

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

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| **Case Reference** | **:** | **BIR/00CN/EIA/2026/0115** |
| **Property** | **:** | **Land on the south west side of Church Street, Epsom. Land Registry title number SY303490** |
| **Claimant (Operator)** | **:** | **Cornerstone Telecommunications Infrastructure Limited** |
| **Representative** | **:** | **Osborne Clarke LLP** |
| **Respondent (Site Provider)** | **:** | **Aviva Investors Ground Rent GP Limited (1) Aviva Investors Ground Rent Holdco Limited (2)** |
| **Representative** | **:** | **Pennington Manches Cooper LLP** |
| **Application** | **:** | **Electronic Communications Code Paragraph 26 (MSV)** |
| **Date of Order** | **:** | **13th November 2026** |

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**ORDER**

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**UPON** the parties complying with the Orders of Regional Judge Jackson relating to submissions in respect of the assessment of the Respondents' claims for reasonable costs with reference to Paragraph 84(2) and Paragraph 96(1) of the Code, such costs having been awarded but unassessed in the Order imposing an MSV agreement of 29th July 2026;

**And UPON** reading the Respondents' Statements of Costs (dated 30 September 2026) and written submissions on costs dated 2 October 2026 with supporting bundle of documents

**And UPON** reading the Claimant's costs submissions by letter dated 2 October 2026, with its bundles of documents and authorities

**IT IS ORDERED THAT:**

1) The Claimant shall pay the Respondents' reasonable costs summarily assessed in the sum of £11,400 (being £9,500, plus VAT), by 4pm on 11th December 2026.

REASONS

1. Judge Jackson awarded costs in favour of the Respondent with reference to both Paragraph 84(2) of the Code and Paragraph 96(1) of the Code. The Respondent relies on a Schedule of Costs, adopting CPR Form N260, and claiming £22,701.40 (inclusive of VAT), but not differentiating:

   (a) Transactional costs under Paragraph 84(2)(a) of the Code (more properly "expenses including reasonable legal and valuation expenses") - albeit comprising legal fees only in this case; and

   (b) Litigation "costs" pursuant to Paragraph 96(1) of the Code.

   The application to these expenses and costs of VAT appears undisputed. Quite extensive submissions have been filed by each of the parties in respect of their quantum.

2. The law is familiar and I acknowledge the cases referred to in the submissions made by the parties. Recitation is unnecessary here, but I note from **Cornerstone Telecommunications Infrastructure Limited v St Martins Property Investments Limited and another** [2021] UKUT 262 (LC) two points: firstly, at [44] the observation that "each case will involve a particular building and particular issues", which means that examples of other decisions are usually of limited value; and, secondly, at [46] the significance of proportionality in respect of litigation costs, but surely also

encompassed in the "*reasonable* legal and valuation expenses" incurred in the transaction (*my* emphasis).

3. The litigation element of this matter is essentially costs only. The form of the MSV was agreed and the proceedings begun to resolve the outstanding dispute as to costs. In this context, it is unsurprising that the Respondents have not sought clearly to differentiate transactional and litigation costs. The scale of those costs, at £22,701.40 and an assertion that interference by the Tribunal (if any) should not reduce this below £17,500, is surprising in the context of a substantively agreed application.

4. The Respondents' case in summary is that this was a protracted process. Heads of terms were provided in draft in March 2021 and a draft intrusive MSV in January 2022. Amendments were proposed to that agreement. In April 2023 the Claimant served a paragraph 26 notice and agreement in principle followed. In July 2023 a draft non-intrusive MSV was provided by the Claimant and a new draft was presented in November 2023, there were further exchanges and a concluded text was reached in May 2025 (there having been a hiatus between August 2024 and March 2025). The presence of a RTM Company was then addressed and there was a further hiatus between September 2025 and March 2026. The costs remained at large and proceedings followed.

5. The above summary does not do justice to the remarkable extent to which costs appear to have been a major concern of the Respondent. The rival bundles of documents from the parties (505 pages from the Respondent and 223 pages from the Claimant) reflect this recurrent theme. The parties would have been better advised to "park" costs once they became contentious and until the MSV agreement was resolved: indeed, that would be the reasonable course. Cases such as this should not descend into costs dominated disputes. The scale of costs incurred by the Respondent demonstrate the folly of such disputes.

6. The Claimant's case is set out in a lengthy letter, but comes down to simple propositions that there were no complex legal arguments or matters of principle, but two essentially straightforward MSV agreements, resolved over 7 turns in respect of amendments. Costs incurred by the Respondent were exorbitant because of the number of fee earners engaged (13, of which 10 were litigators, 1 "a senior costs lawyer" and 2 were trainees). The time spent was 59.9 hours. Some 11 paragraphs detail issues with the Respondent's schedule of costs.

7. I will forebear to enter into a detailed analysis of the costs schedule in this case, as it would be disproportionate to what is essentially a fairly straightforward case (applying Rule 3(2)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013). It is plain that the transactional costs in this case have extended far beyond what was reasonable: excessive time was spent on documents, communicating with clients and with others, and engaging Counsel, by way of examples. Although the Respondent may anchor its submissions at not less than £17,500, this is plainly and markedly unreasonable for what in reality were two fairly straightforward MSV agreements, even allowing for some delays and the emergence of an RTM company. Two forms of agreement will obviously require more work than one, likewise chasing responses during delays and then revisiting documents increases costs to some extent. The RTM Company presents an additional, albeit ultimately minor, complication. The Respondent's offer of £9,000 plus VAT on 1st

October 2026 was far more realistic to the circumstances as a whole and sensibly adopted a broad-brush approach.

8. By contrast, the final offer of the Claimant at £4,500 plus VAT in respect of the two agreements, plus a somewhat arbitrary £2,000 plus VAT to close the deal, on 29th September 2026 is too low. Whilst the uplift may fairly reflect the need to deal with the litigation and for the Respondent to have costs submissions drafted (albeit not wholly successfully, in the out-turn), the underlying transactional value is too low for the circumstances of this case.

9. Adopting a general approach, since the precise reasonable costs are obscured by the exorbitant schedule, I consider the reasonable transactional costs to be £7,500 plus VAT and I will allow £2,000 plus VAT in respect of the litigation of costs in this unusual, and one would hope not to be repeated, case.

Judge Anthony Verduyn
13th November 2026