



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

**Case reference** : **CHI/43UG/PHC/2020/0007**

**Property** : **31 Albert Avenue  
Penton Park  
Chertsey  
Surrey  
KT16 8QG**

**Applicant** : **The Berkeley Leisure Group  
Limited**

**Representative** : **None**

**Respondent** : **David John Mead**

**Representative** : **None**

**Type of application** : **Determination of a question  
arising under the Mobile Homes  
Act 1983**

**Tribunal member(s)** : **Mr I R Perry FRICS**

**Date of determination  
and venue** : **16<sup>th</sup> November 2020  
Paper Determination**

**Date of decision** : **16th November 2020**

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**DECISION**

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## **Decision**

**The Tribunal determines that the Respondent is in breach of the Agreement and orders that he remedies the breach within 21 days of this decision.**

## **Background**

This decision is made in response to an application, made by the owners of a mobile home park, which requests that the Tribunal determine that the owner/resident of 31 Albert Avenue, Penton Park, Chertsey, Surrey, KT16 8QG ('the Home') is in breach of his Park Home Agreement and that he be ordered to remedy the breach.

1. By an application dated 23<sup>rd</sup> July 2020 pursuant to section 4 of the Mobile Homes Act 1983 (as amended) the Applicant sought a determination from the Tribunal as to whether the Respondent is in breach of his Park Home Agreement by not maintaining the pitch and exterior of his home and sought an order for the Respondent to remedy the breach.
2. The Respondent is the owner/occupier of the Home by virtue of an agreement dated 20<sup>th</sup> April 1976 ('the Agreement') which was assigned to him on 17<sup>th</sup> May 1982.
3. The Tribunal identified two issues to be determined.
  - Whether the agreement/implied agreement contains an obligation to maintain the pitch
  - Whether the condition of the pitch and mobile home situated thereon breaches any such obligation
4. On 3<sup>rd</sup> September 2020 the Tribunal issued directions to the parties. The Applicant has complied with those Directions. The Respondent has not engaged with or responded to the Tribunal.

## **The Evidence**

5. With its original application the site owners included a statement on behalf of the Applicant made by Julie Lloyd, an Operations Assistant for the Applicants.
6. Ms Lloyds states that the Applicant has repeatedly sent letters to the Respondent notifying him that he is in breach of his agreement and requesting him to carry out essential maintenance to the pitch and to the exterior of his park home in accordance with the Agreement. Copies of letters dated 11<sup>th</sup> September 2019, 12<sup>th</sup> November 2019, 3<sup>rd</sup> March 2020, 3<sup>rd</sup> July 2020 and 7<sup>th</sup> July 2020 were all submitted to the Tribunal. The letter of 7<sup>th</sup> July 2020 refers to an earlier letter to the same effect dated 27<sup>th</sup> April 2018. The Respondent has not replied to any of these letters.

7. The letters dated 12<sup>th</sup> November 2019, 3<sup>rd</sup> March 2020 and 7<sup>th</sup> July 2020 all notify the Respondent that the Applicant considers him to be in breach of his Agreement. The letter of 3<sup>rd</sup> July 2020 is titled a “LETTER BEFORE ACTION”.
8. The letter dated 11<sup>th</sup> September 2019 requires the Respondent to remedy the breach within 14 days, the letter dated 12<sup>th</sup> November 2019 requires the Respondent to remedy the breach within 28 days. The letter dated 3<sup>rd</sup> March 2020 requires the Respondent to remedy the situation within 14 days as does the letter dated 7<sup>th</sup> July 2020.
9. The letters dated 12<sup>th</sup> November 2019, 3<sup>rd</sup> March 2020 and 7<sup>th</sup> July 2020 all inform the Respondent that the Owner shall be entitled to terminate the agreement if the appropriate judicial body, in this case the Tribunal, is satisfied that the occupier has breached a term of the Agreement and, after service of a notice to remedy the breach, has not complied with the notice within a reasonable time, and considers it reasonable for the Agreement to be determined.
10. The letters specify that to remedy the Breach the Respondent is required to: -
  - Cut any grass to an acceptable level, in keeping with other pitches
  - Trim/cut back hedges and bushes
  - Remove any weeds/brambles/nettles
  - Remove any refuse /unwanted items/black sacks
  - Remove any deadwood/garden waste
  - Clear and remove all items stored under the home
  - Clean the exterior of the home, including windows and frames and gable end to remove visible dirt and algae.
11. With her statement Ms Lloyd includes a copy of the Park Rules which contain the following.

“3. Trees and Shrubs and other planting must not be permitted to grow to a size or shape to interfere with a neighbour’s pitch....” and

“8. Hedges, bushes and trees must be maintained and not allowed to grow excessively into the separation distance between homes.”
12. The Applicant also provided a copy letter from Runnymede Borough Council dated 11<sup>th</sup> October 2029 referring to complaints that the Council had received from other Park Homeowners on the site about the overgrown vegetation at the Property and reminding the Applicant of its responsibilities under the licence for the site.
13. The Applicant also submitted a witness statement from Mrs Linda Peck who, along with her husband, is the joint Park Manager of Penton Park.

14. Mrs Peck states that she has received many verbal complaints from other Park Homeowners about the condition of the Property and submitted two formal letters of complaint that she had received from other owners. These letters had been anonymised.
15. Mrs Peck continues that when she had spoken directly to the Respondent he had not replied, that the local postman refuses to deliver to the property because of the overgrown garden and that she has seen foxes and rats under the Home and on the pitch.
16. Within the submission from the Applicant were two photographs which clearly showed the pitch of the property completely overgrown, although it was impossible to ascertain the condition of the Home itself.
17. The Applicant included in its submission a copy of the Department for Communities and Local Government Park homes factsheet relating to the Consolidated implied terms in park home pitch agreements which apply from 26<sup>th</sup> May 2013. These are the contractual terms implied by statute between a resident and a park owner which permits the resident to station his park home on the site and occupy it as a residence.
18. The Occupier's obligations include
  21. The occupier shall –
    - (c) keep the mobile home in a sound state of repair
    - (d) maintain –
      - (i) the outside of the mobile home, and
      - (ii) the pitch, including all fences and outbuildings belonging to, or enjoyed with, it and the mobile home, in a clean and tidy condition: and....

### **The Law**

19. The relevant legislation is contained in s4 of the Mobile Homes Act 1983 Act which gives the Tribunal jurisdiction to determine any question arising under the Act or any agreement to which it applies, and to entertain any proceedings brought under the Act or any such agreement.

The First-tier Tribunal was granted further powers by s231A of the Housing Act 2004 which provides as follows:

#### **s231A. Additional Powers of 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) The 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) When exercising jurisdiction under this Act, the directions which may be given by the Tribunal under its general power include (where appropriate): -
- (a) directions requiring a licence to be granted under Part 2 or 3 of this Act;
  - (b) directions requiring any licence so granted to contain such terms as are specified in the directions;
  - (c) directions requiring any order made under Part 4 of this Act to contain such terms as are so specified;
  - (d) directions that any building or part of a building so specified is to be treated as if an HMO declaration had been served in respect of it on such date as is so specified (and such a direction is to be an excluded decision for the purposes of section 11(1) and 13(1) of the Tribunals, Courts and Enforcement Act 2007);
  - (e) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.
- (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.

### **Consideration and Decision**

20. The Tribunal first considered whether it was able to make a fair and reasonable decision based on the papers provided and without an oral hearing. It decided that it was able to make such a decision.

21. Having considered the papers which included the park rules for Penton Park and referring to the Implied terms of a park home agreement the Tribunal concluded that the Respondent is obliged to keep his home and pitch in good order.
22. Having considered the other papers submitted included two written complaints to the Applicant from other park homeowners, statements from the Park Manager and Operations Assistant, a letter from the Runnymede Borough Council and photographs the Tribunal is satisfied that the pitch for the Property is not being maintained in a clean and tidy condition and the Respondent is therefore in breach of his agreement with the Applicant.
23. The Tribunal has insufficient evidence to decide whether the mobile home itself is being kept in a sound state of repair but considers it reasonable to require the Respondent to keep the outside of the Home clean.
24. The Tribunal orders that the Respondent should remedy the breach within 21 days of this decision as specified in correspondence from the Applicant namely that he should:-
  - Cut any grass to an acceptable level, in keeping with other pitches
  - Trim/cut back hedges and bushes
  - Remove any weeds/brambles/nettles
  - Remove any refuse/unwanted items/black sacks
  - Remove any deadwood/garden waste
  - Clear and remove all items stored under the home
  - Clean the exterior of the home, including windows and frames and gable end to remove visible dirt and algae
25. The Tribunal reminds the Respondent that if he does not comply with this order then the Applicant may apply to entitled to determine the Agreement, that is to remove the Respondent and his Park Home from the site.

### **Appeals**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a 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 the time limit, 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.

If the First-tier Tribunal refuses permission to appeal in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007, and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant/Respondent may take a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for the permission.