



**FIRST – TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **BIR/00FP/PHK/2018/0004**

**Property** : **Ranksborough Hall Park, Ranksborough Drive,  
Langham, Oakham, LE15 7JR**

**Applicant** : **Ranksborough Park Independent Residents’  
Society**

**Representative** : **Susan J Titcombe**

**Respondents** : **Joshua and Issac White**

**Representative** : **Mark Southerton**

**Type of Application** : **An Application under Part 1 of Schedule 1 to the  
Mobile Homes Act 1983 for an order  
recognising the applicant as a qualifying  
residents’ association.**

**Tribunal Members** : **Judge S McClure  
V Ward FRICS  
S Hopkins FRICS**

**Date of Inspection** : **4 February 2019**

**Date of Decision** : **25 March 2019**  
**(Determined without  
a hearing)**

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**DECISION**

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## **Introduction**

1. On 19 October 2018, the applicant, Ranksborough Park Independent Residents' Society, applied for recognition by the tribunal as a qualifying residents' association. Such recognition confers upon the residents' association the consultation rights provided to such associations by Paragraph 22 (f) of the implied terms set out at Chapter 2 of Schedule 1 to the Mobile Homes Act 1983 (as amended).
2. Ranksborough Hall Park ("the Park") comprises three park home sites. The sites are (1) Lonsborough Gardens, (2) Lodge Park and (3) The Park/The Glade.
3. The respondents are the owners of Ranksborough Hall Park, and so are the owners of all three sites.
4. At the date of the application to the tribunal, each of the three sites had its own residential site licence. By the date of the determination of the tribunal, a single residential site licence, dated 23 November 2018, had been granted which includes all three sites.

## **The Law**

5. Paragraph 28 (1) of Schedule 1 to the Mobile Homes Act 1983 ("the Act") sets out the requirements to be met by an association:

28(1) A residents' association is a qualifying 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% 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 if this, the Tribunal has so ordered.

6. The tribunal is required to consider the circumstances as at the date of its decision.

### **The evidence**

7. Neither party requested an oral hearing of the application, and the tribunal did not consider an oral hearing was necessary. The tribunal carried out an inspection of the site on 4 February 2019, in the presence of the applicant. Both parties were properly notified of the date and time of the inspection. No findings from the inspection were material to the decision of the tribunal. Accordingly, the findings are not set out in this decision. The decision of the tribunal was based on the submissions of the parties.

8. The material submissions of the applicant were dated 5 November 2018, 5 January 2019 and, these further submissions specifically requested by the tribunal to allow the applicant the opportunity to address the issue of the single licence being granted for the whole site, 11 February 2019.

9. The material submissions of the respondent were dated 27 November 2018.

### **The applicant's case**

10. The applicant's case was that it met the requirements of paragraph 28(1) of schedule 1 of the Act, and this included the fact that its membership met the 50% requirement of 28(1)(b).

11. Its application was in respect of The Park/The Glade which had a licence for 44 homes and its membership numbered 27. The applicant contended that the tribunal had to consider the application as at the date of the application. The applicant contended that the tribunal was not entitled to take the granting of the 23 November 2018 licence into account as this post-dated the application.

### **The respondents' case**

12. The respondents' case was that the tribunal had to take the 23 November 2018 licence into account. The applicant did not meet the requirements of paragraph 28(1)(b) and, therefore, the tribunal must dismiss the application.

## **The facts**

13. Prior to the issue of the single site licence of 23 November 2018, Lonsborough Park had a licence for 26 homes. Lodge Park had a licence for 34 homes. The Park/The Glade had a licence for 44 homes. The total number of homes licensed under the three licences was 104.
14. The copy of the single site licence dated 23 November 2018 that was provided to the tribunal was not accompanied by the schedule of conditions. Accordingly, the tribunal does not know the exact number of mobile homes allowed under the licence. In the absence of evidence to the contrary, this decision is made on the basis that the number of homes allowed under the single licence is the total of the number allowed under the three separate licences, being 104 homes.
15. The applicant has stated in its submission of 5 November 2018 that it has 27 members. Whilst 27 members exceeded the 50% requirement of paragraph 28(1)(b) of Schedule 1 of the Act in respect of The Park/The Glade as a single site of 47 licensed homes, it does not meet the 50% requirement of the 104 licenced homes of the newly licensed whole site.
16. As stated above, the tribunal is required to consider the facts that prevail at the date it makes its decision, and not at the date of the application.
17. The applicant has 27 members. This falls short of the 50% requirement. The applicant has not met the requirements of Paragraph 28 (1)(b) and accordingly the tribunal finds that Ranksborough Park Independent Residents' Society should not be afforded qualifying residents' association status under the Mobile Homes Act 1983.
18. The tribunal has made this decision without confirmation of the number of homes licenced under the 23 November 2018 licence. It does so in accordance with rule 3 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, which requires the tribunal to deal with cases fairly and justly, which includes a requirement to deal with cases in a proportionate way.
19. In view of the fact that the applicant has 27 members, and the likely number of homes licensed under the 23 November 2018 licence is greater than 54 (of which 27 is 50%), and is likely to be at or around 104, it is proportionate for the tribunal to come to its decision on the information before it, rather than delay making its decision in order to seek clarification from the parties. If it transpires that the number of homes licenced is, in fact, 54 or less, then the parties have their usual right of appeal, information about which is set out below.

## **Costs**

20. In respect of tribunal proceedings, costs are not payable unless ordered pursuant to an application under Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, unreasonable behaviour.
21. The respondent has submitted a Rule 13 application.
22. The tribunal has considered the respondent's Rule 13 application and the other evidence before it. The actions of the applicant, both in bringing the proceedings and in its conduct of the proceedings, did not amount to unreasonable behaviour. The tribunal finds that the applicant has not acted unreasonably. In particular, the delay between the submission of the licence application to the council in August 2017 and the granting of it in November 2018 means that it was not unreasonable for the applicant to submit its application in October 2018, notwithstanding the fact that the applicant knew the whole site licence had been submitted.

## **APPEAL**

23. A party seeking permission to appeal this decision must make a written application to the Tribunal for permission to appeal. This application must be received by the Tribunal no later than 28 days after this decision is sent to the parties. Further information is contained within Part 6 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (S.I. 2013 No. 1169).

Suzanne McClure  
Judge  
25 March 2019