FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	CAM/22UN/PHC/2023/0003
Site	:	Dovercourt Haven Caravan Park, Low Road, Harwich, Essex CO12 3TZ
Applicant	:	Gary Smith, Secretary of Haven Residents' Association
Respondent	:	Park Holidays UK Limited
Representative	:	Mr Skeate, Counsel
Type of application	:	Mobile Homes Act 1983, Section 4– Determination of a Question arising under the Act or Agreement to which it applies
Tribunal members	:	Judge K. Saward Roland Thomas FRICS
Date of hearing	:	13 October 2023
Date of decision	:	23 October 2023

DECISION AND REASONS

DECISIONS OF THE TRIBUNAL

For the reasons that follow, the Tribunal determines that:

(1) It has no jurisdiction to reduce the amount of the pitch fee outside of the review provisions within paragraph 17 of Chapter 2 of Schedule 1 of the Mobile Homes Act 1983, nor can the Tribunal set-off compensation against the pitch fees.

(2) Matters concerning the grant of planning permission for the swimming pool building and whether there has been any breach of planning control, are not within the jurisdiction of the Tribunal.

(3) It finds no breach of the express or implied terms of the pitch agreement with regard to the complaints over (a) the use of the laundry room and tearoom (b) obstruction of the residential access, or (c) the removal of fire hoses.

(4) It finds no breach of the implied term to consult under paragraph 22(f) of Chapter 2 of Schedule 1 of the 1983 Act.

(5) The Applicant's application for reimbursement of Tribunal fees is refused.

REASONS

The application

1. The Applicant is Secretary of the Residents' Association that represents 26 of the 28 owner/occupiers of park homes located at Dovercourt Haven Caravan Park, a protected site within the meaning of the Mobile Homes Act 1983 ('the Act').

2. The Respondent is named in the application as 'Park Holidays Ltd'. The correct company name is 'Park Holidays UK Ltd' and is substituted as the Respondent by consent of the parties.

3. The right of the Association members to station their park homes on a pitch is governed by the terms of a written agreement and the provisions of the Act. A specimen pitch agreement is provided for plot 26, the Applicant's pitch. The agreement is made between Hammerton Leisure Limited, as site owner, and Mr and Mrs G Smith, as the mobile home occupiers. It began on 1 November 2012. The Applicant confirms that all the pitch agreements are in substantially the same form.

4. The Respondent acquired the site in 2019 and is the current owner.

5. The original application was made under case ref. CAM/22UN/PHC/2023/0001 for a determination of the amount of the pitch fee. That application was struck out by Order of the Tribunal on 5 July 2023. This decision concerns another application made under section 4 of the Act for the determination of questions arising under the Act or an agreement to which the Act applies.

Documents before the Tribunal

6. The Tribunal issued Directions in this case on 5 July 2023. As part of the Directions, the Applicant and Respondent were each required to submit a bundle of relevant documents to the Tribunal and other party.

7. A single folder of documents was produced by the Applicant composed of twelve chapters. Among other documents it includes the application, Tribunal directions, Applicant's statement of case, residents' witness statements, photographs, pitch agreement and correspondence. The Respondent's bundle comprises 53 pages. It includes the Respondent's statement of case, witness statements from James Flynn and James Tyler plus 'additional' documents.

8. This determination is made in the light of the documentation submitted in response to the Directions and evidence heard insofar as relevant to the issues identified below.

9. The Applicant's bundle includes various witness statements from residents documenting problems experienced since the current site owners' acquisition. Material within the Applicant's bundle strayed beyond the issues identified within the application form. Most notably, it included complaints regarding on-site drainage, the removal of fire hoses and a question over whether the park homes have been mortgaged.

10. In terms of drainage, it was clarified that the Tribunal was being asked to decide whether the drains need repair and whether the Respondent should be directed to repair them, if so. The Respondent was content to respond to the issue of fire hoses as a matter that could be addressed fairly. However, it opposed the Applicant's application made at the start of the hearing to amend the application to add the issue of drainage, albeit addressed briefly within the Respondent's statement of case/statement of Mr Flynn.

11. Having heard from each side, the Tribunal refused the application to amend by adding drainage issues on procedural and substantive grounds. In the exercise of its powers the Tribunal must seek to give effect to the overriding objective to deal with cases fairly and justly within Rule 3 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013. Whilst the Applicant was unrepresented, the

issue could and should have been raised at the time of the application. It was too late to raise issues in witness statements. That was particularly so given the nature of the complaint which would require the production of expert evidence.

12. Moreover, the Tribunal was informed that drainage surveys had been undertaken of which it had not had sight. The Tribunal simply did not have sufficient information before it to arrive at a determination on drainage matters and in its professional opinion, it would be reckless to attempt to do so. Furthermore, it would cause injustice to the Respondent to proceed without opportunity to investigate and produce evidence in response. The overriding objective would not be met.

13. In terms of the mortgage question, the witness statement of Mr Flynn (at paragraph 31) denied that the Respondent had mortgaged the Applicant's home or any other home. Counsel for the Respondent confirmed for the record that the residential park homes have never been mortgaged by the Respondent. Whilst the Applicant said he had other follow-up questions (not previously posed), he accepted the answer and agreed that the mortgage question raised was withdrawn.

14. The application form included issues over the construction of a new swimming pool building following a 'misleading planning application' and an alleged breach of planning control. Matters of planning control fall within the domain of the local planning authority and not the Tribunal. As such, the Tribunal made it clear at the outset that it would not hear evidence on such matters falling outside its jurisdiction. Whilst that may well be a disappointment to the residents, it would serve no purpose to do so.

15. Paragraph (3) of the Directions identified that the Applicant appeared to be asking whether the pitch fee can be reduced in the absence of a valid pitch fee proposal notice, and if not, whether they can set off compensation against such pitch fees, and/or for a direction requiring the Respondent to comply with paragraph 11 of the implied terms for quiet enjoyment. The Tribunal warned that the case may be a difficult one to argue but it is one the Tribunal believes it should consider.

16. Pursuant to paragraph 16 of Chapter 2 of Schedule 1 of the Act the pitch fee can *only* [emphasis added] be changed in accordance with paragraph 17, either with the agreement of the occupier or upon application to the Tribunal. Paragraph 17 provides for the annual review of the pitch fee. The pitch fee application made by the Applicant has already been struck out and the Tribunal has no jurisdiction to reduce the amount. There is no scope for the Tribunal to make an order for set-off against the pitch fee. The question of damages for any breach of express or implied terms is a separate and different matter. That being so, the Tribunal sought to clarify the questions being put.

17. In light of all the above, it was established at the Hearing, that the questions that remained outstanding for the Tribunal to consider are-

(1) Whether there has been any breach of the express or implied terms of the residents' pitch agreement with regard to:

(a) activities associated with the operation of the laundry room/linen store and tearoom. If so, should either or both be relocated, or another remedy applied?

(b) the claimed obstruction of the access to the residential area within the site.

(c) removal of fire hoses.

(2) Whether there has been a failure by the site owner to consult a qualifying residents' association in respect of any of the above matters in breach of the implied term within paragraph 22(f) of Schedule 1, Part 1, Chapter 2 of the Act?

(3) Whether an order for reimbursement of Tribunal fees should be made.

The inspection

18. Immediately prior to the hearing on 13 October 2023, the Tribunal inspected the site in the presence of Mr and Mrs Smith (for the Applicant), and Mr Skeate, Mr Flynn and Mr Tyler (for the Respondent).

19. During the visit, the Tribunal members saw the swimming pool building from the residential area, the laundry room (including inside), the tearoom, residential access, and yard. Both parties confirmed that the Tribunal had seen everything that they had wished to be inspected.

The hearing

20. The start of the hearing was delayed by 20 minutes due to the duration of the site visit and journey time to the venue. At the hearing, Mr Smith presented the case as Applicant, assisted by his wife. Mr Smith called one witness, Mr Ken Rogers of No 37 to speak to the impact of the tearoom and laundry room. The Respondent was represented by Mr Skeat of Counsel who called two witnesses: Mr James Tyler (former Park Manager) and Mr James Flynn (Regional Manager).

21. As the Applicant was unrepresented, the hearing was conducted by taking a less formal approach to the presentation of evidence in order

to address the imbalance. The Tribunal invited submissions on a topic-by-topic basis with each side given opportunity to ask the other questions.

The Law

22. Primarily, the law is contained within the Mobile Homes Act 1983. Under section 4, a Tribunal has jurisdiction to determine any question arising under the Act or any agreement to which it applies.

23. The relevant law is set out below:

The Mobile Homes Act 1983, as amended:

Section 2(1): In any agreement to which this Act applies there shall be implied the terms set out in Part 1 Schedule 1 to this Act; and this subsection shall have effect notwithstanding any express term of the agreement.

Section 4:
(1) In relation to a protected site in England, a tribunal has jurisdiction-
(a) to determine any question arising under this Act or any agreement to which it applies; and (b) to entertain any proceedings brought under this Act or any such agreement, subject to subsections (2) to (6).

(2) Subsection (1) applies in relation to a question irrespective of anything contained in an arbitration agreement which has been entered into before that question arose.

24. On the face of it, the Tribunal's jurisdiction under section 4 is wide. These powers are enhanced by provisions introduced into the Housing Act 2004 by the Transfer of Tribunal Functions (Mobile Homes Act 2013 and Miscellaneous Amendments) Order 2014. So far as relevant, section 231A, Housing Act 2004 now provides as follows:

Housing Act 2004

Section 231A: Additional powers of the First-tier Tribunal and Upper Tribunal

(1) The First-tier Tribunal and Upper Tribunal exercising any jurisdiction conferred by or under the Caravan Sites and Control of Development Act 1960, the Mobile Homes Act 1983, the Housing Act 1985 or this Act has, in addition to any specific powers exercisable by them in exercising that jurisdiction, the general power mentioned in subsection (2).

(2) A tribunal's general power is a power to give such directions as the tribunal considers necessary or desirable for securing the just, expeditious and economical disposal of the proceedings or any issue in or in connection with them.

(3) [Directions under the Housing Act 2004]

(4) When exercising jurisdiction under the Mobile Homes Act 1983, the directions which may be given by the tribunal under its general power include (where appropriate –

(a) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise;

(b) directions requiring the arrears of pitch fees or the recovery of overpayments of pitch fees to be paid in such manner and by such date as may be specified in the directions;

(c) directions requiring cleaning, repairs, restoration, re-positioning or other works to be carried out in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions;

(d) directions requiring the establishment, provision or maintenance of any service or amenity in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions."

Implied terms – Chapter 2 of Part 1 of Schedule 1 to Mobile Homes Act 1983

11. The occupier shall be entitled to quiet enjoyment of the mobile home together with the pitch during the continuance of the agreement, subject to paragraphs 10, 12, 13 and 14.

Owner's obligations

22. The owner shall—

(d) maintain in a clean and tidy condition those parts of the protected site, including access ways, site boundary fences and trees, which are not the responsibility of any occupier of a mobile home stationed on the protected site;

(f) consult a qualifying residents' association, if there is one, about all matter which relate to the operation and management of, or improvements to, the protected site and may affect the occupiers either directly or indirectly.

25. For the purposes of paragraph 22(f) above, to “consult” a qualifying residents’ association means—

(a) to give the association at least 28 clear days' notice in writing of the matters referred to in paragraph 22(f) which—

(i) describes the matters and how they may affect the occupiers either directly or indirectly in the long and short term; and

(ii) states when and where the association can make representations about the matters; and

(b) to take into account any representations made by the association, in accordance with paragraph (a)(ii), before proceeding with the matters.

28(1) A residents' association is a qualifying residents' association in relation to a protected site if—

(a) it is an association representing the occupiers of mobile homes on that site;

(b) at least 50 per cent. of the occupiers of the mobile homes on that site are members of the association;

(c) it is independent from the owner, who together with any agent or employee of his is excluded from membership;

(d) subject to paragraph(c) above, membership is open to all occupiers who own a mobile home on that site;

(e) it maintains a list of members which is open to public inspection together with the rules and constitution of the residents' association;

(f) it has a chairman, secretary and treasurer who are elected by and from among the members;

(g) with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each mobile home; and

(h) the owner has acknowledged in writing to the secretary that the association is a qualifying residents' association, or, in default of this, the [appropriate judicial body] has so ordered.

(2) When calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b) above, each mobile home shall be taken to have only one occupier and, in the event of there being more than one occupier of a mobile home, its occupier is to be taken to be the occupier whose name first appears on the agreement.

In *Elleray v Bourne* [2018] UKUT0003(LC), the Upper Tribunal said:

"*Despite the apparent breadth of section 4, a power to determine questions or entertain proceedings is not the same as a power to grant specific remedies. The FTT has no inherent jurisdiction and may only make such orders or grant such remedies as Parliament has given it specific powers to make or grant. Although it is rather strangely described as part of a "general power" to "give directions", in section 231A(4)(a) of the Housing Act 2004 Parliament has given the FTT a specific power to require the payment of money by one party to the proceedings to another. Such "directions" may be given where the FTT considers it necessary or desirable for securing "the just, expeditious and economical disposal of the proceeding." The use of the word "directions" in this context might give the impression that section 231A(2) is concerned only with procedural matters. It is clear from section 231A(4), however, that the power to give directions is a power to make substantive orders, including for the payment of money, the carrying out of works, and the provision of services."*

25. In *Away Resorts Limited v Morgan* (2018) UKUT 0123 (LC), the Upper Tribunal said this: "*The power to grant additional remedies is exactly what section 231A, Housing Act 2004 provides*."

26. The Written Agreement reflects the implied terms above.

Submissions heard

The laundry room and tearoom

27. The Residents' Association members represented by the Applicant would like the laundry room and tearoom moved elsewhere on the site. Mr Smith submitted that the yard area could be used for the laundry room. Mrs Smith suggested that the tearoom could be relocated to a caravan.

28. Mr Smith referred to there being daily episodes associated with the laundry room being in continuous operation from 7.45am. Twice per week vans collect used linen and replace it with fresh linen. The various lorries delivering and reversing up and down the access in connection with both laundry and tearoom make a noise, described by Mr Smith as "like a strangled frog". He also described noise and chatter outside the

tearoom. The situation was so intense that it was mentally draining. In addition, Mr Smith is concerned that chemicals stored at the laundry present a fire hazard. He believes that linen wipes left on site are also at risk of igniting.

29. Mr Rogers is the nearest resident to the laundry and tearooms. He told the Tribunal how he has lived at plot 37 since 2001 when it had been peaceful and had a view of the skyline. He now feels boxed in and it is more like living on an industrial site. The value of his home has decreased in consequence. Diesel fumes from worker's vehicles fill the garden, sometimes for 15 minutes. As Mr Rogers lives next to the workers' tearoom and restroom, he hears foul language over the fence. Breaks start at 7.30am and workers can be heard talking loudly and on their mobile phones.

30. When asked about his experiences, Mr Rogers confirmed that when he complained to the site manager, Mr Tyler would have a word with the staff, but they would start up again after a while.

31. For the Respondent, Mr Tyler explained that the tearoom opens at 8am and workers arrive shortly before. Staff finish at 5pm with a break for 20 minutes or so mid-morning and one hour for lunch. Mr Tyler had spoken to workers about use of foul language when complaints had occasionally been made. He did not recall any further complaints of lapses.

32. Mr Flynn for the Respondent confirmed the peak times for the holiday park are March to October with Easter and summer holidays being the busiest periods. Staffing levels and activity at the site will fluctuate.

33. Both Mr Tyler and Mr Flynn were insistent that the yard would not be suitable for the laundry for a variety reasons. Primarily, the yard was needed for storage including combustibles, waste and electricals which could not go elsewhere. Mr Flynn thought a caravan could possibly be used for the tearoom, but he had not fully looked into it.

34. The Respondent denies any breach of covenant whatsoever arising from use of the laundry room. Counsel submitted that there would need to be a substantial interference with the enjoyment of a pitch, as per *Manchester, Sheffield & Lincolnshire Railway Co v Anderson* [1898] 2 Ch. 394. He further cited *Phelps v City of London Corp* [1916] 2 Ch. 255 as authority that the requirement for substantial interference means that temporary action by the landlord will not be a breach of the covenant. The Respondent says that any disturbance is *de minimis* and temporary.

35. With reference to the layout plan, the Respondent maintains that any impact is limited to the six nearest park homes. The Respondent finds it

difficult to see how laundry being dropped off and collected on two days per week interferes with quiet enjoyment. No fire risk from the laundry is identified in the fire risk assessment. The 'high risk' identified in the report from combustible material concerns the server unit area, not laundry.

Obstruction of the residential access

36. Mr Smith expressed concern that obstruction of the sole residential access by caravans and large vehicles poses a risk that emergency service vehicles could not get through. On one occasion the residential access had been blocked by a low-loader and caravan for approximately 2 hours.

37. Counsel for the Respondent accepted that obstruction of the sole residential access might engage the covenant of quiet enjoyment, but the threshold had not been met for a breach of covenant. The incidents were isolated and temporary whereas a breach would need to be both substantial and more than temporary.

38. Mr Flynn did not deny there was one example of a 2-hour obstruction, but it was the first he had heard of it. Counsel was informed that the occurrence had been due to an accident involving something falling off the back of a low-loader. Apart from another occasion where there was a 45-minute obstruction, the Applicant could not say how long other obstructions were. A new system was in place to ameliorate the situation and to minimise any disruption.

39. Mr Tyler explained that these new arrangements have been in place for over one year. There is space to collect one caravan from the access without causing obstruction. A tractor is now used along the access rather than a low-loader. If there is more than one caravan unit, they are now collected from outside the front of reception instead of being stored along the access.

40. Mr Smith acknowledged that if the Respondent kept to the current arrangement "it may work" but suggested that it depended on numbers.

41. Mr Flynn explained how posts and rails can be removed to facilitate emergency access. Tractors are also kept on site that can be used to move obstructions.

Removal of fire hoses

42. Fire hoses at the site have been replaced with fire extinguishers. Many of the residents are elderly and the Applicant

maintains that the majority would be unable to lift a fire extinguisher whereas a fire hose could be rolled out.

43. The Respondent's Counsel put it to Mr Smith that logically if a person could not use a fire extinguisher, they would be unlikely to use a fire hose. In any event, the Respondent says that fire safety regulations are fully met, and the Tribunal should only deal with the matter if they were non-compliant. Mr Tyler confirmed that the Fire Service inspected at end of 2022 or early 2023 and raised no issues over obstruction or fire hoses.

Lack of consultation

44. Mr Smith thanked and praised Mr Tyler for how he had addressed residents' concerns but was critical of a "total lack of consultation" by head office.

45. In response, the Respondent said that it seems from the evidence that Mr Tyler does consult and has been applauded for his friendliness and diligence. The Respondent submits that there is insufficient evidence to make any finding of breach and even if there had been, there is nothing compensable. A lot of the complaints are outside the demised premises for which the landlord is not liable.

Determination

46. It was clear to the Tribunal that residents feel aggrieved about numerous issues ongoing over many years which they say are not being addressed. Tensions are running high in consequence. Section 4 of the Act is about dispute resolution. However, the Tribunal does not have carte blanche to regulate the relationship between owners and occupiers *(Wyldecrest Park (Management) Ltd v Turner (No.2)* [2022] UKUT 322 (LC)).

47. The main thrust of the Applicant's case is that the complaints give rise to a breach of the implied term of quiet enjoyment. The meaning of 'quiet enjoyment' in law entitles the tenant (pitch occupier in this case) to enjoy his lease (i.e., pitch agreement) against unlawful entry, eviction or interruption. It is not an all encompassing term entitling the occupier to peace and quiet from any form of disturbance.

48. As pointed out in the case of *Jenkins v Jackson* [1888] 40 Ch D 71,74, the word 'quietly' in the covenant "*does not mean undisturbed by noise. When a man is quietly in possession it has nothing whatever to do with noise …. "peaceably and quietly" means without interference – without interruption of the possession'*." Similarly, in *Kenny v Preen* [1963]1 QB 499, 511 it was explained that the word "enjoy" used in this connection refers to the exercise and use of the

right and having the full benefit of it, rather than to deriving pleasure from it.

49. This does not mean that persistent excessive noise could never be a breach of the covenant. However, there would need to be a substantial interference with the normal and lawful enjoyment of the pitch. Noise from the use of other premises by the landlord, or by others for whom the landlord has responsibility, can be a breach of the covenant for quiet enjoyment. To do so, it must stem from a use of the other premises which was not contemplated when the tenancy was granted.

50. This is a large mixed-use site with park homes in residential use alongside a holiday park. By its very nature, there will be a higher level of activity than might ordinarily be expected at a single-use park home site, with services also required to support the commercial element. It must be expected that some noise and disturbance will be generated.

51. The implied covenant for quiet enjoyment does not extend to temporary acts but what is temporary depends on the circumstances.

52. In this instance, the complaints over noise and disturbance from staff and vehicles appear to be for relatively short spells so as to be classified as temporary. Moreover, the type of noise is typical of that found in a mixed-use environment. There is insufficient evidence that the episodes are at any level that could be regarded as a substantial interference.

53. When complaints have been raised, it is acknowledged by the Applicant that the site manager has taken action. In this regard the Respondent has shown itself to be responsive and taken reasonable precautions to address concerns.

54. The witness statement of Mr Flynn confirms that as a gesture of goodwill, the Respondent is considering the viability of relocating the tearoom and will formally consult in due course. In the interests of good relations, the Tribunal encourages the Respondent to proactively explore possible options for relocation of the tearoom.

55. Complaints are made over linen and 'soiled' items being deposited outside the laundry and issues over refuse. In answer to the Tribunal's questions, the Applicant suggested that he was claiming the Respondent had failed to maintain the areas in a clean and tidy condition in breach of the implied term in paragraph 21(d)(ii). Whilst photographs are supplied of cages overflowing with laundry bags and beside the access road along with overflowing bins, it is unclear how often this has occurred, duration and the extent of the issue. The

complaints are generalised and lacking in detail. More evidence would be needed to make any finding of breach in this regard.

56. The protection afforded by the covenant of quiet enjoyment extends to interference with a right of way granted by the lease as appurtenant to the property. Therefore, in principle it could capture matters concerning the use of the residential access.

57. The Respondent admits that there have been problems in the past with obstruction of the residential access when more than one caravan has been stored and a low-loader used for collection. Alternative arrangements are now in place to address the residents' concerns. The Tribunal invited views on whether it would be appropriate to require this arrangement to be formalised if satisfied that action is necessitated.

58. Inevitably there will be a need from time-to-time to move caravans and by reason of their bulk, there is likelihood of a degree of impact on other users. From the limited details provided, the obstructions appear very temporary in nature apart from the one 2-hour occasion for which there is a reasonable explanation. The incidents seem inconvenient rather than constituting a breach of covenant. Having been alerted to concerns from residents, steps have been taken to address them. There is no evidence from the Applicant documenting ongoing issues including details of date, time, cause, and duration. In the absence of sufficient evidence, no breach of the implied covenant has been demonstrated. As such, it would not be appropriate to make any orders or directions.

59. Turning now to the replacement of fire hoses with fire extinguishers. The Respondent has produced a current 'Certificate of Conformity' following a life safety fire risk assessment conducted on 15 March 2023. It covers the following 12-month period. There is no evidence to substantiate any cause for concern arising from replacement of the fire hoses or that any breach of covenant arises.

60. None of the matters raised give the Tribunal cause to conclude that there has been a breach of the implied term for quiet enjoyment.

61. It is undisputed that the Residents' Association is a qualifying residents association for the purposes of the consultation provisions within implied term 22(f). Although the Applicant criticises the Respondent for a failure to consult with residents on anything, the application is lacking in detail on specifically what they expected to be consulted on and have not. The planning application for the swimming pool would have been subject to statutory consultation. Without specific examples and more information, the Tribunal is not satisfied that there has been any breach of the implied covenant to consult.

62. Having aired their grievances, the Tribunal hopes that both sides will engage and conciliate in the interests of all involved.

Refund of fees

63. The Applicant seeks recovery of the application and hearing fees on the basis that the application was made in good faith and the Residents' Association has very limited means. The Respondent opposes the application. It accepts the Applicant has acted in good faith, but it has equally acted in good faith. The proceedings have cost the Respondent a huge sum and it considers there are no grounds for an award.

64. It is within the discretion of the Tribunal under rule 13(2) of the Tribunal Procedure Rules[1] whether to make an order requiring reimbursement of the whole or part of any fees paid. An order may be made on application or of its own initiative (rule 13(3)).

65. None of the matters raised have demonstrated a breach of the implied or express terms regulating the relationship between the Applicant and Respondent. In the circumstances the Tribunal does not consider that it would be fair or just to direct the Respondent to contribute to or reimburse the fees.

Name: Judge K Saward Date: 23 October 2023

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

[1] Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

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).