



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

**Case Reference** : **BIR/17UB/PHW/2019/0001**

**Property** : **Haytop Country Park, Alderwasley  
Park, Whatstandwell, Derbyshire DE4  
5HP**

**Applicant** : **Haytop Country Park Ltd**

**Representative** : **Mr Richard Harwood QC**

**Respondent** : **Amber Valley Borough Council**

**Representative** : **Mr Richard Kimblin QC**

**Type of Application** : **Application under Regulation 6 of the  
Mobile Homes (Site Licensing)  
Regulations 2014 with regard to the  
local authority's refusal to issue a site  
licence.**

**Tribunal Member** : **Judge C Goodall**

**Date and venue of  
Hearing** : **25 April 2022 by Video Hearing**

**Date of Decision** : **26 April 2022**

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**DECISION**

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## Background

1. This application concerns an appeal against the refusal by Amber Valley Borough Council (“the Respondent”) to grant a licence under section 3 of the Caravan Sites and Control of Development Act 1960 (“the 1960 Act”) to Haytop Country Park Limited (“the Applicant”) in relation to an application for a licence for 30 permanent residential pitches on which modern “static” caravans were to be placed on land near Whatstandwell in Derbyshire (“the Site”). A site licence was refused (inter alia) on the basis that there was no planning consent for that use.
2. The Tribunal (consisting of Judge Goodall and Mrs A Rawlence FRICS) determined the appeal initially on 25 July 2019 in favour of the Applicant and ordered the grant of a site licence. The decision did not specify the type or number of caravans to be included in the licence. The Respondent appealed.
3. On 3 March 2020, the Upper Tribunal set aside the decision dated 25 July 2019 and remitted the case back to the Tribunal. In the Upper Tribunal, Judge Cooke identified the issue in the appeal in paragraph 31 as follows:
  31. ... At the heart of the appeal is the complaint that the FTT should not have required the grant of a licence to the respondent where what he wants to do either is or may be outside the terms of the current planning permission.
4. The decision to allow the appeal and the basis for that decision are summarised in paragraphs 53 and 54 of the Upper Tribunal decision as follows:
  53. The effect of the FTT’s decision is that the local authority has a choice. It must grant a licence, and therefore must do so either subject to conditions (as to number and type of caravan) that permit the current use of the site, which the appellant regards as illegal, or subject to conditions requiring compliance with the 1952 planning permission, which would require the removal of all the existing park homes and is not what the respondent wants.
  54. The appellant reasonably regards both those options as unacceptable, and I take the view that it was irrational to make a decision that placed a public authority in such an impossible position. ...
5. Following the Upper Tribunal decision, the Tribunal stayed the remitted application whilst the planning issues were determined.
6. On 20 August 2021, a planning inspector issued a decision on an application for a certificate of lawful development and the Applicant’s appeal against two enforcement notices in relation to the Site. The Certificate of Lawful Development allows:

“Proposed siting of 30 static caravans for permanent residential occupation and 30 static caravans for 12 month holiday occupation.”

7. The stay was lifted on 8 October 2021.
8. Following case management conferences on 15 December 2021 and 11 February 2022, the remitted application was listed for hearing on 25 April 2022. Regional Judge Jackson directed on 11 February 2022 that:

“The sole issue for determination is whether the Tribunal can order the Local Authority to issue a site licence under Regulation 6(3)(b) of the 2014 Regulations if to do so would contravene the requirement for a fit and proper person under the 2020 Regulations.”

9. Due to the retirement of Mrs Rawlence, the determination was to be made by Judge Goodall alone. Neither party objected.
10. On 21 April 2022, the Respondent issued a site licence of its own volition to Haytop Country Park Ltd in relation to the Site.
11. On 20 April 2022, the Respondent wrote to the Applicant to say that it would issue a determination that the Applicant’s proposed manager meets the fit and proper person test, though as at the date of the hearing that determination had not yet been issued.
12. This decision is the final decision on the remitted application for a site licence.

### **The Hearing**

13. As is apparent from the facts recited in the preceding section, by the time of the hearing, the Respondent’s resistance to the issue of a site licence had fallen away.
14. Mr Harwood nevertheless requested that the Tribunal make a formal order that a site licence be issued, as there was no legal basis upon which the Respondent could compromise the application of its own volition by simply issuing a site licence; having refused to issue a licence on the original application, a licence required a determination from the Tribunal to have a legal foundation. He requested orders in the terms below.
15. Mr Kimblin confirmed that he did not object to orders in the terms requested.
16. The second issue considered at the hearing related to costs. Mr Harwood said that his clients were contemplating an application for costs under Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. He requested directions setting a timetable for that application. However, on request as to whether he was making or had made a Rule 13 application, he said that the application would follow.

17. Neither counsel wished to ask the Tribunal to make a determination on any matters that might arise in any costs application, at the hearing.

### **Decision**

18. It is too early for the Tribunal to make directions concerning a costs application as one has not yet been made. Rule 13 sets out when and how an application can be made, which no doubt the Applicant (or indeed the Respondent if so advised) will follow.
19. The Tribunal orders:
  - a. The appeal of the Applicant is allowed;
  - b. The Respondent be directed to issue a caravan site licence to the Applicant;
  - c. The site licence produced by the Respondent on 21<sup>st</sup> April 2022 addressed to the Applicant shall stand as the site licence directed to be issued pursuant to paragraph 19b above;
  - d. For the purposes of an appeal under section 7 of the Caravan Sites and Control of Development Act 1960 in respect of conditions attached to the site licence, the date on which the licence was issued shall be the date of this Order.

### **Appeal**

20. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall  
First-tier Tribunal (Property Chamber)