



FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)

Case reference : CAM/22UN/PHC/2021/0009

Property : 12A The Spinney, Sacketts Grove  
Residential Park, Jaywick Lane,  
Clacton-on-Sea, Essex CO16 7JB

Applicant : Mr D. and Mrs M. Wood

Respondent : Tingdene Parks Limited

Representative : Ryan and Frost, Solicitors

Type of application : Application for permission to  
appeal

Tribunal member(s) : Judge K Seward

Date of decision : 14 September 2022

---

DECISION

---

Description of determination

This has been a determination by the Tribunal on the papers. No request or order has been made for a face-to-face hearing of this application to appeal. The application asks that the appeal takes the form of a re-hearing. However, on receiving an application for permission to appeal, the Tribunal must first consider whether to review its decision in accordance with rule 55 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013.

DECISION OF THE TRIBUNAL

1. The Tribunal has considered the request by Mr and Mrs Wood, the Applicants, for a review of the Tribunal's decision dated 8 August 2022 (and, if it is not granted, for permission to appeal).

2. Having done so, the Tribunal determines that it will review its decision limited to the direction in paragraph 69 only; and a copy of the reviewed and amended decision, re-dated 14 September 2022 is attached.
3. It follows from the above, that the request for permission to appeal is refused.

#### REASONS FOR THE DECISION

4. The Applicants applied under section 4 of the Mobile Homes Act 1983 for the determination of a question arising under an agreement to which the Act applies. The Applicants claim their property is being damaged through the failed concrete base of their park home, for which the Respondent is responsible. In essence, their questions to the Tribunal asked whether the Respondent was in breach of its implied duty to maintain the concrete base and sought findings on the respondent's liability for associated works and damage.
5. The Respondent had accepted responsibility for repairing the base. It is disputed whether the concrete base requires replacement.
6. The Tribunal was presented with several reports on the condition of the base. The Tribunal found there to be insufficient evidence to conclude that the Respondent is in breach of the implied term Paragraph 22(c) of Chapter 2, Part 1, Schedule 1 to the 1983 Act. More information is required.
7. The Tribunal determined that the Respondent should now commence the monitoring of the concrete base of the Applicants' park home at 12A The Spinney by a suitably qualified and experienced person/s with appropriate expertise as directed and detailed in paragraph 69. Paragraph 69 refers to the measures recommended in the penultimate paragraph of the first SEA report of 4 September 2021.
8. The application for permission to appeal is made on the grounds that there is a fundamental conflict in the decision regarding the determined method survey with the Respondent being given a right to access the Applicants' home and interference with the Applicants' right to quiet enjoyment. There are also statements in the decision that conflict with the evidence presented.
9. Prior to this latest application, the Applicants requested an addition to paragraph 69 to require the Respondent to provide unabridged copies of all survey reports pertaining to 12A The Spinney in a timely manner and before any works are undertaken. The reason given for the request was to give the Applicants' evidence of compliance with paragraph 69 and to inform them in writing of any requirements within the reports to act as a check and balance for future reference.
10. The Tribunal has agreed to review paragraph 69 because, on reflection, the Applicants are unrepresented and there is clearly some distrust

between the parties in the steps to be undertaken. The Tribunal has reviewed paragraph 69 and decided to amend this paragraph only. The reviewed and amended decision and reasons are attached.

11. The Tribunal has considered the other grounds raised by the Applicants in the application to appeal. However, it has decided not to review other parts of the Decision.
12. The measures recommended by SEA Structural Engineers Limited in its report of 4 September 2021 included the home being inspected 6 monthly to start, with axle stands adjusted as required, and the home floor checked and recorded for level. It was determined that the monitoring should begin "now" i.e., without further delay, mindful of the delays that have already occurred (see paragraph 66).
13. Contrary to the applicants' assertion, the direction does not give "de facto legally unrestricted right to enter into [the Applicants] home to evaluate the floor level without let or hinderance". Plainly, if floor levels are to be checked for signs of movement, then this will necessitate access to the applicants' property requiring co-operation by both parties to agree a mutually convenient time. The Tribunal expects the parties to act reasonably and the need for co-operation between both sides was emphasised at paragraph 66. Should access be unreasonably refused then this is a factor that the Tribunal would take into account if an issue arose over non-compliance with the direction.
14. The Applicants consider that the home must be levelled at the start of monitoring by jacking up of the western side. They say that the Tribunal failed to have regard to health and safety guidelines involved in this process. From the Tribunal's perspective, should such action be necessary, then it will be the responsibility of the relevant expert to ensure compliance with health and safety requirements.
15. In giving a direction, the Tribunal aims to ensure that the extent of the complaint is properly investigated to allow the correct remedial action to be identified. The Tribunal deliberately required the monitoring be undertaken by "a suitably qualified and experienced person/s with appropriate expertise" for the measures recommended within the SEA report. It cannot be more prescriptive in recognition that different professionals may need to be called upon. The key point is that expert advice should be obtained and followed commensurate with the nature and type of works.
16. The Applicants argue why more weight should be given to the reports upon which they rely. In effect, the application challenges the Tribunal's primary findings of fact. The Tribunal explained why it preferred the expert evidence obtained by the respondent (see paragraph 59).
17. The Tribunal cannot say whether the Respondent is responsible for stabilising the ground beneath the concrete base when there is

insufficient evidence at this stage on whether such action is required. The first step is for monitoring to be undertaken.

18. The Tribunal fully considered the Applicants' reports and the witness statements. It explained how there is simply not enough evidence to answer the Applicants' questions at this time. Nevertheless, it was in line with the overriding objective to issue a direction so as to deal with the case fairly and justly and with a view to avoiding delay in resolution of the ongoing dispute.
19. The reviewed and amended decision attracts fresh rights of appeal, in exactly the same way as the original decision. This means that either party may make a request to this Tribunal for permission to appeal against the reviewed and amended decision; and such a request must be received by the Tribunal within 28 days of the date it is sent to the parties.

Name: Judge K Seward

Date: 14 September 2022