



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference : CAM/22UH/PHC/2018/0005

Site : Breach Barns,
Galley Hill,
Waltham Abbey,
EN9 2AR

Park Home address : 2 Northside

Applicant : Miss. W. Cogan

Respondent : Maurice Sines

Date of Application : Undated but received 12th Oct. 2018

Type of application : to determine a question arising
under the Mobile Homes Act 1983
("the 1983 Act") or the agreement to
which it applies

The Tribunal : Bruce Edgington (lawyer chair)
Mary Hardman IRRV (Hons) FRICS

DECISION

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1. The Tribunal's interpretation of the question raised by the Applicant for determination, and the decision of the Tribunal is:-

Question: Whether the parking space marked "O" allocated to the Applicant is a safe and reasonable space to park a car.

Decision: The space marked "O" adjacent to 2nd Avenue is not a safe and reasonable space to park a car.

Reasons

Introduction

2. The Applicant occupies a pitch on the site and, since at least 2011, she has been allocated a car parking space marked "O". She complains that the space is insufficient and has supplied photographs. The Respondent's only contribution to this tribunal process has been to write a letter saying:

"Mrs. Cogan has been offered a parking space, the same as all residents receive when they reside at Breach Barns Park. In this

instance Mrs. Cogan has refused the space allocated to her as inadequate. The space has been hers for quite some time, and due to the inactivity of the space being used, the decision was made not to allocate an alternative space. The park has been developed over time and all residents are taken into consideration. The space at position 'O' is large enough for a car; van parking, other than that of contractors is not permitted on site unless under prior arrangement.

The spaces are allocated fairly between all residents, and as Mrs. Cogan would be using the space for visitors only as she does not own a car, I believe that the space is adequate, and therefore no breach of conditions has been made. As explained to Mrs. Cogan, there is additional parking in Brookmeadow Way for visitors.

The parking space is tarmacked and marked in line with site 13. Communal Vehicular Parking.”

3. The Tribunal issued a directions order on the 30th October 2018 timetabling the case to a final determination. This ordered both parties to file and serve evidence to help both them and the Tribunal. The Tribunal accepted the Applicant's request for a paper determination and said that a decision would be made on or after 10th January 2019. Both parties were offered both an inspection of the site and a full oral hearing, but neither requested either.
4. When the bundle was delivered for the purpose of the determination, the Tribunal was unable to make a decision because the evidence was too vague. The Respondent was therefore ordered to file a copy of the pitch agreement, a plan of the location of the allocated parking space setting out its measurements and photographs of the space and surrounding park homes and roadway by 25th January 2019.
5. The Respondent failed to obey that order but the Applicant has supplied further information which has enabled a decision to be made.

The Law

6. Section 4 of the 1983 Act gives this Tribunal the power “*to determine any question arising under the Act or any agreement to which it applies*”. Enforcement is a matter for the County Court.

Discussion

7. It should be said that the Respondent has referred to the Applicant as Mrs. Cogan. However, her application form clearly says that she is “Miss W Cogan” and that she is a pensioner who has lived in her mobile home on this site since 1987. She has produced a copy of a letter dated 6th July 2011 wherein she is allocated “*...a parking space for you which is number O in the car park which is located in Second Avenue*”.
8. Neither party has filed a copy of the occupation agreement which means that the Tribunal is unable to see what the strict contractual position is between the parties. However, the Applicant has produced a copy of the

Park Rules which confirms that the site owner is “*obliged to provide one car parking space per household*”. The rule goes on to say that people can have 2 parking spaces but the second one must be on the pitch.

9. The Applicant has also produced a letter from Epping Forest District Council and a copy of the site licence conditions. The council quite rightly quote from the licence conditions saying that paragraph 13 of the conditions says that “*Suitably surfaced parking spaces shall be provided to meet the requirements of residents and their visitors*”.
10. On the 23rd August 2018, the Respondent wrote to the Applicant saying that the parking space allocated complies with the licence conditions, is adequate and fit for purpose.
11. The Applicant has said that the parking space allocated to her i.e. space “O”, is not big enough. She has produced photographs which show that the parking space in question is wedge shaped. Although the Respondent has failed to comply with the Tribunal’s order to supply evidence, the Applicant has produced further photographs and says that the space is 9-10 feet wide at one end and only 4-5 feet wide at the other end.
12. From the photographic evidence, it is clear that along one side of the parking space is a roadway which is identified with a quite separate road surface. However, there is no white line on that side of the parking space to indicate to a road user that it is there. Accordingly, it does seem to this Tribunal, on the balance of probability, that anyone parking on that space is almost bound to risk having part of their car on the road which only appears to have one lane.

Conclusions

13. Whatever is in the occupation agreement, it seems quite clear to this Tribunal that there is an express or implied contractual obligation on the part of the site owner to provide an adequate parking space for a car which is not part of the pitch and which has a hard surface. This is reflected in the site rules, the site licence and the letters from the site owner to the Applicant.
14. The real question, therefore, is whether parking space “O” is adequate, i.e. safe and reasonable. The answer to that, on the basis of the evidence filed is that it is not because it is too narrow at one end and anyone parked there runs the risk of having their car damaged.
15. As a footnote, a letter provided by the Applicant after the last directions order states that “*On the 16th Jan 2019 the manageress Michele Saunders spoke to me verbally & said Mr. Sines had offered me a car park ‘No 26’ in the 2nd Avenue Car Park. I have received no such letter & even if I had I am not accepting nothing from Mr. Sines or until I am advised by you that covers every safety measure under the law.*”
16. Obviously, this Tribunal cannot do as the Applicant asks because it has no idea whether space No 26 is or is not adequate. It is a great shame that she did not investigate further and that the Respondent did not

confirm this offer in writing both to the Applicant and to the Tribunal. This could well have resolved matters. All the Tribunal can do in the circumstances is determine the question raised.

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Bruce Edgington
Regional Judge
5th February 2019

ANNEX - RIGHTS OF APPEAL

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.