



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

Case Reference : **CHI/23UE/PHT/2021/0001**

Property : **Quedgeley Court Park, Greenhill
Drive, Tuffley, Gloucester, GL4 0LW**

Applicant : **Donaldson and Newman Ltd**

**Applicant's
Representative** : **Nicholas Newman**

Respondent : **Gloucester City Council**

Type of Application : **Appeal against a Compliance Notice
under section 9A of the Caravan
Sites and Control of Development
Act 1960**

Tribunal Members : **Judge Professor David Clarke
Ian Perry, FRICS**

Dated : **22 September 2021**

DETERMINATION AND STATEMENT OF REASONS

DETERMINATION

The appeal against the compliance notice is dismissed and under section 9G(5)(a) of the Caravan Sites and Control of Development Act 1960, the compliance notice dated 29 March 2021 is confirmed.

The application for a costs order made by the Respondent will be determined without a hearing after submissions by both parties.

STATEMENT OF REASONS

Background to the Appeal

1. This is an appeal (“the Appeal”) made by Donaldson and Newman Ltd (“the Appellant”) of Moorhouse Lane, Hallen, Bristol BS10 7RU under section 9A (3) of the Caravan Sites and Control of Development Act 1960, against a compliance notice (“the Compliance Notice”) dated 29 March 2021. This notice was served in respect of the site known as Quedgeley Court Park, Greenhill Drive, Tuffley, Gloucester, GL4 0LW (“the Site”) by the Respondent, Gloucester City Council. The Council was satisfied that the Appellant had failed to comply with some of the conditions attached to the site licence issued in respect of the Site. The Appellant made its appeal, through its agent Nicholas Newman, on 16 April 2021.

2. Following Directions issued by the Tribunal on 21 May 2021 and 10 June 2021, the Appellant supplied on 11 June a witness statement, summary of items in dispute and photographic evidence. Following a Site visit by the Respondent on 12 July 2021, the Respondent filed a witness statement by Mr. Neil Coles who included an updated summary of items in dispute, further photographs as evidence and various Appendices. The Appellant replied through Mr. Newman on 30 July with his comments on the Respondent’s statement.

3. Both parties having agreed to a paper determination without a hearing, the Tribunal considered and determined the case on 20 September 2021. The Tribunal decided that the statements and extensive photographs supplied by the parties enabled it to decide the case without the necessity of a site inspection.

4. The Tribunal was supplied with a copy of the Site Licence Conditions (“the Conditions”) which were based on and largely replicate the conditions set out in the Model Standards 2008 for Caravan Sites. The Appellant raised no issues on the applicability of the Conditions to the site. Therefore, the only issues to be determined by the Tribunal are whether the Conditions have been complied with and whether the Compliance Notice properly sets out the details of any failure to comply. Linked to that question is the subsequent issue, if the Tribunal finds the Conditions have not been complied with, whether the steps that the local authority require to remedy the breach are appropriate and whether sufficient time has been allowed for the necessary steps to be taken by the Appellant ensure compliance. Each of the alleged breach of the Conditions will be considered in turn.

Site Plan

5. The Conditions require a Site plan to be supplied and updated whenever there is a material change. The Compliance Notice says the plan is now out of date. There is no evidence presented which suggests the Appellant disputes this. This condition must be complied with, and four weeks is an adequate time for this to be done.

Fences and hedges between caravans

6. The Conditions require that any hedges or fences between caravans should be a maximum of one metre high. The photographs show that the height limitation has been clearly exceeded. The Respondent lists 15 boundary separation spaces which exceeded one metre on 12 July 2021. The Appellant contends that any that are higher than one metre are the responsibility of the tenants. Although the requirement of height limitation is repeated in the Park Rules (number 3) that rule does not clearly place the responsibility for maintenance of boundary hedges on the residents. Even if it were the case that individual agreements and the Park rules placed responsibility for such maintenance on the residents (but which one is liable in a boundary situation?) as between park owner and resident on the residents, it remains the responsibility of the Appellant as site owner to the Council to ensure that the condition on the licence is fulfilled. This condition must therefore be complied with, and six weeks is an adequate time for this to be done.

Road maintenance and potholes

7. The Conditions require roads to be maintained in good condition. The Appellant did repair one pothole identified in the Compliance notice but on 12 July 2021 there were still in the opinion of the Respondent five potholes in three distinct areas that need attention. The Appellant contends that they are not potholes but worn tarmac. The Tribunal considers that however they are described, the photographs show that these defects are significant and that as a result the road is not in a good condition. This condition must be complied with, and six weeks is an adequate time for this to be done.

Footpaths and pavements

8. The Conditions require that every caravan be connected to the road by a footpath with a hard surface maintained in a good condition. The photographs supplied support the Respondent's contention that there are cracks in the some of the surfaces giving rise to tripping hazards. The photographs also suggest that in other areas the cracking is extensive and remedial action is required to maintain the footpaths in a good condition. The Appellant states that work 'Will be scheduled over the summer' but this had not been commenced on 12 July. This condition must be complied with, and six weeks is an adequate time for this to be done.

Maintenance of common areas including grass vegetation and trees

9. The Compliance Notice lists the Respondent's concerns on a variety of issues covered by this condition which requires every part of the Site to which the public has access be kept in a clean and tidy condition.

1. *Trees.* The Conditions require that these must be maintained. Photographs support the Respondent's contention that several large trees overhand

- properties. The Appellant contends work is done annually in the autumn but provided no evidence when this was last undertaken and concedes no work was done in autumn of 2020. The Tribunal agrees that overhanging branches present both a risk and a nuisance. Compliance with this condition must include the cutting back of branches of large trees where they overhang caravans. This condition must be complied with, and twelve weeks is an adequate time for this to be done.
2. *Maintenance of outbuildings.* There is a building that was a former shop within the common areas. The photographs show it (and the area around it) is in a dilapidated condition. If not demolished, it needs to be maintained properly. This condition must be complied with, and twelve weeks is an adequate time for this to be done.
 3. *Maintenance of garages.* There is a row of prefabricated garages within the common areas. They are in a state of disrepair. It seems the doors do not close properly. The side walls are no longer vertical. The Compliance Notice contends that the garages need removal or fencing off to prevent access or harm. The Tribunal agrees that the garages are in a state of disrepair but that the Applicant should have the opportunity to effect repairs to restore them to use, which may well be possible. This condition must be complied with to that extent, and twelve weeks is an adequate time for this to be done. The Tribunal does not consider that the garages need to be fenced off, provided adequate repairs can be completed within the twelve-week period.
 4. *Removal of waste from around the Site.* Cuttings, litter, and waste must be removed from the immediate surrounds of a pitch, and grass and vegetation cut and removed at frequent and regular intervals. The Compliance Notice requires a general tidying of the Site and removal of waste dumped in areas to which the public have access. The Appellant contends that these areas are where redundant or disused materials are stored and are 'out-of-sight' and material removed every 2-4 weeks. The Tribunal agrees with the Respondent that, since the public have access to these 'out-of-sight' areas, the condition is not being complied with. This condition must be complied with, and twelve weeks is an adequate time for this to be done. The Appellant might wish to explore the possibility of designating a plot of land, properly fenced off and secure, as an area for storage which is not thereafter part of the Site.
 5. *Parking of a JCB.* The photographic evidence showed a large JCB parked on a vacant piece of hard standing. While the Appellant said it was for use in moving caravans, it was also conceded it had not been used for four years. The Tribunal finds it surprising that such a vehicle would be stored on a park home site especially since homeowners cannot park disused or unroadworthy vehicles under the Park Rules. The presence of this vehicle is, where it is now parked, in breach of the Conditions and its presence on the Site possibly contrary to the Park Rules. The requirement for the JCB to be moved must be complied with, and twelve weeks is (more than) an adequate time for this to be done.
 6. *Removal of empty caravans.* There are a surprising number of empty caravans on the Site. The Appellant admits to fourteen, nine of which have had prohibition or abatement notices served in respect of their condition. The

Compliance Notice requires the removal of empty caravans that are beyond repair. The Appellant contends none are scheduled to be scrapped. If this is the case, the homes in respect of which prohibition notices have been served should be repaired and prepared for use. If this is not done, this condition must be complied with, and twelve weeks is an adequate time for decisions to be made. The Tribunal notes that the Compliance Notice notes that more time may be allowed so long as the Respondent is satisfied that action is being taken either to repair or remove such units. The Compliance notice also raises concerns about the use of vacant caravans for storage. The Appellant admits that three vans are being used for items such as heating appliances and new carpets. The Tribunal agrees that no home should be used for storing waste, but storage of replacement materials is not an obvious breach of the Conditions, nor does the Compliance Notice so allege.

Electrical installations

10. The Conditions require that the electrical installations be inspected for adequacy and safety and the certificate be displayed on site. The Compliance Notice requires an inspection to be done and updated safety certificates supplied. The Appellant contends that no such certificate is required. The Respondent and the Tribunal disagree with the Appellant. The Respondent commissioned a report on 19 March 2021. Their report disclosed problems with the main fuse switch, part of the Site's electrical installation. This condition must be complied with, and as soon as possible, and four weeks is an adequate time for this to be done.

Drainage and sanitation

11. The Conditions require satisfactory drainage and sanitation provision and compliance with all current legislation. The Compliance Notice requires work to remedy defects to drain covers and sewer lids and repairs to deal with faulty sewers. The Appellant contends that either the covers are adequate, or that the work is the responsibility of water and drainage authorities. The photographs clearly show that remedial work is required, and existing provision is inadequate and insecure with considerable risk of foul smell and the presence of rats or vermin. This condition must be complied with, but six weeks is an appropriate period for this to be done, rather than four as in the Compliance Notice.

Display of statutory notices

12. The Conditions require the prominent display of all statutory notices relating to electrical inspection, public liability insurance, any flood warning system and fire risk assessment. Mr. Neil Coles, at pages 6-7 of his witness statement, sets out the position and the failings in some detail after his site visit 12 July 2021. This condition must be complied with, and four weeks is an adequate time for this to be done and all the shortcomings identified by Mr. Coles to be put right.

Fire safety

13. The Conditions require a fire risk assessment and evidence of regular testing of alarms. The Compliance Notice says that these have not been received. The Appellant

says that there is a fire risk assessment. If not already supplied to the Respondent, the requirement of the Compliance notice must be met.

Flooding

14. The Conditions require that a site owner must establish whether a site is at risk of flooding. The Appellant accepts that there is a risk of flooding in the lower part of the site but downplays the risk. However, the Respondent has supplied evidence that part of the Site is within Flood Zone 3 and part in Flood Zone 2 and consequently action is required on the Appellant's part to comply with emergency planning for floods and it must comply with the Compliance Notice and produce a flood plan for the Site.

Determination

15. The appeal against the compliance notice is therefore dismissed and under section 9G(5)(a) of the Caravan Sites and Control of Development Act 1960, the Compliance Notice dated 29 March 2021 is confirmed, subject only to the comments made about the periods for compliance in one or two instances.

Costs

16. The Respondent made an application for a costs order but did not give details of the costs it had incurred. The Tribunal wishes to receive submissions on whether a costs order against the Applicant is appropriate in the circumstances of this case.

17. The application for a costs order made by the Respondent will be determined without a hearing after submissions by both parties. The Respondent must make its submission within 21 days of receipt of this determination, setting out the basis for a costs order being made by the Tribunal and indicating the amount of costs that are sought. The Appellant may respond with any submissions it wishes to make on the issue of costs within 21 days of receipt of the submission by the Respondent.

18. The Tribunal will make its decision on costs without a hearing on the submissions made.

Right of Appeal

19. 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 - rpssouthern@justice.gov.uk .

20. 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.

21. 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.

22. 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 that the party who is making the application for permission to appeal is seeking.