FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference:	CHI/OOHH/LBC /2017/0039
Property:	9a Wellswood Park, Torquay TQ1 2QB
Applicants:	Simon and Linda Dewing
Representative:	Mr C Wills, solicitor
Respondent:	Hamish Turner
Representative:	Mr J Cross, solicitor
Type of Application:	Section 168 Commonhold and Leasehold Reform Act 2002 (Breach of Covenant)
Tribunal Members:	Judge A Cresswell (Chairman) Mr W H Gater FRICS ACIArb
Date and venue of Hearing:	23 November 2017 at Torquay
Date of Decision:	29 November 2017

DECISION

The Application

1. On 19 July 2017, the Applicants, the owners of the freehold interest in 9a Wellswood Park, Torquay TQ1 2QB, made an application to the Tribunal claiming breach by the Respondent of various covenants in his Lease. Some of the issues raised in the application were withdrawn during the course of the hearing, so that those issues form no part of this Decision.

Inspection and Description of Property

2. The Tribunal inspected the property on 23 November 2017 at 1000. Present at that time included Mr C Wills, Mr J Cross, the Respondent and Ms L Smith, solicitor, the Attorney for the Respondent. The property in question comprises a ground floor flat in a Victorian two-storey mid-terraced building, now divided into two apartments with separate entrances from the road. The external walls were painted rendered walls under a parapet roof believed to be mainly pitch slated. At the rear was an open verandah, metal framed, bolted to the outside wall and under a lean-to glazed roof.

Summary Decision

3. The Tribunal has determined that the Applicants have demonstrated that there has been a breach of covenant. The breaches found are in respect of the covenants relating to the tenant's duty to pay rent and not to make structural alterations. Details follow.

Directions

4. Directions were issued on various dates. The Tribunal directed that the parties should submit specified documentation to the Tribunal for consideration.

5. This determination is made in the light of the documentation submitted in response to those directions and the evidence and oral representations received at the hearing. The Tribunal heard submissions from the representatives and evidence from Ms L Smith, solicitor, the Attorney for the Respondent. At the conclusion of the hearing, the parties confirmed to the Tribunal that they had been able to say all that they wished to say.

Procedural Issues

6. At the commencement of proceedings Mr Wills applied for an adjournment. He told the Tribunal that an Enforcement Notice had been served relating to works on the property, which is a Grade II* building. The Notice was served on 13 July 2017 and there had been an appeal to the Planning Inspectorate. The Notice was subsequently withdrawn and a fresh Notice served on 16 August 2017 and again there was an appeal. No directions had thus far been issued by the Planning Inspectorate. Mr Wills told the Tribunal that the lynchpin of the current application related to Listed Building Consent.
7. Mr Cross opposed the application for an adjournment. He told the Tribunal that discussions had taken place with the Local Authority on behalf of the Respondent and that an agreement had been reached whereby the Authority would be satisfied by the alteration of the glazed roof of the new verandah at the rear of the property to a tented glazed roof. Mr Cross was able to provide the Tribunal with a letter ("the letter") from the Local Authority of 1 September 2017 indicating that the Enforcement Notice would be withdrawn if such an alteration were made. The Enforcement Notice had indicated a

requirement of a replacement of the glazed verandah roof with a felt shingled, curved verandah roof. The letter indicated that the Local Authority "*is agreeable to concede on glass in place of the cedar shingles on the roof of the verandah. However, we are of the opinion that the form of the roof should not be the straight-sided hipped roof structure it is now but should be "tented" with swept ends...*"

8. The Tribunal had regard to the overriding objective in Rule 3 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Tribunal was conscious that the process was an expensive one for both parties; there was no reason why the application could not have been made well in advance of the hearing which, if successful, could have avoided all the costs associated with the hearing; the costs to the Tribunal itself; the fact that any adjournment was unlikely to produce the result advocated by Mr Wills because it was more likely than not that there would be no hearing by the Planning Inspectorate by reason of a withdrawal of the Enforcement Notice by the Local Authority following the intended tenting of the glazed verandah roof; an adjournment would cause further delay and was likely to impact upon the health of the 83-year old Respondent (the Tribunal had heard from his Attorney, Ms Smith, who had been appointed following the Respondent's mental decline, that the proceedings were causing Mr Turner concern).
9. During the course of the proceedings, Mr Wills applied to amend the application so as to include an alleged breach of Clause 12 of the Fourth Schedule to the Lease.
10. Mr Cross objected to the proposed amendment.
11. The Tribunal refused to allow the proposed amendment. The Tribunal had regard, in doing so, to the overriding objective (see above) and to Rule 8 of the 2013 Rules (Failure to comply with rules, practice directions or Tribunal directions). The Tribunal determined that the proposed amendment was requested far too late in the day and, particularly, in circumstances where the Applicants had failed to comply with the Tribunal's Directions. In his Directions of 8 August 2017, Judge Barber directed the Applicants to send to the Respondent by 29 August 2017 information including extended reasons for the application, identifying the clauses in the lease which the Applicants said had been broken. No such information was provided by the legally represented Applicants in answer to the Directions or later following reference to a lack of that information in the case presented by the Respondent, in accordance with the Directions, and a specific averment therein that many of the issues related to the building and not to the demised Flat.

The Law

12. The relevant law in relation to breach of covenant is set out in section 168 Commonhold and Leasehold Reform Act 2002.
13. A covenant is usually regarded as being a promise that something shall or shall not be done or that a certain state of facts exists. Section 168(1) and (2) Commonhold and Leasehold Reform Act 2002 provide that a landlord may not serve a notice under Section 146 Law of Property Act 1925 in respect of a breach by a tenant of a covenant or condition in the lease unless it has been finally determined, on an application to the Tribunal under Section 168(4) of the 2002 Act that the breach has occurred.
14. A determination under Section 168(4) does not require the Tribunal to consider any issue relating to the forfeiture other than the question of whether a breach has occurred. The Tribunal's jurisdiction is limited to that question

and cannot encompass claims outside that question, nor can it encompass a counterclaim by the Respondent; an application under Section 168(4) can be made only by a landlord.

15. In **Vine Housing Cooperative Ltd v Smith** (2015) UKUT 0501 (LC), HH Judge Gerald said this: *The question before the F-tT ..... was the straightforward question of whether or not there had been a breach of covenant. What happens subsequent to that determination is partly in the gift of the landlord, namely, whether or not a section 146 notice should be issued and then whether or not possession proceedings should be issued before the county court. It is also partly in the gift of the county court namely whether or not, if and when the application for possession comes before the judge, possession should be granted or the forfeiture relieved. These events are of no concern to, and indeed are pure conjunction and speculation by, the F-tT. Indeed the motivations behind the making of applications, provided properly made in the sense that they raise the question of whether or not there had been a breach of covenant of a lease, are of no concern to the F-tT. The whole purpose of an application under section 168, however, is leave those matters to the landlord and then the county court, sure in the knowledge that the F-tT has determined that there has been breach.*

GHM (Trustees) Limited v Glass (LRX/153/2007) the President (Mr George Bartlett QC) said:

"in my judgement the LVT was in error in refusing to make a determination that a breach had occurred on the ground that the breach had been remedied by the acquisition of the landlords of knowledge on the tenants' identity. The jurisdiction to determine whether a breach of covenant has occurred is that of the LVT. The question whether the breach has been remedied, so that the landlord has been occasioned no loss, is a question for the Court in an action for breach of covenant"

Forest House Estates Ltd v Al-Harthi (2013) UKUT (LC):

The question of whether a breach had been remedied by the time of the LVT's inspection was not an issue for determination by the LVT. Questions relating to remedy, damages for breach and forfeiture are matters for the Court. The LVT was entitled to record the fact that the breach had been remedied by the time of its inspection, but that finding was peripheral to its main task under section 168(4) of the 2002 Act.

"Structural"

16. In **John Michael Bent v High Cliff Developments Limited v The Conning Tower Management Company Limited**, High Court of Justice Chancery Division 1999WL 478113, Nicholas Warren QC said:

27. *The words "structural alterations to the Property" in paragraph 9.1 of Part 1 of Schedule 3 to the Lease must, of course,* be *construed in the context of the Lease as a whole.*

31. *In **Pearlman v Keepers and Governors of Harrow School** [1979] 1 QB 56 (CA) the Court was concerned with the meaning of "works amounting to structural alterations, extension or addition" in the context of the Housing Act 1974. The case concerned the installation of a modern central heating system. It is important to note that the works involved installation of a boiler in the kitchen connected to a number of radiators throughout the house and the provision of hot water to baths and sinks. Piping, which could not be*

removed, was laid from the boiler passing under floors and through specially made holes in the ceilings and walls up to a metal tank in the roof. This, it was held, amounted to structural alteration since it involved substantial alteration or addition to the fabric of the house.

"It involved a good deal of tampering with the structure by making holes in walls and partitions, by lining the chimney with asbestos, and so forth. Much more that is involved in installing fitted cupboards instead of wardrobes, or a modern fireplace instead of old fire- dogs." [see Lord Denning at p 67]

"'Structural' in this context means, I believe, something which involves the fabric of the house as opposed to the provision merely of a piece of equipment. It matters not whether the fabric in question is load-bearing or otherwise, if there is any substantial alteration, extension or addition to the fabric of the house the words of the schedule are satisfied. I have no doubt that the works done here "amount to" such alteration or addition. The system is connected in permanent fashion to the gas, water and electrical installations which are part of the fabric of the house. The walls, floors and ceilings have been drilled with holes to accommodate the piping. The flue is connected in permanent fashion to the chimney (part of the fabric) which has itself been altered by lining. This is not merely the provision of equipment, it amounts to alteration and addition to the structure." [see Geoffrey Lane LJ at p 72 Eveleigh LJ at p 79 *]*

32. In ***Irvine v Moran*** *[1991] 1 EGLR 261 the Court was concerned with the implied landlord's covenant under section 32 of the Housing Act 1961 "to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes)". The Judge stated his view, in the context of this particular statutory provision as follows: "I have come to the view that the structure of a dwelling-house consists of those elements of the overall dwelling-house which gives it its essential appearance, stability and shape. The expression does not extend to the many and various ways in which the dwelling-house will be fitted out, equipped, decorated and generally made to be habitable.*

I am not persuaded by Mr Brock that one should limit the expression "the structure of the dwelling-house" to those aspects of the dwelling-house which are load bearing in the sense that sort of expression is used by professional consulting engineers and the like; but what I do feel is, as regards the words "structure of the dwelling-house" a particular element must be a material or significant element in the overall construction ..."

17. Planning (Listed Buildings and Conservation Areas) Act 1990

Section 7 Restriction on works affecting listed buildings.

(1) Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised under section 8.

(2) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).

Section 9 Offences.

(1) If a person contravenes section 7 he shall be guilty of an offence.

(2) Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent, he shall be guilty of an offence.

Ownership

18. The Applicants are the owners of the freehold of the building. The Respondent is the owner of the leasehold interest in the ground floor flat.

The Lease

19. The lease before the Tribunal is a lease dated 5 May 2005, which was made between Doreen Thomas as lessor and Helena Manley Castle as lessee and a Deed of Variation dated 25 May 2014 between the Applicants and the Respondent.

20. Clause 2(a) of the Lease: *to pay the said yearly rent at the times and in the manner aforesaid (without any deduction)*

21. Clause 2(d): *well and substantially to maintain and uphold in good order repair and condition of the Flat and any authorized additions thereto and all fixtures and fittings and appurtenances thereof*

22. Clause 2(g): *to comply in all respects with the requirements of any competent local national or other public authority in relation to the Flat or the occupancy thereof and to give notice thereof to the lessor and join with her in making such representation in regard thereto as the lessor may think fit*

23. Clause 2(h): *not to make any structural alteration or structural additions to the Flat or any part thereof or to cut the timbers thereof*

24. Clause 6 of the First Schedule to the Deed of Variation adds the following to the definition of "Flat" in the lease: *(f) "the verandah and roof structures solely serving the Flat including the glass roof structure forming the lightwell"*

25. Clause 2.2 of the Deed of Variation says: *"The Lease shall remain fully effective as varied by this deed and the terms of the Lease shall have effect as though the provisions contained in this deed had been originally contained in the Lease which, for the avoidance of doubt, means that any want of repair to the Flat (as herein defines) at the date hereof shall be the sole responsibility of the Tenant"*

26. Clause 3 of the Deed of Variation:
"Tenant's Covenant

The Tenant covenants to observe and perform the tenant's covenants in the Lease as varied by this deed"

27. The Applicants assert that the Respondent lessee has:
    a) Not paid the rent for 3 years
    b) Painted the previously unpainted front elevation render on both ground and first floor levels excluded from Demise.
    c) Painted the external timber and joinery to ground and first floor levels
    d) Removed, paint stripped, overhauled and redecorated the first floor shutters to the window on the rear elevation excluded from Demise.
    e) Replaced a felt shingle covered verandah roof with a glazed verandah roof at rear elevation.
    f) Repaired/replaced dentils under soffits.

28. The construction of a lease is a matter of law and imposes no evidential burden on either party: (**(1) Redrow Regeneration (Barking) ltd (2) Barking Central Management Company (No2) ltd v (1) Ryan Edwards (2) Adewale Anibaba (3) Planimir Kostov Petkov (4) David Gill** [2012] UKUT 373 (LC)).

29. When considering the wording of the lease, the Tribunal adopts the guidance given to it by the Supreme Court in **Arnold v Britton and others** [2015] UKSC 36 Lord Neuberger:

> 15. When interpreting a written contract, the court is concerned to identify the intention of the parties by reference to "what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the contract to mean", to quote Lord Hoffmann in Chartbrook Ltd v Persimmon Homes Ltd [2009] UKHL 38, [2009] 1 AC 1101, para 14. And it does so by focussing on the meaning of the relevant words, in this case clause 3(2) of each of the 25 leases, in their documentary, factual and commercial context. That meaning has to be assessed in the light of (i) the natural and ordinary meaning of the clause, (ii) any other relevant provisions of the lease, (iii) the overall purpose of the clause and the lease, (iv) the facts and circumstances known or assumed by the parties at the time that the document was executed, and (v) commercial common sense, but (vi) disregarding subjective evidence of any party's intentions. In this connection, see Prenn at pp 1384-1386 and Reardon Smith Line Ltd v Yngvar Hansen-Tangen (trading as HE Hansen-Tangen) [1976] 1 WLR 989, 995-997 per Lord Wilberforce, Bank of Credit and Commerce International SA (in liquidation) v Ali [2002] 1 AC 251, para 8, per Lord Bingham, and the survey of more recent authorities in Rainy Sky, per Lord Clarke at paras 21-30.

Consideration and Determination of Breach of Covenant
Clause 2(a) Non Payment of Rent
The Respondent

30. The Respondent conceded that there had been a breach of this Clause, albeit one based upon a belief arising from a response during the course of the Respondent's acquisition of the Lease to the effect that the £10 per annum rent was no longer being collected. Payment of the outstanding sum of £30 had been made to the Applicants in the form of a cheque

The Tribunal

31. The Tribunal notes the conceded breach, and that it has now been remedied.

Clause 2(d), (g) and (h) Works in Breach of the Lease
The Applicants

32. The Applicants relied upon the actions detailed above to the effect that the Respondent had:
    a) Painted the previously unpainted front elevation render on both ground and first floor levels excluded from Demise.
    b) Painted the external timber and joinery to ground and first floor level.
    c) Removed, paint stripped, overhauled and redecorated the first floor shutters to the window on the rear elevation excluded from Demise.
    d) Replaced a felt shingle covered verandah roof with a glazed verandah roof at rear elevation.
    e) Repaired/replaced dentils under soffits.

33. Mr Wills said that the painting of the external render damaged the property, as the render was meant to be the original breathable lime render. He was unable to say, however, whether the paint used was of a breathable nature. He accepted also that there was no reference by his survey report (Tony German of Croft Surveyors dated 14 July 2016) to damage being so caused and where reference was made to the property being brought into line with painting to the renders of the neighbouring properties.

34. Mr Wills said that complete removal of the original verandah prior to its replacement with the current version was a breach of Clause 2(d). The Applicants had not been consulted about it and so were not in a position to comment upon any works which were required. He also asserted that this action was a breach of Clause 2(g), as evidenced by the service by the Local Authority of an Enforcement Notice. He also asserted that there was a breach of Clause 2(h) because there had been a structural alteration by the removal and replacement of the verandah. Clause 6 of the Schedule to the Deed of Variation specifically refers to structures.

35. Mr Wills said that there had been offences committed under Section 9(1) and (2) of the Planning (Listed Buildings & Conservation Areas Act 1990). Upon questioning by the Tribunal, he accepted that there could not have been a breach of Section 9(2).

The Respondent

36. Mr Cross asserted that there was no breach of Clause 2(d) because the Respondent was entitled to replace the verandah as a repair and that the

Applicants should have provided evidence that the verandah was capable of repair, not replacement. In any event, the Applicants' case related solely to the *roof* of the verandah.

37. The Respondent did not and does not believe that a planning application was required, so that there could be no breach of Clause 2(g). Since the involvement of the Local Authority, the Respondent has complied with all that has been required of him.

38. So far as Clause 2(h) is concerned, it should be noted that the original lease had an absolute, as opposed to conditional, prohibition on structural alterations to the flat, which, at that time (5 May 2005), did not include the external verandah. It was not surprising that there would be an absolute prohibition as any structural alteration to the flat would be likely to affect also the first floor flat retained by the Applicants. The verandah was replaced in its entirety and is bolted on to the building; it does not support the building; it could not be described as structural. There was no reference in the Applicants' surveyor's report to the verandah having any structural effect on the property. The verandah is not a structure, which word must be given its ordinary meaning.

39. The Deed of Variation led to the inclusion of the verandah within the definition of the flat in 2014.

40. Clause 2.2 of the Deed of Variation was a standard clause.

41. Clause 6 of the Schedule to the Deed of Variation differentiates between the verandah and roof structures.

The Tribunal

42. The Tribunal has followed the guidance of the Supreme Court in **Arnold v Britton and others** when considering the words of the lease in this case.

43. The Tribunal was assisted by the presentation of various documents at the hearing, but notes both that there were gaps in the evidence provided by both parties and that the Tribunal can only make its decision on the basis of the evidence available to it.

44. The Tribunal was dealing with no clause of the lease detailed within the Applicants' application which could be said to relate to any part of the building not forming part of the flat (the demise) such that works to those other parts was not relevant to its considerations. Apart from noting that the various works to the building appeared (without close inspection) to be of good quality and sympathetic with neighbouring properties, the Tribunal need not concern itself with those works, save and except for the roof of the verandah, which does form part of the flat.

45. It is only the roof of the verandah which is alleged by the Applicants to constitute a breach of the three covenants within the lease pleaded. It is only the roof of the verandah which features in the enforcement action being taken by the Local Authority.

46. From the evidence available to the Tribunal, it appears that the Respondent has replaced completely the open verandah at the rear of the property, the change to the visible appearance of the property being the replacement of a shingle roof with a glazed roof. It is admitted that a glazed roof has replaced a shingle roof. The Tribunal noted, at the inspection, that when looking at the

rear of the property, the building to the left had what appeared to be a shingle roof on its verandah and the building to the right had a glazed roof on its verandah. It is clear from the letter from the Local Authority that 7 Wellswood Park was given consent to have a glazed tented roof.

47. Clause 2(d) requires the Respondent well and substantially to maintain and uphold in good repair and condition the flat. The Tribunal had no evidence before it which could lead it to conclude that the Respondent had failed to do so. The specific allegation related to the roof of the verandah. There was no reliable evidence before the Tribunal as to the condition of the roof prior to its replacement; certainly it appeared to be in good condition at the time of inspection; the Tribunal finds, on the basis of the evidence described, that it cannot conclude that there has been a breach of Clause 2(d).

48. In respect of Clause 2(g) it is not for this Tribunal to determine whether Listed Building Consent was required for the replacement of the shingle roof with a glazed roof. Indeed, even though the Tribunal saw correspondence from the Local Authority (the letter) to the effect that a tented glazed roof would be acceptable to it, there has been and, it appears, there will not be any adjudication as to the requirement of Listed Building Consent for the works effected and it appears more likely than not that the Local Authority will simply withdraw its enforcement action upon the alteration of the roof to a tented glazed roof.

49. The Tribunal noted that other neighbouring properties appeared to have glazed verandah roofs and there was no evidence before the Tribunal either that those neighbours had sought and been given Listed Building Consent or that enforcement action had been taken against them by the Local Authority upon failure to do so.

50. The Tribunal also noted that the first Enforcement Notice had been defective and was withdrawn and that there was incorrect reference to Section 9(2) of the 1990 Act which refers to a breach of a condition of consent (likely to be by reason of using a template). The Section 9(1) offence relates to Section 7 and works "*which would affect its character as a building of special architectural or historic interest*". Whether that is the situation here would be for others to judge; certainly the works appear to be at least broadly in keeping with those of neighbouring properties. There was no evidence before the Tribunal which would permit it to find that a glazed roof was out of keeping with the history of the building constructed in Victorian times and its locality; this is an illustration of the lack of relevant evidence available to the Tribunal. Mr German in the Croft report first says that a slated roof finish "is probably as original", but then posits, inconsistently, the view that originally there was likely to be a lead sheet or metal sheet covering which was replaced with shingle "over the years".

51. For the above reasons, on the basis of the evidence before it, the Tribunal finds that there has not been a breach of Clause 2(g).

52. The Tribunal finds that there has been a breach of Clause 2(h).

53. Whilst the Respondent has gained some benefit from the inability of the Applicants to establish a breach of Clause 2(d) on the basis of a lack of evidence as to the condition of the verandah prior to its replacement, the Respondent cannot himself assert a requirement completely to replace the verandah roof due to its state of disrepair because there is no evidence to that effect to support such a submission.

54. The aspect of the roof which appears to hold particular relevance to the Local Authority is the believed curved nature of the original and of the style in the area and the absence of curving on the replacement.

55. The verandah in all of its parts is clearly of importance to the style and nature of the building. Is it a structure?

56. In the light of the authorities quoted in paragraph 16 above, the Tribunal finds that the removal and replacement of the verandah roof was a structural alteration.

57. The Tribunal was not swayed by Mr Cross's argument that paragraph 2.2 of the Schedule to the Deed of Variation was simply a normal drafting clause; it had, the Tribunal finds, import and served to extend the absolute prohibition on structural alteration to the verandah and, ergo, its roof. That such is the case is emphasized by the wording of Clause 3 of the Deed detailed above.

58. Nor was the Tribunal persuaded that the verandah and its roof were not structures upon a reading of Clause 6 of the Deed of Variation. Clause 6 details two elements as parts of the flat, being *the verandah and roof structures solely serving the Flat including the glass roof structure forming the lightwell.* The verandah is comprised of all of its constituent parts, and does not need those parts listing separately in the Deed. There is a lightwell between a room of the flat (the kitchen) and the part of the building retained by the Applicants. The Tribunal saw the lightwell from the kitchen at the Inspection; it did not see its roof structure, but has no reason to doubt the presence of a glass roof structure to the lightwell. The lightwell is not demised, but the roof structure of the lightwell is demised, which explains why that roof structure is separately detailed (presumably the benefit of the light from the lightwell is enjoyed by the Respondent).

59. It is admitted that a shingle roof was replaced by a glazed roof.

60. Whilst the verandah is bolted to the outside of the building and provides no loadbearing support, the Tribunal finds its roof does provide protection from the weather and secondly is a feature of the style of the building within its historical and local context. Without the verandah in all of its parts, there would be a loss of those two elements. The verandah is part of the fabric of the house. Paying attention to the guidance quoted above, the Tribunal finds that the verandah as a whole is a part of the structure of the flat and of the building. Its removal and replacement with a structure comprised of a glazed uncurved roof is a structural alteration (made without the knowledge or consent of the Applicants), such as to breach Clause 2(h), notwithstanding that the first element is restored. The original structure had a shingle roof; the replacement does not. There was no evidence before the Tribunal so as to

show why the new glazed uncurved roof was preferred to a new shingle curved roof save for the Respondent's submission regarding additional light thereby afforded. The Respondent's submission that the new roof was a response to the covenant in Clause 2(d) is said to be supported by a photograph at R4 of Ms Smith's witness statement, but the Tribunal could see no issue of disrepair patent upon the face of the photograph such as to require the replacement of the shingle roof.

Judge A Cresswell Date 29 November 2017

APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.