FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**CAM/42UC/PHR/2023/0003**
HMCTS	**:**	**Paper**
Park Site Address	**:**	**Rookery Drove Park, Rookery Drove, Beck Row, Bury St Edmunds, Suffolk IP28 8GG**
Applicant	**:**	**Wyldecrest Parks (Management) Ltd**
Representative	**:**	**LSL Solicitors**
Respondent	**:**	**West Suffolk Council**
Representative	**:**	**Julie Roberts, Enforcement Officer**
Type of Application	**:**	**For an Order of costs under Rule 13 of the Tribunal Procedure (First-tier Tribunal) Property Chamber) Rules 2013**
Tribunal	**:**	**Judge JR Morris**
Original Matter		
Date of Application	**:**	**16 November 2023**
Date of Directions	**:**	**16 April 2024**
Date of Order	**:**	**9 September 2024**
Costs Matter		
Date of Application	**:**	**14 October 2024**
Date of Decision	**:**	**18 November 2024**

DECISION

Decision

1. The Tribunal makes no order for costs under Rule 13 (1)(a) and (b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

2. The Tribunal makes no order for the reimbursement of fees pursuant to Rule 13 (2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Reasons

Introduction

1. Section 1 of the Caravan Sites and Control of Development Act 1960 generally prohibits use of land as a caravan site unless the "occupier" (defined in section 1(3)) is the holder of a site licence under the Act. Section 3 of the Act deals with the issue of site licences. Regulation 5 of the Mobile Homes (Site Licensing) (England) Regulations 2014 provides that where the local authority decides not to issue a licence, they must notify the applicant of the reasons for the decision. The applicant then has 28 days in which to appeal.

2. The Applicant made an application under regulation 6 of the Mobile Homes (Site Licensing) (England) Regulations 2014 on 13 February 2018 and a further application on 12 April 2023 for caravan site licences under the provisions of the Act in respect of Rookery Drove, Beck Row, Suffolk, IP28 8GG ("the Site"). A Notice refusing a licence dated 27 October 2023 was issued and the Applicant made an application to the Tribunal appealing the decision on 16 November 2023, within the required time limit.

3. The Respondent, having reviewed its reasons for refusing a site licence, subsequently issued a licence by letter dated 15 August 2024 for one of the licence applications. However, the Tribunal finds that the other licence application remains outstanding because once a notice of refusal to issue a site licence has been served and a valid appeal application made, a tribunal is obliged to make a determination under Regulation 6 of the Mobile Homes (Site Licensing) (England) Regulations 2014, there being no provision for the withdrawal of the notice of refusal without such determination.

4. The Tribunal read the statements of case and submissions by the parties and the correspondence between them and found that the two site licence applications were in like form and content and that the Respondent, having reviewed its decision to refuse a licence, had agreed that a site licence should be granted in respect of both applications.

5. The parties having agreed the terms of a determination and having submitted a signed draft Consent Order to the Tribunal, the Tribunal decided that a Consent Order should be made.

6. In accordance with the Consent Order the Tribunal directed that the refused licence application shall be approved and a new caravan site licence issued by the Respondent within 28 days of this Order.

7. Also, in accordance with the Order the Tribunal directed that if the Applicant wished to seek costs from the Respondent an application should be made with a copy to the Respondent, no later than 4pm on 10 October 2024. The Respondent was then to provide to the Tribunal and the Applicant any reply no later than 4pm on 31 October 2024. These Directions having been complied with the Tribunal now consider the matter of costs.

Application for Costs

3. The Applicant seeks an award of costs under Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. In accordance with Rule 13(5), this application is made within 28 days of the Tribunal sending its final decision. The Application is for both legal costs and the Tribunal Application and Hearing Fees.

The Law

4. The relevant law relating to the award of costs is found in Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Rules") and Section 29 of the Tribunals Courts and Enforcement Act 2007 ("the 2007 Act" which are set out in Appendix 3 to this Decision and Reasons.

5. The relevant law relating to the procedure for Site Licences is found in Caravan Sites and Control of Development Act 1960 ("the 1960 Act") and The Mobile Homes (Site Licensing) (England) Regulations 2014 ("the Regulations").

Applicant's Case

6. The Applicant provided a statement of case from which the Tribunal identified the following points in respect of which the Applicant submitted that the Respondent had acted unreasonably.

7. The Applicant provided a timeline of the events surrounding the application for a licence and the appeal. The Applicant also referred the Tribunal to the statement of David Sunderland, which was included within the bundle prepared for the substantive hearing, along with the correspondence that is attached to these submissions.

8. The Applicant's statement of case identified the following points in respect of which the Applicant submitted that the Respondent had acted unreasonably.

9. The Applicant referred the Tribunal to Rule 13 of the First Tier Tribunal Procedure Rules and the leading case of *Willow Court Management Company Ltd v Alexander* [2016] UKUT 290 (LC), which is supplemented by the more recent decision in *Connell -v-Beal Developments Ltd and others* [2023] UKUT 135 (LC). It was stated that the Tribunal is to determine if there has been unreasonable behaviour by a party which includes behaviour prior to litigation, although not to the extent of penalising a party, but rather to put the behaviour into context.

Conduct of the Respondent

10. It was submitted that the Respondent's behaviour was unreasonable for the following reasons:
    a) The Respondent took an exceptionally long period to consider the application for a site licence which should have been straightforward.

b) The Respondent appeared to 'lose' an application but subsequently accepted during proceedings that it had been submitted.

c) The Respondent made repeated requests for information that had already been sent by the Applicant which appeared to be due to poor record keeping.

d) The Applicant tried to resolve matters from the outset of proceedings as evidenced by the letter of 23 November 2023 but the reply from the Respondent in January 2024 indicates the laborious and drawn-out process in which the Respondent engaged.

e) The Applicant referred to Rule 3 of Rules which sets out the over-riding objective. The Applicant submitted that the matter could have been disposed of by the end of 2023 if the Respondent had participated promptly in trying to resolve matters, rather than seeking to complicate them.

f) The Respondent unnecessarily delayed matters by requesting further time in which to serve its bundle just before it was due because the method of electronic transmission it attempted to use did not work. The Applicant submitted that it should have been possible to produce the bundle in time given that proceedings had commenced in the previous year and the Respondent would have known what its case would be as part of the process of issuing a refusal.

g) Towards the conclusion of proceedings, having granted a licence in respect of one application, the Respondent unreasonably attempted to seek a declaration from the Tribunal that the issue of the licence was invalid, presumably, because it recognised that it had no reasonable prospect of success in defending its decision to refuse the other application. The Applicant submitted that no "reasonable person in the position of the party would have conducted themselves in [that] manner."

h) Given that the Respondent was represented by professional advisors, including counsel, it should have been obvious that such a declaration was beyond the powers of the Tribunal. This change of position during the course of proceedings was entirely unreasonable and had the effect of creating additional work and expense for the Applicant to deal with the point. It is submitted that this conduct was "as a result of any improper, unreasonable or negligent act or omission" on the part of a representative and did not "permit reasonable explanation", following *Ridehalgh v Horsefield* [1994] Ch 205.

i) The Respondent argues that it was not able to issue a licence because it still awaited information. The timeline indicates that the Applicant repeatedly gave information to the Respondent and it is understood that the Respondent has issued licences in the past on the basis of much less comprehensive information.

j) The Respondent engaged in excessive investigation as part of its consideration and this gave rise to queries – such as those relating to land registration – which were not of any relevance and arose because of a misunderstanding by the Respondent of the registered parcels of land. In relation to the plan of the site, the lease made it clear as to the parcels of land that applied and the Council already

had plans of those parcels. To continue to raise this as a reason for refusal was unreasonable.

k) The Respondent was entirely familiar with the extensive estate of park home sites that are managed by the Applicant and would have been aware that grants had been made for licences throughout the UK.

l) The Respondent, in its email of 30 May 2024, agreed to release information relating to the grant of other licences but in the event it did not, although the Tribunal did not consider such information was critical to a determination in relation to a costs application it is submitted that the Respondent demanded a level of information that it had not demanded of other applicants.

m) The Respondent had ample opportunity during the period between the application for a licence and the refusal to evaluate whether the Applicant was able to manage the site. The only issues raised were of a minor nature and clearly there was every indication that the Applicant has sufficient resources to manage the site, as was demonstrated during the six or so years before the refusal. There was accordingly no justification to refuse a licence on the grounds of finance, when the evidence showed that the object was satisfied.

n) Had the Respondent conducted itself in a reasonable manner, the entire proceedings would not have been necessary. Even after the issue of a refusal notice, it should have been entirely possible to settle proceedings in a prompt and effective manner, given that both sides engaged professional representatives. Instead, the Respondent obfuscated and delayed matters unnecessarily.

11. The Applicant therefore was of the opinion that the Respondent should pay costs in respect of Wasted Costs under rule 13(1)(a) because of the change of position that was adopted and/or 'unreasonable costs' under 13(1)(b). The Respondent should also reimburse the fees paid in respect of the application and hearing under Rule 13(2).

Quantum

12. The Applicant claimed legal costs incurred in dealing with the appeal of £5,920.00, the application fee of £100, a hearing fee of £220, plus the costs of preparing the costs submissions at £1,500. In relation to what the Applicant claimed was a change in position concerning the grant of the first licence, the costs above include the sum of £750 that were payable to deal with that element. It was submitted that an order for costs would send a powerful message that applications must be dealt with promptly, efficiently, and fairly by local authorities.

Respondent's Case

13. The Respondent provided a statement of case in reply to the Applicant's application.

14. In response to the Applicant's claims the Respondent stated that the delay, and ultimate refusal, to issue a licence was primarily due to the actions of the Applicant and made the following bullet points:

1) The Respondent's letter of 23 March 2018 requested further information in accordance with Section 3(2) of the Caravan Sites and Control of Development Act 1964 (the Act) and Regulation 3, Mobile Homes (Site Licensing) (England) Regulations 2013 (the Regulations). This included a request for sight of the Applicant's lease to the property to confirm the Applicant was an occupier with sufficient control and authority to operate a caravan site at the property. This was considered to be a fundamental requirement for considering a caravan site licence application.

2) The Applicant's letter of 4 May 2018 did not provide the information requested. That letter stated that the site plan and number of units on the site were considered, by the Applicant, to be a matter for site licence conditions and not the application. It was also stated that the lease for the property had not yet been granted.

3) The Respondent's letter of 25 May 2018 stated the application will not be considered until the council was satisfied the Applicant has sufficient interest or estate in the land. The letter also repeated the request for site plan in accordance with section 3 and regulation 3 above.

4) On 8 June 2018 the Applicant states the Respondent was "reminded that they have an obligation to consider and progress the application at this time but only that they cannot issue a Licence until the Lease is commenced." It is difficult to see how the application could proceed without the required information which was a prescribed requirement under the Regulations. That letter also stated that the Applicant did not intend to supply a copy of the lease when granted, nor the plan requested by the Respondent on 23 March and 25 May 2018.

5) On 30 September 2019 the Respondent received a letter from the Applicant to state the property was now in the ownership of Best Holdings Limited and leased to the Applicant with effect from 1 July 2019. No copy of the lease was provided.

6) Following further correspondence, the Applicant sent a redacted lease agreement to the Respondent on 12 December 2019. This was not considered to be acceptable evidence to demonstrate sufficient control of the property for licensing purposes (a copy was provided).

7) On 11 April 2023 the redacted lease, provided on 12 December 2019, was resubmitted by the Applicant.

8) On 27 October 2023 the Respondent issued a Notification of Reasons for Refusal to Issue or Consent to the Transfer of a Site Lice in Respect of a Relevant Protected Site to the Applicant in accordance with Regulation 5 of the Regulations. Two reasons were given for the decision.
    1. Insufficient information to determine the Applicant had sufficient interest in the property.
    2. Insufficient information to satisfy the Respondent that the Applicant had sufficient resources available to manage a caravan site.

9) On 2 November 2023 the Applicant provided a further, unredacted, copy lease dated 1 July 2019. However, it was unsigned and clearly a different document to the redacted lease previously provided on 12 December 2019 and 11 April 2023 (a copy was provided).

10) On 31 May 2024 the Applicant provided a set of accounts. Although they were not the most recent accounts (2022/3), and indicated a deficit for that financial year, they also indicated that the Applicant had access to an overdraft facility of £4.4 million, the Respondent made the decision that it was sufficient to satisfy the first reason for refusal set out in the Regulation 5 Notice of 27 October 2023.

11) On 7 June 2024, following the commencement of the Appeal, the Applicant, through its legal representative, offered to allow the Respondent to have sight of the Lease, but insisted that it could only be viewed in the presence of a representative of the Applicant and could not be retained by the Respondent. The Respondent agreed and the lease (an uncertified copy) was inspected by a property lawyer from the Respondent's legal service. Despite not having sight of the original lease or a certified copy, the Respondent made the decision that it was sufficient to satisfy the first reason for refusal set out in the Regulation 5 Notice of 27 October 2023.

15. The Respondent submitted that it had been consistent and clear throughout the licensing process as to what is required for the issue of a caravan site licence. The Respondent asserted that requests for information from the Applicant were reasonable and that the Applicant was able to provide the information requested but refused to do so without providing any satisfactory reason.

16. The Respondent added that it has dealt with the Applicant's application in accordance with the Act and Regulations. The Respondent stated that it had only issued one other licence since the introduction of the Regulations to an applicant who was the freehold owner of the site and similar requests were made in respect of that applicant's ability to operate a licensed caravan site.

17. The Respondent acknowledges that the issue of the licence following inspection of the lease and receipt of the company accounts was not a legitimate method of resolving the appeal and that a Consent Order ought to have been requested and agreed. It follows that this may have wasted costs implications.

Decision

18. Under Rule 13(1)(b) the Tribunal may only make an order for costs if a person has acted unreasonably in bringing, defending, or conducting proceedings and may only make an order for wasted costs under Rule 13(1)(a) and section 29(4) of the 2007 Act which were incurred as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative and the costs incurred in applying for such costs.

19. The Upper Tribunal has given the Tribunal further guidance in respect of both parts of Rule 13 in *Willow Court Management Company (1985) Limited v Mrs Ratna Alexander; Ms Shelley Sinclair v 231 Sussex Gardens Right to Manage Limited; Mr Raymond Henry Stone v 54 Hogarth Road, London SW5 Management Limited* [2016] UKUT 290 (LC), LRX/90/2015, LRX/99/2015, LRX/88/2015.

Rule 13(1)(b)

20. The Upper Tribunal set out a sequential three-stage test for Rule 13 costs orders as questions for the Tribunal to consider as follows:
    (i) Has the party acted unreasonably, applying an objective standard?
    (ii) If unreasonable conduct is found, should an order for costs be made or not?
    (iii) If so, what should the terms of the order be?

    Has the party acted unreasonably?

21. The Tribunal considered the statements of case and witness statements provided by both parties setting out the facts of the case which became the subject of the Appeal for which costs are claimed. The Tribunal firstly considered the event leading up to the Appeal.

22. On 1 June 2015 a planning approval was granted for the change of use from a scrap yard to a mobile home park of 32 units, varied in February 2017 to 36, for permanent residential occupation by people over 50 years of the site at Rookery Drove now known as Rookery Drove Residential Park. On 13 February 2018 the Applicant made an application for a Site Licence to the local authority Forest Heath District Council which later because West Suffolk Council on 31 March 2019 ("the First Application").

23. There then followed a very lengthy correspondence in which the Respondent required the Applicant to provide information which it said was in fulfilment of section 3 (5A) of the 1961 Act and Regulation 3 of the Regulations. This included information regarding the Applicant's interest in the Site and financial situation. Regarding the interest in the Site, the arrangement was that the Site was to be transferred to a new freeholder who in turn would grant a lease to the Applicant to operate the Site. The provision of this information was hampered by the delay in the transfer of the freehold of the Site appearing on the Land Register and the reluctance of the Applicant to provide either the original Lease or an unredacted certified copy of the Lease.

24. The Respondent in response to this Costs Application, itemised a time line numbered 1) – 11) set out above which it says shows that the Applicant failed to comply with its requests for information and therefore the Respondent was not able to satisfactorily consider the Licence Application and issue a Site Licence in respect of the First Application. It was stated that the reluctance of the Applicant to provide either the original Lease or an unredacted certified copy of the Lease and the failure of the Applicant to provide a set of accounts to satisfy the Respondent that the Applicant had sufficient resources available to manage the Site were the reasons for the delay in issuing the Site Licence.

25. In relation to this Application, the Applicant submitted that costs were payable because the Respondent had acted unreasonably. The Applicant submitted that it

was asked for information which it did not consider it should have had to provide before the Licence was issued and itemised what it considered to be unreasonable conduct in its submission as being (in brief): a) The Respondent took an exceptionally long period to consider the application; b) it lost and subsequently found the Second Application; c) it repeatedly asked for information already provided; d) it engaged in a laborious and drawn-out process; i) it had issued licences on less information to other applicants and so did not treat the Applicant fairly; j) it engaged in excessive investigation; k) it was already familiar with the Applicant's property estate; l) it refused to provide information about how it had granted other licences; m) it had ample opportunity during the period between the application for a licence and the refusal to evaluate whether the Applicant was able to manage the site.

26. The Respondent submitted that under the legislation a local authority is entitled to require an applicant to provide information before issuing a licence. It stated that the Applicant did not provide the information requested to satisfy the Respondent's requirements to issue a Site Licence until a set of accounts were provided on 31 May 2024 and an uncertified copy of the unredacted Lease on 7 June 2024.

27. Whether the Respondent's requirements were reasonable might be an issue to be argued and upon which a tribunal determination made where a hearing is held following a refusal of a licence. However, in the present case, by the time the matter was due to be heard, the Respondent had agreed to grant a site licence as its requirements had been met so the issue as to whether the requirements were reasonable was never argued. It would not now be appropriate for this Tribunal to make any comment on the reasonableness of the Respondent's requirements and the length of time which it took for them to be met in the absence of such argument. If the Applicant considers the Application for a Site Licence was not dealt with promptly, efficiently, and fairly by the Respondent local authority then its remedy may now lie in another forum.

28. In this case if there had been only one application then once the requirements were satisfied following the Notification of Refusal and appeal it would only remain for the Tribunal to order a Site Licence to be issued by consent.

29. Unfortunately, the matter was complicated by a further application. The Respondent in a letter dated 23 September 2020, set a deadline of 21 days to comply with the Respondent's requirements regarding evidence of the Applicant's interest in the Site and financial situation or the Licence will be refused. However, the letter went on to suggest that the Applicant may make a further Application for a licence. It appears that there was then a hiatus of two years, presumably because of the Coronavirus epidemic. On 11 April 2023 the Applicant made a further Application ("the Second Application") to which the Respondent requested the information regarding the Applicant's interest in the Site and financial situation, which was, as far as the Respondent was concerned, still outstanding from the First Application.

30. It is not clear to the Tribunal why the Respondent suggested the Applicant should re-apply or why the Applicant did so, considering their respective views expressed in their correspondence. It is also not clear why after 21 days the Respondent did not issue a Notification of Refusal to Issue a Licence for the First Application then.

31. It was not until 27 October 2023 the Respondent issued a Notification of Refusal and the Applicant appealed the Notification on 16 November 2023.

32. Following the Notification of Refusal the accounts and Lease were provided on 31 May 2024 and 7 June 2024 respectively and the Respondent, being satisfied that the requirements were fulfilled, issued a Site Licence on 15 August 2024. It appeared that the Licence was issued in response to the Second Application of 11 April 2023. However, the appeal in relation to the First Application following the refusal remained open. The Applicant submitted that the Respondent could not refuse a Licence in respect of the First Application having granted one in respect of the Second as they were both based upon the same information. The Applicant suggested that the matter should be dealt with by means of a Consent Order. During correspondence, not all of which the Tribunal received, the Respondent submitted the Licence issued was not valid and that it would seek a declaration to that effect from the Tribunal. It subsequently changed its position on this and agreed the terms of a Consent Order on or about the 23 August 2024 which was the subject of the Tribunal's Decision on 9 September 2024.

33. The Tribunal has already decided that it would not be appropriate for it to make any comment on the reasonableness of the Respondent's requirements. It now turns to the Applicant's submission that the Respondent had acted unreasonably following its Appeal Application to the Tribunal.

34. Under item e) the Applicant stated that the Respondent acted unreasonably by not participating in and seeking to resolve matters promptly contrary to Rule 3 regarding the overriding objective following the Appeal Application. The Tribunal finds that the Applicant did not provide the information required until 31 May 2024 and 7 June 2024 and therefore according to its requirements it could not settle until that time.

35. Under item f) the Applicant said the Respondent served its Bundle late. The Tribunal agrees that Directions should be followed and complied with in advance of the date set, if possible. However, a plausible explanation was given and the issues were known to the parties. The Applicant was not put at a disadvantage. The Tribunal did not find the conduct unreasonable.

36. Under items g) and h) the Applicant said that the Respondent acted unreasonably by suggesting that it could seek a declaration from the Tribunal that the issue of the Licence it had issued was invalid. The Tribunal considers the situation of having two licensing applications for the same site at the same time to be very unusual and not one that was foreseen by the legislation. What might be an obvious solution to one party may not be to the other. In seeking a remedy, a party, whether represented or not, may make submissions which on reflection are unsustainable but should not be penalised for that provided the party recants as soon as its error is recognised. Legal argument cannot be held to ransom by the threat of costs were it found to be wrong. The Tribunal considered the meaning of "unreasonable" in *Ridehalgh v Horsefield* [1994] Ch. 205 which dealt with a wasted costs order, the principles of which we consider apply in this case:

"Unreasonable" means what it has been understood to mean in this context for at least half a century. The expression aptly describes conduct which is vexatious, designed to harass the other side rather than advance the resolution of the case,

and it makes no difference that the conduct is the product of excessive zeal and not improper motive. But conduct cannot be described as unreasonable simply because it leads in the event to an unsuccessful result or because other more cautious legal representatives would have acted differently. The acid test is whether the conduct permits of a reasonable explanation. If so, the course adopted may be regarded as optimistic and as reflecting on a practitioner's judgement, but it is not unreasonable.

37. The Tribunal did not find the Respondent's conduct "*vexatious, designed to harass the other side rather than advance the resolution of the case.*" The Respondent agreed with the Applicant's remedy to the situation and the Consent Order was made.

38. The Tribunal finds that the Respondent has not acted unreasonably. Having made this finding, the other two stages of the *Willow Court* decision do not fall to be considered.

39. Therefore, the Tribunal makes no order for costs under rule 13 (1)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Rule 13(1)(a) Wasted Costs

40. The Tribunal considered whether the matter of wasted costs was applicable in this case.

41. The Respondent does have a right of audience under section 29 and therefore the issue of Wasted Costs is a consideration. The Tribunal has already found that the Respondent has not acted unreasonably. It therefore remains to consider whether it has acted improperly or negligently. The Tribunal referred again to *Ridehalgh v Horsefield* [1994] Ch 205 at page 232 C – 233 F where the expressions "improper" and "negligent" were considered:

"Improper" means what it has been understood to mean in this context for at least half a century. The adjective covers, but is not confined to, conduct which would ordinarily be held to justify disbarment, striking off, suspension from practice or other serious professional penalties. It covers any significant breach of a substantial duty imposed by a relevant code of professional conduct. But it is not in our judgment limited to that.

"negligent" should be understood in an untechnical way to denote failure to act with the competence reasonably to be expected of ordinary members of the profession.

42. The Tribunal did not find that the Respondent acted improperly or negligently. The Applicant proposed a Consent Order as dealing with the situation. The Respondent submitted an alternative action, which it conceded was not viable when it was pointed out that a tribunal did not have the jurisdiction to make the order it proposed. On the evidence adduced the Respondent did not seek to pursue or justify an unarguable point which may amount to "improper" or "negligent" conduct.

43. The Tribunal finds that the Respondent has not acted unreasonably, improperly, or negligently.

44. Therefore, the Tribunal makes no order for costs under rule 13 (1)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Rule 13(2) Application for Reimbursement of Fees

45. The Applicants also applied for the reimbursement of the Application Fee of £100.00 and Hearing Fees of £220.00 under Rule 13 (2).

46. Rule 13(2) states:
The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

47. The Tribunal noted the case of *Cannon & Another v 38 Lambs Conduit LLP* [2016] UKUT 371 (LC) which held that such reimbursement was not subject to the unreasonableness of a party.

48. The requirements of providing accounts and Lease were not completed to the satisfaction of the Respondent until after the Notification of Refusal and the Applicant had filed its Appeal.

49. Therefore, the Tribunal makes no order for the reimbursement of the fees under rule 13 (2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Judge JR Morris

APPENDIX 1 - RIGHTS OF APPEAL

1. If a party wishes to appeal the 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.

2. 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.

3. 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 reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. 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.

APPENDIX 2 – THE LAW

1. The relevant rule of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 states:

Rule 13

(1) The Tribunal may make an order in respect of costs only—
(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;
(b) if a person has acted unreasonably in bringing, defending or conducting proceedings in—
(i) …
(ii) a residential property case, or
(iii) …
(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

2. The relevant section of the Tribunals Courts and Enforcement Act 2007 states:

Section 29 Costs or expenses

(1) The costs of and incidental to—
(a) all proceedings in the First-tier Tribunal, and
(b) all proceedings in the Upper Tribunal,
shall be in the discretion of the Tribunal in which the proceedings take place.
(2) The relevant Tribunal shall have full power to determine by whom and to what extent the costs are to be paid.
(3) Subsections (1) and (2) have effect subject to Tribunal Procedure Rules.
(4) In any proceedings mentioned in subsection (1), the relevant Tribunal may—
(a) disallow, or
(b) (as the case may be) order the legal or other representative concerned to meet,
the whole of any wasted costs or such part of them as may be determined in accordance with Tribunal Procedure Rules.
(5) In subsection (4) "wasted costs" means any costs incurred by a party—
(a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative, or
(b) which, in the light of any such act or omission occurring after they were incurred, the relevant Tribunal considers it is unreasonable to expect that party to pay.
(6) In this section "legal or other representative," in relation to a party to proceedings, means any person exercising a right of audience or right to conduct the proceedings on his behalf.