

IN THE SUPREME COURT OF THE UNITED KINGDOM
ON APPEAL FROM THE COURT OF APPEAL (CIVIL DIVISION)
[2025] EWCA Civ 856

B E T W E E N:

ADRIATIC LAND 5 LIMITED
(a company incorporated under the laws of Guernsey)

Appellant

-and-

LONG LEASEHOLDERS AT HIPPERSELEY POINT

Respondents

AGREED STATEMENT OF FACTS AND ISSUES

A. INTRODUCTION

1. This appeal concerns the proper construction of paragraph 9 of Schedule 8 to the Building Safety Act 2022 (the “BSA”) (“**Paragraph 9**”), and in particular, whether Paragraph 9, correctly construed, applies retrospectively to prevent certain costs which were incurred before the BSA came into force from being payable as service charges.
2. The Court of Appeal (which was split 2-1 on this issue) recognised that the decision on retrospectivity “*is likely to apply*” to the other Schedule 8 provisions apart from Paragraph 9 [177]. [26/300]

B. FACTUAL BACKGROUND

Parties and the Building

3. The appeal concerns a 10-storey mixed-use building, containing 32 residential flats let on long leases and a single commercial unit on the ground floor, at Hippersley Point, 4 Tilson Bright Square, Felixstowe Road, Abbey Wood, London, SE2 9DR (the “**Building**”).
4. The Building was constructed in or around 2015.
5. The Appellant is, and has been at all times since 12 April 2017, the registered freehold proprietor of the Building. Neither the Appellant nor any associated companies of the Appellant were the developer of the Building; nor were they otherwise “responsible for” (the phrase used in paragraph 2 of Schedule 8 of the BSA) any relevant defect (within the meaning of section 120 of the BSA) in the Building. [48/525]
[44/506]
6. The Respondents are the long leaseholders of flats in the Building. [27/311]

First-tier Tribunal: Dispensation Application and Review

7. The case first came before the Property Chamber of the First-tier Tribunal (the “**FTT**”) by way of an application dated 15 September 2021 (before the BSA was enacted) for dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”).
8. Investigations in the latter part of 2020 revealed that there were fire safety concerns in the Building and that substantial remedial works were required to remediate defects with the external façade of the block. Interim fire safety measures – principally, the installation of a more extensive fire alarm system - were also necessary.
9. The Appellant intended to carry out two schemes of works:
 - a. The first scheme of works involved upgrading the fire alarm system in order to mitigate fire risks pending remediation (the “**First Scheme**”).
 - b. The second scheme of works involved the replacement of combustible insulation and composite panels, the installation of cavity barriers, and the taking down and

reinstallation of metal clad areas and brickwork as necessary (the “**Second Scheme**”).

10. The two schemes of works were “qualifying works” as defined in section 20ZA(2) of the 1985 Act, to which section 20 of the 1985 Act applied.
11. An application for grant funding was made to the government’s Building Safety Fund (“**BSF**”).
12. The Appellant began the statutory consultation process (in accordance with the Service Charges (Consultation Requirements) (England) Regulations 2003 (SI 2003/1987)) in relation to the Second Scheme, but in light of time constraints imposed by the BSF, the Appellant’s understanding that the design and build form of procurement was incompatible with the statutory consultation requirements, and the urgent need to get remediation underway, the consultation process was not completed.
13. The Appellant applied pursuant to section 20ZA(1) of the 1985 Act for dispensation from the consultation requirements in respect of both the First Scheme and the Second Scheme (the “**Dispensation Application**”). In doing so, the Appellant incurred legal costs, being represented by a firm of solicitors.
14. The FTT considered the Dispensation Application by way of a paper determination. By its original decision, dated 20 December 2021, the FTT granted the Appellant’s request for [22/169] dispensation on an unconditional basis having found that “*it was impossible to identify any prejudice suffered by the leaseholders*” (the “**Original Decision**”). However, the FTT decided that an order should be made, pursuant to section 20C of the 1985 Act (the “**Section 20C Order**”), precluding the Appellant from recovering any of its costs of the Dispensation Application (the “**Costs**”) from the Respondents by the service charge provisions in the Respondents’ leases.
15. The Appellant invited the FTT to review its decision to impose the Section 20C Order on the basis that the FTT had been wrong to make that order because the Respondents had not applied for the Section 20C Order (and, by necessary corollary, the Appellant had not had any opportunity to make any representations as to the same).

16. The FTT exercised its statutory power to review the Original Decision and produced a revised decision on 30 June 2022 (the “**Reviewed Decision**”). By the Reviewed Decision, the FTT reversed its decision to make the Section 20C Order but instead granted dispensation subject to a condition that the Appellant should be prohibited from recovering its costs of the Dispensation Application from the Respondents (the “**Costs Condition**”). [9/147] [23/180]
17. In response to the Reviewed Decision, the Appellant sought (i) a review of the Reviewed Decision, seeking the removal of the Costs Condition; or (ii) permission to appeal against the Costs Condition, given the FTT could not identify any prejudice that had been suffered by the leaseholders.¹
18. On 6 April 2023, the FTT declined to exercise its power to review the Revised Decision and refused permission to appeal against the Costs Condition. [10/149]

Upper Tribunal: Permission to Appeal

19. The Appellant renewed its application for permission to appeal to the Upper Tribunal (Lands Chamber).
20. By an order dated 13 July 2023, permission to appeal was granted by the Deputy President, Martin Rodger KC. [11/151]
21. The Appellant’s grounds of appeal had been confined to the Appellant’s case that the FTT had been wrong to impose the Costs Condition. However, in granting permission to appeal, the Deputy President raised a new issue, namely:

“Whether in any event the legal or other professional costs of seeking dispensation under s.20ZA, Landlord and Tenant Act 1985, in respect of the remediation of defects falling within sections 120 and 122, Building Safety Act 2022 are covered by paragraph 9 of Schedule 8, Building Safety Act 2022 so that no service charge

¹ See Daejan Investments Ltd v Benson [2013] UKSC 14; [2013] 1 W.L.R. 854.

is payable in respect of such legal or other professional costs by any leaseholder whose lease is a “qualifying lease” within the definition in section 119.”

22. Paragraph 9 had come into force on 28 June 2022, two days before the FTT handed down [48/530] the Reviewed Decision.

First Appeal: Upper Tribunal

23. Due to the new point raised by the Deputy President when granting permission to appeal, there were two issues to be determined by the Upper Tribunal, namely, (i) whether the Costs Condition could be upheld and, if not, (ii) whether the Appellant was prevented from recovering its Costs by the service charge provisions in the Respondents’ leases (so far as they were ‘qualifying leases’ – see section 119 of the BSA) by virtue of Paragraph 9. [44/503]

24. The appeal was heard by the Chamber President of the Lands Chamber of the Upper Tribunal, Mr Justice Edwin Johnson. The Respondents were not present or represented. By his decision dated 13 November 2023, the President concluded that: [24/191]

- a. The FTT’s decision to impose the Costs Condition was wrong in law (both as a [24/214] matter of procedure and substance); but
- b. The Appellant’s Costs were within the scope of Paragraph 9 as a matter of [24/221] construction and therefore no longer recoverable; and
- c. This was so even where those Costs had been incurred, and had fallen lawfully due, [24/232] prior to the commencement of Paragraph 9.

25. Accordingly, none of the Costs of the Dispensation Application were, from 28 June 2022, recoverable by way of service charge from those of the Respondents holding qualifying leases (being some, but not all, of the Respondents).

Court of Appeal: Permission to Appeal

26. On 11 December 2023, the Appellant applied to the Upper Tribunal for permission to appeal to the Court of Appeal on two grounds:

- a. That the Upper Tribunal erred in its conclusion that the costs of the Dispensation Application fall within the scope of Paragraph 9; and
- b. That the Upper Tribunal erred in its conclusion that legal costs that were incurred or became payable prior to 28 June 2022 can no longer be recovered against leaseholders with qualifying leases by reason of Paragraph 9.

27. On 3 January 2024, the Chamber President granted permission to bring a second appeal on both grounds advanced by the Appellant. That permission was subject to the condition that neither the Appellant nor the Respondents would be entitled to the recover the costs of the second appeal from the other party (whether by way of costs order or by way of service charge), being a condition the Appellant consented to when asked by the Upper Tribunal at the time permission was considered. [12/153]

Court of Appeal: Pre-hearing procedural steps

28. On 13 February 2024, the Appellant filed its skeleton argument, in which it argued that a retrospective interpretation of Paragraph 9 would operate in a manner which amounts to an unlawful interference with the Appellant's rights under Article 1, Protocol 1 of the European Convention of Human Rights. Accordingly, the Appellant argued, by reference to section 3 of the Human Rights Act 1998, the court should, so far as it is possible to do so, read the BSA and give effect to it in a way which is compatible with the Appellant's Convention rights ("the **A1P1 Argument**").²

29. On 27 March 2024, the Respondents (by then represented) filed a Respondent's Notice stating that they wished the Court of Appeal to uphold the Upper Tribunal's order on different grounds.

30. The grounds accompanying the Respondent's Notice stated that they did not seek to challenge the Upper Tribunal's decision to set aside the FTT's decision to impose the Costs

² No declaration of incompatibility (s.4 Human Rights Act 1998) was sought.

Condition on procedural grounds and that the Upper Tribunal had been correct to find that by virtue of Paragraph 9 the Costs were not recoverable, by way of service charge, from those of the Respondents who hold qualifying leases. However, if the Upper Tribunal's interpretation of Paragraph 9 was wrong, they would argue that the Reviewed Decision should be remade in the same terms because the Upper Tribunal had been wrong to find that the Costs Condition could not be upheld on substantive grounds.

31. On 24 April 2024, the Respondents filed their skeleton argument.
32. Also on 24 April 2024, the Secretary of State for Housing, Communities and Local Government (then known as the Secretary of State for Levelling Up, Housing and Communities) (the "SoS") applied to intervene in the appeal, having been notified of the issues in the appeal by the Appellant.
33. By an order dated 17 May 2024, Lewison LJ granted the SoS permission to intervene in [13/157] the appeal.
34. On 7 June 2024, Lewison LJ directed that the appeal should be heard and managed with the appeal in *Stratford Village Partnership v Triathlon Homes*.
35. Also on 7 June 2024, the SoS applied for a direction that the Appellant be debarred from pursuing the A1P1 Argument.
36. On 14 October 2024, Lewison LJ granted the Appellant permission to advance the A1P1 [15/159] Argument and gave directions for the Appellant and the SoS to exchange evidence and further skeleton arguments in relation to the A1P1 Argument.
37. On 30 January 2025, the Respondents applied for permission to amend the Respondent's Notice to seek permission to cross-appeal the Upper Tribunal's order in respect of the decision to grant the appeal with respect to the imposition of the Costs Condition and for an extension of time for permission to appeal. By an order dated 4 February 2025, Newey [18/165] LJ granted that application.
38. On 24 February 2025, Newey LJ made an order by consent staying the Respondents' cross- [19/166] appeal until the determination of the appeal on the BSA points. That cross-appeal remains stayed pending the outcome of this appeal to the Supreme Court.

39. On 13 March 2025, in response to paragraph 23(2) of the Respondents’ skeleton argument, which stated that “*there is no direct evidence of when the [Costs] were first demanded by way of service charges*”, the Appellant informed the Respondents that some of the Costs were incurred in 2021 and were included in the 2021 year-end accounts. Balancing service charge demands were issued to the Respondents on 11 May 2022 including these sums. At that time, the Section 20C Order was still in force but was subject to review by the FTT. Accordingly, the Appellant informed the Respondents that some of the costs of the Dispensation Application were payable under the Respondents’ leases prior to 28 June 2022.

40. On the same date, the Appellant wrote to the Secretary of State confirming that its position was that the Costs are properly payable by Land Securities under the Developer Pledge and that it had communicated with Land Securities to request that it indemnify the Appellant for its legal costs. As of 9 March 2026, Land Securities have not paid, nor agreed to pay, the Costs. Conversations between the Appellant and Land Securities remain ongoing.

Second Appeal: Court of Appeal

41. The hearing before the Court of Appeal took place on 17, 18 and 21 March 2025, with the appeal in *Triathlon* being heard in the two intervening days. Further written submissions on the implications of the decision of the Supreme Court in *URS Corp Ltd v BDW Trading Ltd* [2025] UKSC 21; [2025] 2 W.L.R. 1095 were provided by the parties on 27 May 2025. [86/1534]

42. In the Court of Appeal, the Appellant argued:

- a. That the Costs of the Dispensation Application do not fall within the scope of Paragraph 9 (“**the Scope Issue**”);
- b. That, even if such Costs fall within the scope of Paragraph 9, Paragraph 9 does not operate retrospectively in respect of costs that (i) were incurred or alternatively, (ii) became payable prior to 28 June 2022 when the BSA came into force. Therefore, the Upper Tribunal erred in its conclusion that such costs can no longer be recovered from leaseholders with a qualifying lease by reason of Paragraph 9 (“**the Retrospective Construction Issue**”); and

- c. Even if the court did conclude that Paragraph 9 has retrospective effect, the court must “read in” words preventing Paragraph 9 from having retrospective effect (“**the A1P1 Issue**”) by virtue of section 3 of the Human Rights Act 1998 (“**the HRA**”).
- 43. On the Scope Issue, the Respondents and the SoS argued that the Costs of the Dispensation Application fell within the scope of Paragraph 9.
- 44. On the Retrospective Construction Issue:
 - a. The Respondents argued that from 28 June 2022 qualifying leaseholders were relieved of all liability to pay all relevant costs for the future and also became entitled to recover sums paid in respect of such costs prior to 28 June 2022, without limitation.
 - b. The SoS argued that from 28 June 2022, qualifying leaseholders had no liability to pay toward relevant costs by way of service charges (whether incurred prior to or after 28 June 2022). As a result, unpaid service charges in respect of such costs were no longer payable. However, where leaseholders had already paid service charges in respect of such costs prior to 28 June 2022, there was no right to recover those sums.
- 45. On the A1P1 Issue, the Respondents and the SoS argued section 3 of the HRA did not require the court to read in words to prevent Paragraph 9 from having retrospective effect because Paragraph 9 was a “control of use” rather than a deprivation of property.
- 46. The appeal was dismissed by a majority (Newey LJ dissenting on the Retrospective Construction Issue):
 - a. On the Scope Issue, the Court of Appeal unanimously decided that the Costs of the Dispensation Application were within the scope of Paragraph 9.
 - b. The Court was divided on the Retrospective Construction Issue. Nugee LJ and Holgate LJ held that Parliament’s intention, and the correct construction of the phrase “*no service charge is payable*” is that from 28 June 2022, no further service

charges of the relevant type are payable, irrespective of whether the costs had been incurred or the service charges had been demanded and were payable before that date. At [203] the majority accepted that this causes unfairness to landlords, however they held that the real unfairness had been caused by Parliament's decision to deprive landlords of their contractual right to pass certain costs on to leaseholders at all. The additional unfairness of depriving landlords of accrued rights was insufficient to justify reading the legislation in such a way as to cut across the legislative purpose of providing protection to leaseholders against unaffordable bills in the way that Parliament intended.

- c. In contrast, Newey LJ, held that the factors relevant to fairness came down against retrospectivity and did not displace the presumptions against retrospectivity and interference with property rights. Accordingly, he found at [94] that Paragraph 9 should be construed to mean that no service charge is payable under a qualifying lease in respect of relevant costs incurred *after 28 June 2022* as a result of a relevant defect. He held that the italicised words did not fall to be implied, but were simply an application of the presumptions which operate in relation to construction.
- d. The Court of Appeal unanimously dismissed the appeal in relation to the A1P1 Issue. They held that a retrospective construction of Paragraph 9 was to be seen as affecting control of use rather than amounting to deprivation for A1P1 purposes. Further, that section 3 of the HRA did not require the court to “read in” words to prevent Paragraph 9 from having retrospective effect because retrospectivity would not violate A1P1.

Supreme Court: Permission to Appeal

- 47. On 31 July 2025, the Appellant applied to the Court of Appeal for permission to appeal to [21/168] the Supreme Court. On the same day, the Court of Appeal refused permission to appeal.
- 48. On 28 August 2025, the Appellant applied to the Supreme Court for permission to appeal on two grounds, namely:

- a. Ground 1: The Court (by a majority) was wrong to find that Paragraph 9 of Schedule 8 to the BSA, correctly construed, prevents costs which were incurred before the Act came into force from being payable by way of service charge.
- b. Ground 2: The Court further erred by concluding that the construction of Paragraph 9 favoured by the majority would not result in an unlawful interference with the Appellant's possessions contrary to A1P1 of the Convention such that section 3 of the HRA did not require it to be read and given effect in a way which avoids that consequence.

49. On 7 November 2025, the Supreme Court granted permission to appeal on Ground 1 only [34/464] (i.e. the Retrospective Construction Issue).

C. ISSUES

50. The main issue which arises from the ground on which the Supreme Court (Lord Sales DPSC, Lord Lloyd-Jones and Lord Hamblen) granted permission to appeal is whether Paragraph 9 prevents costs which were incurred before the BSA came into force from being payable by way of service charge.

51. The main issue gives rise to the following sub-issues arising out of the Court of Appeal's decision, which will be addressed in the parties' respective written cases:

- a. Does Paragraph 9 only prevent relevant costs which have been incurred after 28 June 2022 from being payable by way of service charge (as found by Newey LJ)?
- b. Alternatively, does Paragraph 9 also prevent relevant costs which have been incurred before 28 June 2022 from being payable by way of service charge provided those costs have not been demanded and become payable before 28 June 2022?
- c. Alternatively, does Paragraph 9 also prevent relevant costs which have been incurred before 28 June 2022 from being payable by way of service charge irrespective of whether those costs have been demanded and become payable before 28 June 2022 (as found by Nugee and Holgate LJ)?

52. The Appellant contends that the following sub-issues also arise from the ground of appeal (the Respondents' position is that these issues do not necessarily arise):

- a. What is the proper application of the common law presumption against retrospective takings of property with respect to the BSA?
 - i. Does the language of Paragraph 9 (read in context, within Schedule 8 and Part 5 of the BSA more generally) plainly require a retrospective construction or is it ambiguous?
 - ii. If the language is ambiguous, is there a 'rule' of construction at play (in which case, how does it operate here)? Is the presumption against retrospectivity simply a factor to be taken into account when interpreting the BSA, or something stronger than that?
 - iii. Does it matter that the interference with property rights is uncompensated? How much weight should be afforded to this factor?
 - iv. Was Nugee LJ right to take the view at [203] that, given the unfairness to landlords resulting from the application of Paragraph 9 *prospectively*, application *retrospectively* to accrued rights did not add 'very much'?
- b. What, if any, interaction is there between the 'Leaseholder Protections' in Schedule 8 and the ability to apply for a Remediation Contribution Order ("RCO") under s.124 BSA? If s.124 operates such that costs incurred prior to 28 June 2022 can be recovered by way of an RCO,³ how does that affect the proper construction of Paragraph 9?
- c. If the language does require a retrospective construction, how much retrospective effect is 'clearly necessary'?

D. LAW REPORTS OF JUDGMENTS BELOW

³ The issue in *Stratford Village Development Partnership v Triathlon Homes*, which will come before this Court immediately after it has heard the instant appeal.

The Upper Tribunal (Mr Justice Edwin Johnson (The Chamber President)):

[2023] UKUT 271 (LC); [2023] 11 WLUK 162; [2023] All ER (D) 65 (Nov); [2023] PLSCS 189; [2024] ELGR 2; [2024] L&TR 1

Hearing date: 12 October 2023

Decision date: 13 November 2023

The Court of Appeal (Newey, Nugee and Holgate LJJ)

[2025] EWCA Civ 856; 221 Con LR 17; [2025] 7 WLUK 144; [2025] HLR 43; [2026] 1 All ER 514; [2026] 1 P&CR 6

Hearing dates: 17, 18 and 21 March 2025

Further written submissions: 27 May 2025

Decision date: 8 July 2025

Simon Allison KC

Mark Loveday

Mattie Green

Hugh Rowan

Counsel for the Appellant

Counsel for the Respondents

ANNEX: CHRONOLOGY OF KEY DATES

(Incorporating the dates that were included in the chronology of proceedings filed under rule 13(4)(e))

Date	Event
c. 2015	Hippersley Point built by Development Securities (Abbey Wood) Limited, a subsidiary of Land Securities plc.
12 April 2017	The Appellant is registered as the freehold proprietor of Hippersley Point.
14 June 2017	Fire at Grenfell Tower, West London, in which 72 people died.
14 June 2017 to January 2020	Secretary of State ("SoS") issues 22 Advice Notes on fire safety in blocks of flats, culminating in the Consolidated Advice Note issued in January 2020. These advice notes all recommend the removal of different types of cladding and other fire safety remediation measures.
July 2020	Appellant's managing agent registers Hippersley Point to receive funding from the Building Safety Fund ("BSF").
21 September 2020	Design Fire Consultants (a part of Thomasons) completes fire safety risk assessment for Appellant.
15 October 2020	Appellant sends Stage One notice to the Respondents under s.20 Landlord and Tenant Act 1985 (the " 1985 Act ") stating its intention to carry out works to remediate the external walls and fire alarm.
16 October 2020	Thomasons reports to Appellant that external walls require remediation to comply with Approved Document B, together with upgrades to the fire alarm and other fire safety measures.
29 January 2021	Appellant's managing agent issues 2021 budget and first quarterly service charge demands to the Respondents. This includes a demand for £1.8 million toward external wall remediation costs. The letter accompanying the demands confirms that the service charge

	contribution to the external walling system remediation will not be actively recovered at this stage whilst the Appellant's managing agent and Homeground explore all available avenues for the essential fire safety works to be completed without additional cost to leaseholders.
4 March 2021	Conrad Wolfe prepares updated Fire Risk Assessment for Appellant and recommends work to remediate cladding on external walls and other fire safety measures.
March 2021	Appellant's managing agent receives quotations for replacement fire alarm from two contractors.
8 April 2021	Appellant's managing agent raises second quarterly service charge demands on the Respondents, including costs of external wall remediation.
28 May 2021	Hippersley Point enters the BSF.
2 June 2021	Appellant's managing agent raises third quarterly service charge demands on the Respondents, including costs of external wall remediation.
4 August 2021	Thomasons prepared tender reports on cost of external wall remediation for Appellant.
7 September 2021	Appellant's managing agent raises fourth quarterly service charge demands on the Respondents, including costs of external wall remediation.
15 September 2021	The Appellant makes an application to the First Tier Tribunal ("FTT") for determination that the consultation requirements be dispensed with pursuant to the power of dispensation in Section 20ZA(1) of the 1985 Act.
20 December 2021	The FTT considered the Dispensation Application by way of a paper determination (case reference LON/00AL/LDC/2021/0244) ("the Original Decision "). The FTT grants the Appellant's request for

	dispensation on an unconditional basis having found that it could not identify any prejudice that had been suffered by the leaseholders as a result of the failure to consult. The FTT also makes an order under Section 20C of the 1985 Act, (the “ Section 20C Order ”) precluding the Appellant from recovering any of its costs of the Dispensation Application (the “ Costs ”) from the Respondents by the service charge provisions in the Respondents’ leases.
17 January 2022	The Appellant invites the FTT to review its decision to impose the Section 20C Order as such an order had not been sought by the Respondents.
11 May 2022	Following the 2021 end of year accounts, balancing service charge demands were issued to the Respondents in accordance with the provisions of their leases, including a proportion of the Costs which had been incurred in 2021.
28 June 2022	Schedule 8 of the Building Safety Act 2022 (“ BSA ”) comes into force.
30 June 2022	The FTT publishes a revised decision (the “ Reviewed Decision ”) and reverses its decision to make the Section 20C Order but instead granted dispensation subject to a condition that the Appellant should be prevented from recovering its Costs from the Respondents (the “ Costs Condition ”).
19 October 2022	Appellant has pre-tender support in respect of its application to the BSF approved in the sum of £263,754 (being 10% of the anticipated full payment of £2,197,949).
31 December 2022	Appellant’s managing agent cancels 2021 demands in respect of external wall remediation contributions.
30 January 2023	The SoS writes to developers to ask they sign the Developer Remediation Contract and agree to take responsibility for any fire safety defects in buildings built from April 1992 to date.

	Land Securities plc, the parent company of the developer of Hippersley Point, (" Land Securities ") signs the Developer Remediation Contract.
6 April 2023	The Appellant makes a further application for a review of the Reviewed Decision, seeking removal of the Costs Condition, or permission to appeal against the Costs Condition. The FTT declined to exercise its powers of review and refused permission to appeal.
15 June 2023	BSF pre-tender support of £263,754 is paid to the Appellant.
30 June 2023	SoS writes to the Appellant to advise that Land Securities has agreed to manage and fund work on Hippersley Point.
13 July 2023	Permission to appeal against the Reviewed Decision is granted by way of an Order of Deputy President Martin Rodger KC. In his decision granting permission to appeal, the Deputy President raises a new issue, namely, whether paragraph 9 of Schedule 8 of the BSA now precluded the Appellant from recovering the legal or professional costs of the Dispensation Application from leaseholders holding a 'qualifying lease' (within the meaning in section 119(2), BSA).
13 November 2023	Judgment of Mr Justice Edwin Johnson in the Upper Tribunal in <u>Adriatic Land 5 Limited v The Long Leaseholders at Hippersley Point</u> [2023] UKUT 271 (LC) (" UT Decision ").
11 December 2023	The Appellant applies for permission to appeal the UT Decision.
3 January 2024	Permission to appeal the UT Decision is granted by Mr Justice Edwin Johnson on each of the grounds identified in the application.
30 January 2024	The Appellant files the N161 Appellant's Notice and Grounds of Appeal with the Court of Appeal.

13 February 2024	The Appellant's Skeleton is filed and sent to the Respondents. The Appellant's Skeleton is also sent to the SoS, giving notice of the appeal in the event that the SoS wished to intervene.
19 February 2024	The Respondents' Notice and Grounds for upholding the UT Decision is filed and served. A Notice of Change of Legal Representative was also filed and served confirming the Respondents (previously litigants in person) have instructed Velitor Law.
8 March 2024	Court of Appeal serves the Listing Window Notification on the Appellant and outlines directions.
27 March 2024	The Respondents' Notice and Grounds for upholding the UT Decision are refiled.
3 April 2024	Notice of Change of Legal Representative for the Appellant is filed and served confirming Fieldfisher LLP is instructed to act on behalf of the Appellant in place of JB Leitch Limited.
23 April 2024	The SoS' application for permission to intervene in the proceedings is filed and served.
24 April 2024	The Respondents' Skeleton Argument is filed and served.
9 May 2024	The SoS serves a sealed copy of its Application Notice dated 24 April 2024 for permission for the SoS to intervene.
17 May 2024	Order of Lewison LJ granting the SoS permission to intervene.
7 June 2024	The SoS files and serves an Application Notice requesting an Order that the Appellant does not have permission to advance the arguments at paragraphs 67 to 70 of its appeal skeleton argument (i.e. the A1P1 Argument) and / or the Appellant does not have permission to advance the A1P1 Argument. The Application Notice also requests an extension of time for the SoS to file its skeleton argument.

7 June 2024	The Court's listing manager writes to the parties in these proceedings and <i>Stratford Village Partnership v Triathlon Homes</i> (the " Triathlon Appeal ") confirming that Lewison LJ would like both appeals to be listed together.
10 June 2024	The Property Institute (" TPI ") made an application for permission to intervene in the proceedings.
20 June 2024	The Appellant files and serves its response to the SoS' Application dated 7 June 2024.
27 June 2024	Order of Lewison LJ confirming that TPI's application for permission to intervene in the proceedings was refused.
8 July 2024	The Court of Appeal's case manager confirms the listing of the Appellant's appeal and the Triathlon Appeal would be considered at the hearing of the SoS' application dated 7 June 2024.
20 September 2024	Hearing of the SoS' Application dated 7 June 2024 took place whereby Lewison LJ considered the SoS' Application to debar reliance on the A1P1 Argument.
14 October 2024	Order of Lewison LJ granting the Appellant permission to rely on the A1P1 Argument and giving directions for the appeal hearing.
18 October 2024	The Appellant files its evidence on which it sought to rely in support of the A1P1 Argument.
6 December 2024	The SoS files and serves its witness evidence in the form of Jonny Murphy's First Witness Statement and Exhibit JM1.
17 January 2025	The Appellant serves its responsive evidence and supplementary skeleton argument addressing the A1P1 Argument pursuant to paragraph 1(c) of Lewison LJ's Order dated 14 October 2024.
30 January 2025	The Respondents file an Application Notice for permission to amend the Respondents' Notice and permission to cross-appeal.

31 January 2025	The SoS files and serves its Skeleton Argument. The parties also agree to the contents of the appeal bundles.
4 February 2025	Order of Newey LJ granting the Respondents' Application dated 30 January 2025.
12 February 2025	Respondents file an amended Respondents' Notice in accordance with order of Newey LJ dated 4 February 2025.
24 February 2025	Order by consent made by Newey LJ staying the Respondents' cross-appeal until the determination of the appeal.
13 March 2025	In response to paragraph 23(2) of the Respondents' skeleton argument, the Appellant's counsel emails the Respondents' counsel to inform them that some of the costs of the Dispensation Application were incurred in 2021 and were included in the 2021 year-end accounts, and that as a result of the balancing service charge demands issued to the Respondents on 11 May 2022, some of the costs of the Dispensation Application were payable under the Respondents' leases prior to 28 June 2022.
13 March 2025	The Appellant writes to the Secretary of State confirming that its position is that the Costs are properly payable by Land Securities under the Developer Pledge and that it had communicated with Land Securities to request that it indemnify the Appellant for its legal costs.
17, 18 and 21 March 2025	Hearing before the Court of Appeal, with the Triathlon Appeal heard on 19, 20 and 21 March 2025. The parties in this appeal were heard, briefly, after the end of the Triathlon Appeal in order to respond to points that had arisen in argument in the Triathlon Appeal (as had been ordered by Lewison LJ on 20 September 2024, reflecting the overlapping issues between the appeals on the question of retrospectivity).
27 May 2025	The parties provide written submissions to the Court of Appeal on the implications of the decision of the Supreme Court in <i>URS Corp Ltd v</i>

	<i>BDW Trading Ltd</i> [2025] UKSC 21 in respect of the appeal against the UT Decision.
8 July 2025	Judgment is handed down by the Court of Appeal and Order made by Newey LJ, Nugee LJ and Holgate LJ dismissing the appeal.
31 July 2025	The Appellant applies to the Court of Appeal for permission to appeal to the Supreme Court.
1 August 2025	Order refusing permission to appeal to the Supreme Court.
28 August 2025	The Appellant apply to the Supreme Court for permission to appeal.
28 August 2025	The Appellant writes to the Supreme Court Registry (the " Registry ") setting out its position on the costs of the prospective appeal. The Appellant requested the Court considered this letter in conjunction with the permission application.
1 September 2025	The Supreme Court issues the application for permission to appeal.
5 September 2025	Service of application for permission to appeal by hand on the Respondents and SoS by the Appellant.
18 September 2025	SoS' notice of objection to the application for permission to appeal filed.
19 September 2025	Respondents' notice of objection to the application for permission to appeal filed.
7 November 2025	Order for permission to appeal granted by the Supreme Court on Ground 1 only (i.e. the Retrospective Construction Issue).
18 November 2025	In correspondence to the Registry and all parties the Respondents seeks to clarify with the Supreme Court whether the Appellant was to be subject to any costs condition, and if not, whether the Respondents were required to make a costs-capping application.
19 November 2025	Notice of intention to proceed filed and served on the Respondents and the SoS (as the intervener in the Court of Appeal).
19 November 2025	In correspondence to the Respondents and the SoS, the Appellant confirms the Notice of Intention had been filed and served on the Supreme Court case management portal, sets out its position on the

	lack of a costs condition being ordered by the Supreme Court, and its position on costs generally.
20 November 2025	In correspondence from the Respondents to the Appellant the Respondents disagree that the Supreme Court had unequivocally declined to attach any costs conditions when making the order to grant permission to appeal.
20 November 2025	In correspondence to the Registry and all parties the Appellant responds to the Respondents' correspondence in relation to costs conditions and sets out the Appellant's understanding that the usual costs position would apply in this appeal.
28 November 2025	In correspondence from the Respondents to the Appellant and the SoS, the Respondents seek an extension of time to file and serve the Respondent's notice of acknowledgment.
1 December 2025	In correspondence from the Appellant to the Respondents copied to the SoS, the Appellant requests confirmation as to why the Respondents required an extension of time.
1 December 2025	Notice of acknowledgment is filed and served by the SoS and the Respondents.
8 December 2025	The Registry advises the parties, in response to the correspondence from the parties of 20 November 2025, that the costs of the permission application become costs in the appeal on the grant of permission, and as such, the Court has not yet taken any decision on costs.
15 December 2025	In correspondence to all parties the Registrar confirms that the SoS should not be treated as a respondent to the appeal and must make an application for permission to intervene in order to participate in the appeal. The Registrar acknowledges that the advice previously given to all parties on this subject was inconsistent and incorrect.
16 December 2025	The Registry requests the Appellant and Respondents provide their available dates for the listing of the hearing in 2026.
22 December 2025	In correspondence to the Appellant and the Respondents the SoS requests that the parties accept service via email in relation to the application for permission to intervene and also wrote to the Registry indicating that the SoS intended to apply in both this appeal and the

	Triathlon Appeal, requesting that oral hearings not be listed until the intervention application had been determined.
22 December 2025	The SoS emails the Appellant and Respondents his draft application for permission to intervene and requests the parties confirm whether they consented to the application.
23 December 2025	In correspondence to the SoS, the Appellant objects to the SoS' application to intervene and set out its grounds for objection in summary form.
24 December 2025	In correspondence to the Registry and all parties the Respondents confirmed that they consent to the SoS' application for permission to intervene.
5 January 2026	The SoS files and serves his application for permission to intervene in this appeal and the Triathlon Appeal, providing the grounds for intervention and the application bundle, along with the application itself.
9 January 2026	The Registry advises the Appellant and the Respondents that, given the appeal in Adriatic is to be listed successively with the Triathlon Appeal, finalising the hearing dates may take longer than would typically be expected.