficient, despite the residential part forming a single building above ground level.”

49. I do not accept the Respondent's contention that the claim notice is invalid because it fails to identify the precise extent of the residential parts of the building, the boundaries between the commercial units and the residential accommodation above, or the location of stair cores, service risers, plant rooms, and other service areas said to be included within the Premises.

50. Nor do I accept that the absence of a plan, cross-section, structural statement, or more detailed description of the Property renders the claim notice invalid. As I have already found, the claim notice is in the prescribed form and contains an adequate description of the Premises over which the right to manage is claimed. The Property is readily identifiable from the description provided, and the legislation does not require the level of detail contended for by the Respondent. Accordingly, I am satisfied that the claim notice adequately identifies the Premises and complies with the statutory requirements.

“Rights Reserved”

51. Although the Respondent stated in the counter-notice that it reserved the right to rely upon further or alternative grounds and to serve supplementary evidence, no such grounds, evidence, or further submissions have been provided. Consequently, the tribunal's determination is based upon the grounds set out in the counter-notice and the evidence before it.

Decision

52. For the reasons set out above, I find that the Applicant was entitled, on the relevant date, to acquire the right to manage the Property and that none of the grounds raised in the Respondent's counter-notice has been established."

53. Pursuant to section 90(4) of the Act, the acquisition date is three months from the date of this decision, namely 4 November 2026

Costs

54. Pursuant to rule 13(1)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal may make an order requiring a party to reimburse all or part of any fee paid by another party."

Name: Judge Bernadette MacQueen **Date:** 4 August 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).