UPPER TRIBUNAL (LANDS CHAMBER)

UT Neutral citation number: [2021] UKUT 0016 (LC)
UTLC Case Number: ACQ/46/2020

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

COMPENSATION – COMPULSORY PURCHASE – Order under the Transport and Works Act 1992 – compensation for temporary and permanent acquisition – operations in breach of leasehold covenants – nominal quantifiable loss during temporary occupation – compensation for permanent loss based on hope value element – pre-reference professional costs – compensation awarded at £147,192

IN THE MATTER OF A NOTICE OF REFERENCE

BETWEEN	**GOLF CAFÉ BARS LIMITED**	**Claimant**
	-and-	
	WEST YORKSHIRE COMBINED AUTHORITY (1)	**Acquiring**
	NETWORK RAIL INFRASTRUCTURE LIMITED (2)	**Authority**

Re: Land at 1 Little Neville Street
Leeds
LS1 4ED

DETERMINATION ON WRITTEN REPRESENTATIONS

Peter McCrea FRICS FCIArb

Wayne Parkinson, Director, for the Claimant
Daisy Noble, instructed by Eversheds Sutherland, for the Acquiring Authority

The following cases are referred to in this decision:

Khan v Stockton on Tees Borough Council [2017] UKUT 432 (LC)

Lancaster City Council v Thomas Newall Limited [2013] EWCA Civ 802

Introduction

1. From its source in a stream above the picturesque Malham Tarn, by the time the river Aire has flowed forty miles south-east to Leeds it has become a major watercourse, over which the city's Victorian central railway station was constructed on a brick-vaulted viaduct, known locally as the Dark Arches. The Dark Arches bisects the city centre: the main shopping and business areas lay to the north of the station, while the area to the south was occupied mostly by residential apartments, businesses, and offices, constructed on former redundant or derelict industrial sites. Rail passengers from the south of the city centre could only access the station via an indirect route, using the Neville Street underpass.

2. This inconvenient situation was rectified by the Leeds Station Southern Entrance ("LSSE") development, authorised by the Leeds Railway Station (Southern Entrance) Order 2013 ("the Order"), made on 1 August 2013 under the Transport and Works Act 1992, and which came into force on 22 August 2013. The joint acquiring authority under the Order was the West Yorkshire Passenger Transport Executive (now the West Yorkshire Combined Authority) and Network Rail Infrastructure Limited.

3. This reference is made by Golf Café Bars Limited ("the claimant") which claims compensation for the temporary and permanent acquisition of parts of its leasehold property for the construction of the LSSE. Following a case management hearing, the parties agreed that I should determine the reference by written representations. The claimant was represented by its director, Mr Wayne Parkinson, the acquiring authority by Ms Daisy Noble of counsel. I am grateful to them both.

The reference land

4. On the eastern bank of the Aire, to the south of the station, stands a 13-storey residential block known as the Blue Apartments. In the ground floor commercial space, the claimant operates a golf café bar, where patrons can play on virtual golf courses and enjoy food and drink, including on a riverside terrace. To the north east of the building, with access to Little Neville Street, there is a service yard. I refer to the apartments, the commercial space and the service yard together as the property.

5. The reference land comprises several small plots of land within and near to the service yard which were acquired temporarily to facilitate construction of the LSSE, following which some were permanently acquired as part of the scheme. The notations in the Book of Reference gave each plot a number, with a suffix of 't' or 'p', depending on whether the land was acquired temporarily or permanently (or, in some cases, both).

6. On 15 November 2013 notices of intended entry for the purposes of temporary possession were served. As far as relevant to this reference, between 3 December 2013 and 7 December 2016, the acquiring authority took temporary possession of three parcels of land in the service yard - Plots 147t, 148t and 149t (55.1 sqm, 142 sqm and 67 sqm, respectively). The land taken was used as a contractors' yard and for the base of a construction crane. While these parcels covered most of the service yard, in practice the claimant retained use of enough of the land notionally taken, in addition to that part of the service yard not acquired, to provide two tandem car parking spaces for staff, an area for bin storage, access for deliveries and for a fire escape.

7. On 20 December 2013, a notice of intended entry was served in respect of Plot 133t, comprising 25.6 sqm of a narrow strip of land to the north and west of the block, adjoining the river.

8. Following a General Vesting Declaration made on 7 November 2016, on 8 December 2016, the freehold interests in Plot 133p, Plot 147p (identical to 133t and147t) and Plot 148p (slightly smaller than plot 148t at 103.3 sqm) were vested in the acquiring authority to provide a permanent pedestrian access to the station.

The claimant's leasehold interests

9. The property was subject to a complex series of tiered freehold and leasehold ownerships, some of which changed hands over the period concerned. While the parties refer to a number of different companies which owned the various interests at different times, for the moment it is sufficient for me simply to name those which entered into the respective leases.

10. The freehold was owned by Leeds Canal Basin (Developments) Limited ("LCBD") – a subsidiary of British Waterways - since July 2012 known as the Canal and River Trust ("CRT").

11. On 12 November 2002, LCBD granted a 125-year lease from 1 January 2002 ("the head lease") to Country and Metropolitan Developments Limited ("CMD") - I assume for the development of the block which became known as the Blue Apartments.

12. On 31 August 2006, probably upon or soon after completion of the development, CMD granted a lease ("the long lease") of the commercial area and the whole of the service yard back to LCBD for a term expiring five days before the head lease.

13. The commercial area remained vacant for some years, but on 30 January 2009, LCBD granted a 15-year sub-underlease ("the short lease") to the claimant. The demise included the ground and mezzanine floors, and all the service yard with the exception of what was later termed Plot 147(t). The short lease included an option to purchase the reversion in the long lease – which the claimant exercised on 13 December 2013, thus not only extending the term of its interest, but also acquiring Plot 147(t).

14. It is relevant to note user clauses. Under clause 4.13.4 of the head lease, CMD covenanted not to use the ground floor, mezzanine and service yard other than for a use falling within classes A1 of A3 of the 1987 Use Classes Order with ancillary storage, office and staff facilities '<u>and/or as a goods and servicing yard</u>".

15. In the long lease, the demised premises are described in the first schedule as including the 'Service Area'. Clause 3.15.1 outlines a series of prohibited uses (including "uses within Parts B C and D of the Town and Country Planning (Use Classes) Order 1987 (as originally enacted)"). Under clause 3.15.2 the tenant covenanted not to use the premises for any purpose

> "other than for a use or uses with Use Classes A1 and/or A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as originally enacted) <u>and in relation to the Service Area as a service area</u> and in each case for purposes ancillary thereto."

16. The long lease contains relatively standard alienation provisions, but clause 3.17.6 is of note:

> "for the avoidance of doubt the Tenant shall be entitled to grant rights to third parties to use the Service Area upon such terms as it shall deem appropriate and as are consistent with the terms of this Lease without any need for Landlord's consent".

17. Pausing there to fix our chronological bearings; temporary possession was taken on 3 December 2013 at which time the claimant held the short lease. But within a few weeks the claimant had acquired the long lease and accordingly for the majority of the period of temporary possession, it is the user clause of the long lease, and to an extent the head lease, which are relevant. Similarly, the permanent possession claim is in respect of a long leasehold interest, under which the claimant's use of the land concerned was equally restricted.

The CAAD

18. Despite only holding a long leasehold interest under which its use of the service yard was restricted, the claimant made an application to Leeds City Council for a Certificate of Appropriate Alternative Development ("CAAD"), based on ten parking spaces.

19. On 31 July 2017, the council certified that the following uses would have been acceptable in planning terms:

a. Change of use of service yard, patio, and parking area at the rear of the building to residents only parking for up to eight cars to be used only by the residents of the Blue Apartments.

b. Change of use of service yard, patio, and parking area at the rear of the building to a medium stay public car park of up to six cars for use by shoppers and visitors, with conditions on timing and duration of stay.

c. Change of use of service yard, patio, and parking area at the rear of the building to a medium stay public car park of up to six cars for use by shoppers and visitors, and residents only parking, subject to the planning authority approving which spaces would be used by which type of occupier, and with restrictions on timing.

The claim in outline

20. The claimant's claim comprises:

a. Compensation for temporary possession - £43,109

b. Compensation for permanent acquisition - £247,050

c. Compensation for rights over plot 133 - £7,500

d. Basic loss (£19,091) and occupier's loss (£6,364) payments

e. Professional fees - £25,264

f. Management time - £3,060

Compensation for temporary possession

21. The acquiring authority's liability for compensation is provided by Article 26(6) of the Order, by which the acquiring authority must:

> '(6) … pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.
>
> (7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the [Land Compensation Act 1961].'

22. For some years, the claimant let car parking spaces in the service yard to residents of the Blue Apartments – evidently a remunerative exercise with sufficient demand to warrant a waiting list, but technically in breach of its leasehold user covenants. As originally pleaded, the temporary possession claim was based upon the claimant's loss in rental income following the temporary acquisition of much of the service yard.

23. The acquiring authority disputed the validity of this as a head of claim on the grounds that the use did not have planning permission, it was in breach of the user covenants of the long lease, and that such breach had not been regularised by landlord's consent. Ms Noble submitted that if a claimant in a permanent acquisition situation is prevented by section 5 of the 1961 Act from recovering compensation generated by illegal or unlawful uses, equally it cannot do so in a claim for temporary possession. The authority's principal position was therefore that this element of the claim should be assessed at zero.

24. Following a case management hearing, Mr Parkinson submitted a revised statement of case, in which he abandoned the basis of the claim for loss of income from residential tenants – instead, while maintaining the amount of the claim at £43,109, he based it on the loss of *staff* parking spaces.

25. The difficulty I have with the claimant's present case is that having abandoned the basis of the claim founded on rental income from residential occupiers, the wind was rather taken from its sails. The basis of compensation for temporary possession under the Order is for any loss or damage. It is not clear to me what loss or damage the claimant suffered. This is probably because of the way the claim developed. It may be, and I need not express a view on this, that the loss of the ability to let spaces to residential tenants would amount to something in the order of the amount claimed. But, having abandoned that as the basis of the claim, the claimant cannot show a quantifiable loss. There is no evidence, for instance, that the claimant employed a certain number of staff whose contracts of employment included an on-site parking space, which when removed caused the claimant to have to hire spaces around Leeds to honour those contracts. Indeed, on the evidence the position was starkly different – except for two 'management' spaces, no general staff spaces were required or provided. Instead, they were given over to residential parking.

26. It is common ground that the claimant was deprived of the use of the majority of parking spaces for some three years, and I am satisfied that that would have caused some inconvenience and potential complications in loading etc. It is therefore reasonable to award an element of

compensation to reflect those factors. Doing the best I can from the evidence, I award the claimant a nominal £2,500 for the temporary loss of the spaces for the period concerned.

Compensation for permanent acquisition

27. Article 22 of the Order provides:

> "22.— Application of Part 1 of the [Compulsory Purchase Act 1965]
>
> (1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—
>
> (a) as it applies to a compulsory purchase to which the [Acquisition of Land Act 1981] applies; and
>
> (b) as if this Order were a compulsory purchase order under that Act.
>
> …"

28. Under s.6 of the 1965 Act, the question of compensation is determined by the Tribunal in the absence of agreement.

29. The acquiring authority accepts that it is to be assumed for the purpose of assessing compensation that planning permission was in force at the valuation date for the uses permitted by the CAAD. The main issue in this part of the claim is the likelihood or otherwise of the claimant securing the necessary consents under the leases to enact the CAAD uses.

30. For the acquiring authority, Ms Noble submitted that use as residents' parking was in breach of clause 3.15 of the long lease - the use of the car park to provide independent car parking to members of the public cannot be said to be ancillary to the A1/A3 use of the premises.

31. Mr Parkinson submitted that if the leases intended to prohibit parking this would have been reflected in the prohibited uses in clause 3.15.1 of the long lease. He pointed to the claimant's ability to grant rights over the service yard, and to the wording of clause 3.15.2 which permitted use for purposes "in each case" ancillary to A1/A3 use and in relation to the Service Area, as a service area. In his view, car parking was ancillary to use as a service area.

32. Mr Parkinson submitted that the claimant's landlord was aware of the use for parking, and did not object. He submitted a witness statement from Mr Simon Curass MRICS, Estate Manager at CRT between 2000 and 2018. Mr Curass had managed the grant of the short lease to the claimant in 2008/9, and the subsequent sale to it of the long lease in 2013. Mr Curass's evidence was that in 2013 he was asked to confirm in writing that the claimant had an "unfettered right" to use the service yard. He replicated the text of an email dated 9 July 2014 to a Mr Andrew Bowyer of JLL, copied to Mr Parkinson, in which Mr Curass said this:

> "As you know Wayne Parkinson acquired our Leasehold interest in the Ground Floor of Blue including the entire yard area to the rear of the property on the 13 December 2013. Up until the date of disposal there was an agreement in place with Wayne Parkinson that he had an unfettered right to use the entire yard including areas not included in his lease."

33. In his witness statement, Mr Curass said that what this email implied was that following the disposal to the claimant, the unfettered right would continue and as head leaseholder the Canal and River Trust was aware of, and would not have objected to, the land being used for paid parking. In his experience at CRT, if asked the Trust would have consented to this use and the only consideration required would have been their direct costs.

34. Ms Noble accurately characterised this email as an informal and unspecified indication provided by an employee, falling far short of anything indicating formal authorisation. She pointed out that for the vast majority of the period of temporary possession, neither CRT nor its subsidiary company LCBD was the claimant's immediate landlord - it was from CMD's successors in title (Master Properties Ltd and Adriatic Land 4 Ltd) that the claimant would have had to seek consent to regularise the position. Had they agreed to do so, that would in itself be a breach of the user covenants in the head lease. In response, Mr Parkinson said that CRT [in fact, LCBD] were the claimant's immediate landlord from 2009 to 2013, during which the service yard was used for residents' parking without objection.

35. In my judgment residents parking would be a breach of the claimant's lease. A car park is not a use as a service yard, and residents parking would not be a permitted ancillary use because use class C3 – residential – is not permitted by the lease. But, the breach is a contractual one rather than an unlawful one as such.

36. However, there is albeit anecdotal evidence that at least LCBD were prepared to turn a blind eye to the claimant's activities. If it was not prepared to move against the claimant in the earlier years, is seems implausible that it would have taken action to enforce the user clause of the head lease when either Master Properties or Adriatic Land were the intermediate party. Mr Curass's evidence suggests that CRT took a fairly relaxed approach to the situation, extending to not using the apparent breach as a stick to beat the claimant when it exercised the option to purchase the reversionary lease. There is no evidence, however, as to how Master or Adriatic viewed the situation.

37. The risk to the claimant that the user clauses would be enforced goes to quantum, to which I now turn. In support of the claim of £247,050, Mr Parkinson relies on two alternative calculations.

38. The first is an investment approach, capitalising a notional rental income. He cites a series of rents which have been achieved for parking spaces in the immediate or wider area, ranging from £100 to £187.50 per month – an average of £142 per space, but with those at the upper end of the range being in respect of underground/undercroft spaces within residential developments. Mr Parkinson considers the appropriate rent for the reference land at the valuation date is £160 per month per space, which aggregates to £15,360. To this, he applies an investment yield of 6.25% (which he says is based upon 6% plus 0.25% to allow for purchaser's costs). He cites several investment deals across the country in support of his choice of yield.

39. His second calculation, upon which he places more reliance, is based on the sale of land at Canal Wharf, Leeds, where he says eight spaces were sold for £200,000 in June 2012. The site is close to the reference land, on the south side of the river. To this £25,000, he applies an inflation factor based on RPI, to arrive at £247,050, based on the nine spaces he says were lost permanently.

40. Mr Cooper makes several observations on this evidence. If the two covered locations are taken out, Mr Parkinson's average figure reduces to £135 per month for a mixture of residential and commercial uses. As regards Mr Parkinson's yield comparables, Mr Cooper points out that the first was a multi-let investment sale in Manchester in 2011, the second relates to a car park to be constructed in Stockport in 2014, and the third is the sale of a multi-storey car park in Milton Keynes sold in January 2016, achieving 6%. Mr Cooper considers the transactions unhelpful in informing the notional yield to be applied to the leasehold investment land at the valuation date.

41. While the parties referred to a variety of transactions, it was common ground that the sale of a car park at the nearby Canal Wharf - the sales particulars of which were attached to the parties' helpful statement of agreed facts - provided the best evidence. Mr Cooper says that the plot, extending to 300 sqm, was marketed in 2012 as a surfaced car park with eight spaces, two in tandem. Plans had been drawn up for a three-storey office scheme, but no planning consent granted or, it seems, applied for. Mr Cooper submitted an extract from the property information service CoStar which suggests that the site was sold for £185,000 in June 2012. He says the site was sold to a property company which then let the site to an adjoining pub company for a beer garden. The tenant exercised an option to purchase and the site was acquired in March 2017 at £180,500. In his view, this land – freehold with the possibility of development offers greater opportunity that the reference land, and a transaction involving a special purchaser may have influenced the price achieved.

42. Mr Cooper's method of valuation is to add to the existing use value of the reference land an element of hope value. In his view, a hypothetical purchaser would make an adjustment to a bid for the property with a restricted use and restricted alienation pattern against the same property without those restrictions. If a variation of terms creates greater value, the hypothetical purchaser would need to consider splitting a share of the uplift in value with the landlord(s) for either relaxing the leases or surrendering the service yard back to the landlord who is also the landlord of the Blue Apartments. The hypothetical purchaser would apply a degree of discount to reflect the risk of not being able to negotiate the variation needed to release a greater value.

43. He assesses the existing use value at £100, given the restrictions in the long lease, under which the service yard can only be used ancillary to the use of the ground floor.

44. He accepts that the Canal Wharf is the only open market sale of land close to the reference land, but in a more prestigious location. He takes the June 2012 sale price of £185,000, equating to £616 per sqm, discounts it by 2.5% to reflect the shorter leasehold nature of the reference land, and by a further 5% to reflect the difference in location and potential for commercial and residential potential, to arrive at just over £570 per sqm. He applies this rate to the reference land's 158.3 sqm to arrive at £90,297 on the basis of the CAAD and assuming the claimant's lease can be varied, equating to just over £15,000 per space, assuming six spaces, which Mr Cooper considers high, given the evidence of underground spaces.

45. Thus, Mr Cooper arrives at an uplift from existing use value of just over £90,000, which he divides equally between landlord and claimant. He accepts that the planning risk is reduced owing to the CAAD, but there remains a risk that variation of the lease is not guaranteed, and time and costs would be incurred in negotiating variations to the lease. He therefore applied a further discount of 1/3 to reflect that, before arriving at a market value of £30,200.

46. Mr Parkinson is generally unhappy with Mr Cooper's approach. Among his many points in response, he disputes that a comparison of the reference land with Canal Wharf should be on a per square metre basis, but instead should be based upon functional use. He also disputes Mr Cooper's existing value of £100 for a staff car park.

47. It is common ground that the effect of section 14 of the 1961 Act is that it is to be assumed that planning permission was in force at the valuation date for the development permitted in the CAAD. Thus Mr Cooper's comment that planning risk is 'reduced' is an understatement – there is no planning risk for the purposes of valuation.

48. However, Ms Noble's submissions as to the leasehold covenants have force. The claimant's interest is not freehold, and regard must also be had to the way in which its lease restricts the use to which the service yard can be put. None of the three options provided for by the CAAD can be executed without the claimant breaching its leasehold covenants unless they are varied.

49. I do not find Mr Parkinson's investment approach to be convincing or robust, based as it is on investment sales on significantly different properties far afield. In fairness to him, he preferred the sale of the land at Canal Wharf and this clearly provides the best comparable to guide a valuation of the reference land. I agree with Mr Parkinson that an analysis on a square metre basis is inappropriate, preferring a per-space basis. The site accommodated eight spaces, of which two were in tandem. My approach is to treat that as 7.5 spaces for the purpose of analysis.

50. When considering the sale of Canal Wharf, should there be any adjustment for time, to the valuation date of December 2016? We have the sale price of £185,000 in June 2012, and an exercised option to purchase at £180,500 in March 2017. The terms of the option, as Mr Parkinson observed, are unknown, and may have reflected that the vendor had received rental income in the meantime. There is evidence of increases in parking charges over the period concerned, but whether this translates to increases in capital values is not clear from the evidence. Mr Parkinson uses RPI as the basis of adjustment, which to a layperson might seem reasonable but as the Tribunal has observed on many occasions, RPI does not necessarily reflect movement in property values. However, it seems reasonable to make an adjustment to the June 2012 sale price, and I consider £200,000 is appropriate to reflect a notional sale in December 2016. For 7.5 spaces, this would equate to £26,667 per space, on a freehold basis.

51. Turning now to the reference land, Mr Parkinson's evidence is that while the claim for temporary possession was based on six spaces because the claimant could park on at least some of the land that was subject to the temporary possession orders, the situation after permanent possession was slightly different. He claims there were ten spaces, of which the claimant was left with only one after permanent acquisition.

52. In appendix G to his written submissions, Mr Parkinson exhibited a photograph from August 2016, showing the remainder of the service yard after the scheme had been completed. Two vans are shown in the yard, but one probably blocks the other one in. As consistent with my analysis of Canal Wharf, for the purposes of valuation I estimate the claimant was left with 1.5 spaces after the permanent acquisition.

53. However, the claim is restricted in planning terms by the CAAD. If the claimant relies upon the CAAD as justifying the claim, it must also be constrained by its conditions, which provide for a maximum of eight spaces, which limits the claim to 6.5 spaces, assuming

occupation by the residents of the Blue Apartments, or 4.5 spaces on the other two options permitted by the CAAD.

54. Had the reference land been held freehold, and the two locations similar, that would point to a maximum loss to the claimant of £173,335 or thereabouts. But the locations are not on all fours, and I accept Mr Cooper's adjustment of 5%, bringing the freehold equivalent of the reference land down to around £165,000.

55. I accept the principle of Mr Cooper's approach and agree that a deduction needs to be made to reflect the fact that a negotiation would have to be completed with the freeholders and head leaseholder. But in the light of Mr Curass's evidence I consider Mr Cooper's deductions to be overly harsh, and it seems to me there is an element of double-counting in his method.

56. We are to consider a notional sale of part of the service yard, and the price that the hypothetical parties would agree, assuming planning permission for the CAAD uses was in force. I accept that splitting one of the spaces in two creates a somewhat artificial scenario, but that is done only for the purpose of applying an analysed sale elsewhere. From the valuation steps I have outlined above, I am satisfied that had the reference land been available on the market freehold, the hypothetical parties would have agreed a value of £165,000. The question is what discount should be applied to reflect the inevitable negotiations that the purchaser would have with the immediate long-leaseholder and freeholder at the valuation date to vary the leases.

57. In my judgment, the notional purchaser would be prepared to pay something less than 50% to those parties, and that a reasonable approach is a one third to two thirds apportionment. Accordingly, I determine compensation for permanent acquisition at £110,000.

Compensation for rights over plot 133

58. My understanding, and that of the acquiring authority, is that this element of the claim refers to rights which were taken over plot 133. However, other than referring to a claim document, this element was not mentioned further and in the absence of any submissions or evidence on the point, I make no award.

Basic and occupier's loss

59. The acquiring authority accepts that these are payable in principle.

60. Basic loss is payable at 7.5% of the value of the claimant's interest – i.e. the market value of the land acquired (see paragraphs 33-43 of *Khan v Stockton on Tees Borough Council* [2017] UKUT 432 (LC)). Following my determination above, I award £8,250 under this head.

61. The claimant is entitled to an occupier's loss payment. In circumstances where no buildings are acquired, the occupier's loss payment is calculated at the greater of 2.5% of the value of the land acquired, or the 'land amount'. Where, as in this case, only part of the claimant's land is acquired, the land amount is the higher of either £300 or £2.50 per sqm of the land taken (not, as Mr Cooper calculated, £300 *plus* £2.50 per sqm – parts (a) and (b) of s.33C(8) of the Land Compensation Act 1973 are alternatives, not elements to be aggregated). Given my determination above, occupier's loss is payable at 2.5% of £110,000, viz. £2,750.

Professional Fees

62. The acquiring authority accepts the following elements of pre-reference costs in full:

a. Professional fees of Turleys in respect of the CAAD at £4,950

b. Professional fees of Roger Hannah and Partners at £12,722.

63. The claimant also claims legal fees of Squire Patton Boggs in the sum of £5,020, of which the acquiring authority accepts liability for £2,500; Simpson Miller in the sum of £1,572, and Blacks in the sum of £1,000, both of which the acquiring authority disputes.

64. Thus, the items in dispute are the remaining £2,520 of Squire Patton Boggs's fees, and those of Simpson Miller and Blacks. As regards those of Squire Patton Boggs, Mr Parkinson has submitted a draft invoice from the firm in the sum of £4,981 net of VAT, plus disbursements of £39, totalling £5,020 as claimed, plus a schedule of charges showing work carried out between November 2018 and June 2019. While the invoice is shown as draft, I am satisfied that the work carried out represents a reasonable amount for reasonable work done, and I award the amount claimed of £5,020.

65. As for the costs of Simpson Miller, there is scant comment or evidence in support of the claim. I have seen an email from a Deborah Powell to Mr Cooper's colleague Mr Harradine dated 19 March 2015 indicating that her firm had spent seven and a half hours at a rate of £161 per hour, and the total cost to that date was £1,571.50. But there is no indication of what the work was for, and I am not satisfied that sufficient evidence has been submitted in support of the claim.

66. As for Blacks, it is common ground that a caution was placed on the title on the reference land, and that while the caution was removed from the land permanently acquired, it remained on that temporarily acquired. I find the claimant's costs incurred in having this removed to be a valid head of claim, not too remote. As to quantum, the amount claimed is £1,000, supported by an invoice from the firm in that amount. I award the amount claimed to the claimant.

67. Thus, for professional pre-reference costs, I award £23,692.

Management time

68. The claimant's claim for £3,060 is based on 102.23 hours at £30 per hour. Mr Parkinson has submitted a breakdown of when this time was incurred, and says it is a fraction of the time spent. He says that all work was carried out by him at his home office, and his time has value. However, as the Court of Appeal confirmed in *Lancaster City Council v Thomas Newall Limited* [2013] EWCA Civ 802 to succeed it is necessary for a claimant to submit evidence to link the time spent to consequential loss suffered by the claimant company. There is no such evidence before me, and I make no award for management time.

Summary

69. I award to the claimant the following amounts:

Temporary possession:\ £2,500

Permanent possession:\ £110,000

Basic loss:\	£8,250
Occupier's loss:\	£2,750
Pre-reference costs:\	£23,692
\	£147,192

70. This decision is final on all matters other than the costs of the reference. The parties may now make submissions on such costs and a letter giving directions for the exchange and service of submissions accompanies this decision.

P D McCrea FRICS FCIArb

27 January 2021