



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

- Case Reference** : CHI/45UC/PHR/2021/0002/0003/0004/0005/006
- Property** : The Willows Park, Ford Road,
Ford, Arundel, West Sussex, BN18 0BU
The Marigolds Caravan Park, Shripney
Road, Bognor Regis, West Sussex, PO22 9NZ
Aldingbourne Park, Hook Lane, Aldingbourne,
Chichester, West Sussex, PO20 3YR
Orchard Park, Worthing Road Rustington
Littlehampton, BN16 3PS
Beechfield Park, Hook Lane, Aldingbourne
Chichester PO20 3XX
- Applicant** : The Willows General Management Limited
The Marigolds Management Limited
Aldingbourne Park Management Limited
Rustington Management Limited
The Beaches Management Limited
- Representative** : Jon Payne, LSL Solicitors
- Respondent** : Arun District Council
- Representative** : Philip Kolvin QC
- Type of Application** : Appeal against a Notice of Final Refusal Decision
under The Mobile Homes (Requirement for Manager
of Site to be Fit and Proper Person) (England)
Regulations 2020
- Tribunal** : Judge Tildesley OBE
Judge S McGrath
Mr W Gater FRICS
- Date and Venue of Hearing** : Havant Justice Centre
Hybrid
9 May 2022

Date of Decision : 10 June 2022

DECISION

Summary of the Decision

1. The Tribunal is satisfied on its findings that the decisions of the Council to refuse the Applicants' applications to be included in the Register of Fit and Proper Persons were not wrong, and in fact they were right.
2. The Tribunal, therefore, dismisses the Appeals of The Willows General Management Limited, The Marigolds Management Limited, Aldingbourne Park Management Limited, Rustington Management Limited and The Beaches Management Limited and confirms the decisions of Arun District Council dated 1 November 2021 rejecting their applications to be included in the Register of Fit and Proper Persons to manage the specified relevant protected site in accordance with paragraph 9 of schedule 4 of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

The Appeal

3. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 ("2020 Regulations") came into force on 1 July 2021. The 2020 Regulations prohibit the use of land in England as a relevant protected site (a caravan site on which year-round residential occupation is allowed) unless the relevant local authority is satisfied that the owner or manager of the site is a fit and proper person to manage it. An owner of a site that does not meet the fit and proper person requirement commits an offence.
4. This case concerns the Appeals by the holders of the site licences for five mobile home parks in West Sussex against the decisions of Arun District Council ("the Council") dated 1 November 2021 rejecting their applications to be included in the Register of Fit and Proper Persons. The Tribunal received the Appeals on 22 November 2021 which was within the required time limit of 28 days.
5. The parties agreed that the five Appeals should be heard together. The evidence for each Appeal was the same except for the name of the Applicant and the address of the mobile home park. The Appeals were heard on 9 March 2022. Mr Jon Payne of LSL Solicitors represented the Applicants. Mr David Sunderland, Estates Director of Wyldecrest Parks Management Limited, was called as a witness for the Applicants.

Mr Philip Kolvin of Queens Counsel appeared for the Council. Miss Katharine Giddings, the Senior Environmental Health Technical Officer, was called as a witness for the Council. The Applicants had supplied hearing bundles for each Applicant. It was agreed to use the “Marigolds” hearing bundle in the proceedings. Mr Kolvin QC supplied a skeleton and a bundle of authorities. The Applicants’ representative and witness appeared in person. The Council’s representative and witness attended the hearing via the Cloud Video platform.

6. The Applicants contended that the Council had been obdurate and had interpreted too strictly the information requirements in the 2020 Regulations. The Applicants maintained that they had provided sufficient information on their fitness to manage their respective Parks. The Applicants asserted that they had properly run their Parks for a number of years which was the “proof in the pudding” of their fitness to manage. The Applicants urged the Tribunal to adopt a practical approach and asked the Tribunal to allow their appeals and direct the Council to make the necessary entries in the Register of Fit and Proper Persons.
7. The Council argued that what is at issue in this Appeal is the fitness of the five Applicants to manage their respective Parks and not whether the Parks have been properly run in the past. The Council asserted that the Applicants are straw companies sharing the same two directors with no employees no assets and that the information provided by them about their fitness to manage was woeful. The Council submitted that the Applicants had failed to discharge the burden of proving that its decision was wrong. The Council asked the Tribunal to dismiss the Appeals, and confirm its decision.

Background

8. The Applicants are companies each of which hold the site licence granted under section 3 of the Caravan Sites and Control of Development Act 1960 (1960 Act) for their respective mobile home park located in the area of Arun District Council in the county of West Sussex. The five companies have the same two directors, Christopher John Ball, and Elizabeth Best, with Elizabeth Best identified as the person who has significant control of each of the five companies. The filed accounts for the Companies showed that they had nil assets and no employees.
9. On 29 June 2021 Mr Sunderland as the appointed representative of the five Applicants applied to Arun District Council, the Respondent, for each Applicant to be approved as a fit and proper person to manage its respective Park. Mr Sunderland is not a director, officer or employee of the five Applicants.
10. Mr Sunderland had devised the form for the application to the Council which was termed “Questionnaire Fit and Proper Person”. The same form was used for a Company and an Individual. In respect of each

Applicant Mr Sunderland submitted a Questionnaire for the Company and Questionnaires for five individuals. The information contained in the Questionnaires including the names of the five individuals involved in the management of the Park were identical for all five Applicants except the name of the company and the addresses of the five Parks.

11. The information contained in the Questionnaires for the respective Applicants contained the name of the Company, its address, the name and address of the site. Each Applicant confirmed that it was the occupier of the site within the meaning of section 1 of the 1960 Act and that its evidence of legal estate or equitable interest in the site was “the holder of the site licence”. The Questionnaire gave the name of the other person having a legal estate or interest in the site which was “Best Holdings (UK) Limited. The second page of the Questionnaire contained a series of questions regarding the management of the site which gave Y/N as the answer. The form indicated a “Y” to these questions. The second set of questions related to “Character” and a “N” was signified as an answer. The declaration that “the information given in the form was correct” carried a signature of the initials of the Company concerned.
12. A Questionnaire was also completed for five individuals who would be involved in the management of each respective Park. A criminal record certificate (CRC) for each individual accompanied the completed questionnaire. The five individuals were named as Alfred William Best, who described himself as “Chairman”, and entered “not appropriate” as to whom he reported; Darren Busby, who described himself as “Sales Director” reporting to Waseem Hanif (Managing Director); Craig Johnson who described himself as “Customer Services Manager” reporting to Waseem Hanif (Managing Director), Shirley Senior (Kim Senior) who described herself as Senior Sales Executive reporting to Darren Busby, Craig Johnson, Waseem Hanif and Alfie Best; and Waseem Hanif, who described himself as “Managing Director”, and entered “not appropriate” as to whom he reported. The five individuals indicated “Y” to the two questions on management and “N” to the questions on character which were supported by a clean CRC for each of them. None of the five individuals were directors, officers, or employees of the five Applicants, and none of them reported to the directors of the respective companies.
13. Mr Sunderland did not include a fee with the Applications.
14. On 1 July 2021 the Council published on its website: Determination Policy for the Fit and Proper Person Test, and its Fee Policy with a schedule of Fees. The Determination Policy required an Applicant to have a robust management plan which addressed the pitch fee payment, proximity of the manager to the site, manager’s contact details including out of hours, the complaints procedure, maintenance, staffing and refuse/recycling removal. The Determination Policy also stated that the Council would consider whether the Applicant had sufficient funds (or has access to sufficient funds) to manage the site

and comply with licence obligations, and that evidence of these funds would be readily available. The Fee Policy stated that it was imperative that the fee was included with the application and that failing to include it might mean that the site owner was in breach of the 2020 Regulations.

15. On 26 August 2021 Miss Giddings of the Council requested the Applicants to supply information about the appropriate person signing the form and the list of relevant persons for inclusion in the register; to provide details relating to the ability to secure the proper management of the site, details of the relevant person's level of competences to manage the site, and details of the management structures and funding; and to provide evidence of the Applicant's legal estate or equitable interest in the site. Miss Giddings also requested payment of the correct fee of £643 per application¹.
16. On 1 September 2021 Mr Sunderland responded by reminding the Council that all the Applicants were site licence holders by virtue of a lease, and in so doing the Council must have accepted that they held an estate or interest in the land. Mr Sunderland stated that the Applicants were associated with a Group which operated more than 80 Mobile Home Parks nationally for a period in excess of 20 years. The Group employed over 60 staff at head office, area managers and staff both on site and on the road specialising in sales, marketing, maintenance, accounts, customer services, estates and legal which were also ISO 9002 accredited. Mr Sunderland said that ownership of the Parks had been in "our control" for about four years and that funding came from four main sources of income: pitch fees, income from new home sales, income from resale commissions and other sundry income. Mr Sunderland asserted that no fee was payable because the Council had not published its fee policy by the time the Applications were submitted.
17. On 3 September 2021 Miss Giddings on behalf of the Council made a formal demand of the payment of the fee of £643.50 within seven days.
18. On 14 September 2021 Miss Giddings issued a preliminary decision letter pursuant to paragraph 3 of schedule 4 of the 2020 Regulations stating that the Applications submitted did not meet the requirements of the Fit and Proper Test and that attaching conditions would not be appropriate. Miss Giddings gave six reasons for the decision. The Applicants were given 28 days in which to make representations from the date the letter was served.
19. On 16 September 2021 Mr Sunderland responded to the preliminary decision letter. Mr Sunderland did not materially add to his response of 1 September 2021.

¹ There appears to be a typographical error with the correct fee which should be £643.50.

20. On 1 November 2021 Miss Giddens gave notice of the final decision rejecting the five applications for fit and proper status in accordance with subparagraph 5(2) of schedule 4 the 2020 Regulations. The reasons given for the decision were:
- a) The Application fee had not been paid
 - b) The Company that holds the licence had not appointed a site manager
 - c) Evidence of Applicant's legal estate or equitable interest in the land had not been provided.
 - d) Sufficient detail relating to the ability to secure the proper management of the site had not been provided.
 - e) Sufficient detail relating to the person's level of competence to manage the site had not been provided.
 - f) Sufficient details regarding the management structure and funding arrangements or proposed management structure and funding arrangements had not been provided.

Legislative Context

21. The Tribunal refers to the Explanatory Memorandum to the 2020 Regulation. The Memorandum explains that section 8 of the Mobile Homes Act 2013 (2013 Act) amended the 1960 Act by inserting sections 12A to 12E which enabled the Secretary of State to make Regulations requiring the occupier of a relevant protected mobile home site or a person nominated by the occupier to be approved by the local authority as a fit and proper person to manage the site.
22. The policy intention behind the inclusion in section 8 of the 2013 Act of enabling powers for imposing the fit and proper person requirement, rather than including such a requirement on the face of the Act, was for it to act as a deterrent to the worst site owners and give the rest of the industry an opportunity to demonstrate that significant improvements had been made.
23. During the passage of the Mobile Homes Bill, the Government gave a commitment to carry out a review of the effectiveness of the 2013 Act, at least three years after implementation of the site licencing provisions, to inform a decision on whether to exercise the powers inserted by section 8 of the 2013 Act. This review was undertaken in 2017, which found evidence of some site owners continuing to disregard the law, harass and financially exploit residents, most of whom are elderly and on low incomes. The Government, therefore, decided to implement the fit and proper person requirement in order to give support to good site owners and to raise awareness among residents about rights and responsibilities in the sector.

24. As a result section 8 of the 2013 Act came into force on the 15 June 2020 which enabled the making of the 2020 Regulations under sections 12A to 12E of the 1960 Act. The 2020 Regulations were brought into force in two stages: on 1 July 2021 the Regulations dealing with the Application Processes, and on 1 October 2021 the Regulations creating the Offences and other enforcement options. This staggered implementation enabled Local Authorities to prepare for the introduction of the fit and proper requirement up to 1 July 2021 and gave a three month window from 1 July 2021 to 1 October 2021 for occupiers of sites to make application.
25. Turning now to the 2020 Regulations, regulation 4 provides that “an occupier of land may not cause or permit any part of the land to be used as a relevant protected site other than a non-commercial family-occupied site unless the relevant local authority—
 - (a) are satisfied that the occupier is a fit and proper person to manage the site;
 - (b) are satisfied that a person appointed by the occupier to manage the site is a fit and proper person to do so; or
 - (c) have, with the occupier's consent, appointed a person to manage the site”.
26. The 2020 Regulations adopt the definition of an occupier of land in section 1(3) of the 1960 which is in effect an occupier operating land as a caravan site who is subject to the requirement to obtain a site licence. As such the 2020 Regulations impose the additional requirement of fit and proper persons on holders of site licences in order for them to operate lawfully a relevant protected site. Section 5A of the 1960 Act defines relevant protected site as a caravan site that requires a site licence where there are no restrictions in the planning permission against occupying the caravans as only or main residences.
27. Regulation 6(1) provides that an application for inclusion in the Register of Fit and Proper Persons can only be made by holders of a site licence either for themselves or for the person they have appointed to manage the site. Under regulation 6(3) the application must provide the information specified in schedule 2 which includes information about the individual completing the form on behalf of a company, and evidence of the Applicant's legal estate or interest in the land. Paragraphs 10-14, 15(b) of schedule 2, and paragraph 4 of schedule 3 require companies to give information about various persons including responsible persons who are involved in the management of the site.
28. Under regulation 7(1)(a) when making a fit and proper assessment the local authority must have regard to the matters specified in paragraphs 2 to 4 of schedule 3 and may have regard to other relevant matters. Once it has made its assessment the local authority may (a) grant the application unconditionally; (b) grant the application subject to conditions; or (c) reject the application (Regulation 6(2)).

29. Under schedule 4 local authorities are expected to make a decision on an application and notify the Applicant as soon as reasonably practicable. They may, at this stage, either decide to grant the application unconditionally and include the relevant person on the register for 5 years, or, if they anticipate making another decision, serve a preliminary decision notice on the applicant. Paragraph 3 of schedule 4, sets out the information that local authorities must include in the preliminary decision notice, including the reasons for their decision and about the right to make representations. After receipt of a preliminary decision notice the site owner has 28 days to make written representations to the local authority if they do not agree (paragraph 4(1)). The local authority must take account of any representations before making its final decision and issuing the final decision notice which it must do as soon as reasonably practicable after the conclusion of the 28 day period (paragraph 4(2)).

The Powers on Appeal

30. Paragraph 9 of schedule 4 gives a person on whom a final decision is issued a right of Appeal to the Tribunal against a decision to reject the Application. There are no specific provisions in the 2020 about how the Tribunal should conduct the Appeal and its powers on Appeal.
31. The Tribunal considers that on Appeal it has the powers to uphold, vary or quash the decision of the local authority, and, if necessary, to direct the local authority to enter the person in the Register of Fit and Proper Persons.
32. Mr Kolvin QC drew the Tribunal's attention to various authorities on how the Tribunal should approach an Appeal against decisions of local authorities exercising regulatory functions. Mr Payne put forward no contrary submissions.
33. Mr Kolvin QC relied principally on the decision of the Court of Appeal in *The Queen on the Application of Hope and Glory Public House Limited v The Lord Mayor and the Citizens of the City of Westminster* [2011] EWCA Civ 31 which confirmed the decision of Burton J in the first instance [2009] EWHC 1996 (Admin) ("*Hope and Glory decisions*").
34. The Tribunal adopts the following principles identified in the *Hope and Glory decisions* in respect of its approach to the Appeal:
 - a) The hearing of the Appeal is a complete rehearing of the evidence de novo, not a review of the decision made by the local authority [36 of Burton J decision].
 - b) The Tribunal should pay careful attention to the reasons given by the local authority for arriving at the decision under appeal, bearing in mind that Parliament has chosen to place

responsibility for making such decisions on local authorities. The weight which the Tribunal should ultimately attach to those reasons must be a matter for its judgment in all the circumstances, taking into account the fullness and clarity of the reasons, the nature of the issues and the evidence given on the Appeal [45 of Court of Appeal decision]

- c) The Tribunal should not reverse the decision of the Local Authority unless it is satisfied that the decision is wrong on the evidence before it. It is not sufficient to allow the Appeal on the ground the Tribunal is not satisfied that the decision is right [43-45 of Burton J decision approved by Court of Appeal at 46].
- d) The burden is upon the Applicant to demonstrate on the balance of probabilities that the decision of the local authority is wrong [44 of Burton J decision; 48 of Court of Appeal decision].
- e) Local Authorities are entitled to adopt policies as to the determination of the licensing applications. In deciding this application the Tribunal stands in the shoes of the local authority for the purposes of applying its policy (*R (Westminster City Council) v Middlesex Crown Court* [2002] EWHC 1104 (Admin) at [19] and [21]).

Consideration

- 35. The issue in this Appeal is whether the Applicants are fit and proper persons to manage their respective sites. The question for determination by the Tribunal is whether on the evidence the decisions by the Council to reject the Applicants' applications for inclusion in the Register of Fit and Proper Persons are wrong. The onus is on the Applicants to demonstrate on the balance of probabilities that they are fit and proper persons to manage their respective sites.
- 36. Fit and proper is not a technical term. In *R v Warrington Crown Court, ex parte Chief Constable of Cheshire Constabulary* [2002] 1 WLR 1954 at [9] Lord Bingham said:

“Secondly, some consideration must be given to the expression "fit and proper" person. This is a portmanteau expression, widely used in many contexts. It does not lend itself to semantic exegesis or paraphrase and takes its colour from the context in which it is used. It is an expression directed to ensuring that an applicant for permission to do something has the personal qualities and professional qualifications reasonably required of a person doing whatever it is that the applicant seeks permission to do”.

37. In this Appeal the 2020 Regulations provide the context and give direction for the determination on whether a person is a fit and proper person to manage a relevant protected site.
38. Regulation 7 requires that in making a fit and proper person assessment, local authorities:
- a) Must have regard to the matters specified in paragraphs 2 to 4 of schedule 3.
 - b) May have regard to the conduct of associated or formerly associated with the relevant person if it appears that the person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the relevant protected site.
 - c) May have regard to any evidence as to any other relevant matters.
39. Paragraph 2 of schedule 3 is at the heart of what is required of a fit and proper person to manage a relevant protected site. Under sub paragraph 2(1) a fit and proper person is a person able to secure the proper management of the site. Sub paragraph 2(2)(a) defines proper management of the site as including, but not limited to (i) securing compliance with the site licence; and (ii) the long term maintenance of the site. Sub paragraph 2(2)(b) sets out what the local authority must (among other things) have regard to when considering whether the person is able to secure the proper management of the site, namely (i) whether the relevant person has a sufficient level of competence to manage the site; and (ii) the management structure and funding arrangements for the site.
40. Paragraph 3 of schedule 3 deals with the character of the person in terms of specific previous convictions, contraventions of the Equality Act, instances of harassment, disqualification from acting as a company director and personal insolvency. Paragraph 3 carries the implication that a person of dubious character would not be regarded as a fit and proper person.
41. The Tribunal turns next to the evidence presented in this case. The Applicants' evidence comprised a statement of case signed as true by LSL solicitors on behalf of the Applicants, an unsigned statement of reply, a witness statement of Mr Sunderland of Wyldecrest Parks Management Limited dated 14 February 2022 which dealt with the question of fees, and the oral testimony of Mr Sunderland at the hearing. Mr Sunderland confirmed that he was not a director nor an employee of the five Applicants. Mr Sunderland also stated that he was not involved in the day to day management of the Applicants' sites. At the hearing Mr Sunderland could not recall the name of the Applicants' second director (Mr Ball). The Applicants' two directors took no part in the proceedings, and did not provide witness statements. The directors

did not sign the declaration of truth for the applications to the Council for the inclusion of the Applicants in the Register of Fit and Proper Persons. The Council's evidence consisted of a Response to the Statement of Case which was signed as true by Miss Giddings, and Miss Giddings' witness statement dated 11 March 2022. Miss Giddings was the authorised officer of the Council to make decisions on the inclusion of persons in the Register of Fit and Proper Persons.

42. The Tribunal finds the following facts in respect of the Applicants:
- a) The Applicants hold the site licences under the 1960 Act for their respective protected site, and are occupiers of land for the purposes of the 2020 Regulations.
 - b) The sites which are the subject of these Appeals met the definition of relevant protected sites in the 2020 Regulations and were not "non-commercial family-occupied sites".
 - c) The Applicants were five separate companies which have the same two directors, Elizabeth Best, and Christopher John Ball. Elizabeth Best was the person with significant control of the five companies. The Applicants adduced no evidence that in terms of ownership they were part of a wider group corporate structure.
 - d) The Applicants have no employees and no assets.
 - e) The Applicants adduced no evidence of the day-to-day involvement of the directors in the running and management of the respective sites, no evidence of income received from their operations, and no evidence of agreements with third parties for the provision of services.
 - f) The Applicants in their respective applications named five persons who would be involved in the management of their sites. Those persons Mr Best, Mr Hanif, Mr Busby, Mr Johnson, and Ms Senior did not report to the Applicant's directors. The Tribunal understands from the evidence that Mr Best was the Chair of UK Property Holdings Limited and that Mr Hanif was the Managing Director of UK Property Holdings Limited. Mr Sunderland gave no evidence of how Mr Best and Mr Hanif holding such senior positions in another company would get involved in the management of the respective sites operated by the Applicants. Mr Sunderland explained that Mr Busby was not a sales director as declared on the application form but an area manager employed by UK Property Holdings Ltd. Mr Sunderland stated that Mr Johnson would be the contact for the residents at the sites, however, Mr Sunderland was uncertain at the hearing on whether Mr Johnson was an employee or a contractor of UK Property Holdings Ltd. Mr Sunderland acknowledged that Ms

Senior no longer had any involvement with the Applicants' sites. The Applicants' evidence of the abilities of these five persons to secure the proper management of the sites consisted of a "Y" to two questions about their competence and ability in respect of management. The Tribunal concludes on the evidence presented that it is not satisfied about how the five named persons would contribute to the management of the respective sites and whether they have the necessary competence to do the job expected of them by the Applicants' directors.

g) Mr Sunderland stated that the Applicants were associated with a Group which operated more than 80 Mobile Home Parks nationally for a period in excess of 20 years. The Group employed over 60 staff at head office, area managers and staff both on site and on the road specialising in sales, marketing, maintenance, accounts, customer services, estates and legal which were also ISO 9002 accredited. Mr Sunderland said that ownership of the five Parks had been in "our control" for about four years and that funding came from four main sources of income: pitch fees, income from new home sales, income from resale commissions and other sundry income. Mr Sunderland did not explain how the Applicants obtained the services of "the Group", and how they accessed the necessary funding from the various income streams to secure the proper management of their respective sites. The Tribunal finds that Mr Sunderland's evidence demonstrated that the Applicants have no control over the management of their sites, and that effectively "the Group" ran the sites.

43. The 2020 Regulations prescribe certain matters that must be complied with by an Applicant when making an application to be included in the Register of Fit and Proper Person. Regulation 6(3) states that a registration application must include the matters listed in schedule 2. Regulation 10 states that a registration application must be accompanied by such fee as the local authority may fix. The Tribunal finds the following facts in respect of the Applicants' compliance with the 2020 Regulations:

a) The Applicants' application forms were not accompanied by the requisite fee. Mr Sunderland contended that no fee was payable because the Council had not published a fee policy by the time he submitted the applications on behalf of the Applicants on 29 June 2021. The Tribunal does not agree with Mr Sunderland's interpretation of when the Regulations came into force for making applications for inserting persons in the Register of Fit and Proper Persons. The Tribunal refers to regulation 1(2) which states that regulation 6 did not come into force until 1 July 2021. The Explanatory Memorandum to the 2020 Regulations makes it clear that applications for registration could not be made until 1 July 2021, and that local

authorities were expected to get in place the necessary policies by the implementation date of the 1 July 2021. The Tribunal finds that (1) on 17 June 2021, the Council's Corporate Policy and Performance Committee fixed the fee for an application to be included in the Register of Fit and Proper Persons at £643.50; and (2) on 30 June 2021, the Respondent's website was updated with particulars of the relevant fees. The Tribunal is satisfied that the Applicants were required to provide a fee with their respective applications (regulation 10).

- b) The application forms completed on behalf of the Applicants did not contain the name of the person completing the form and the details of the person's role if any in the management of the site (contrary to paragraph 3 of schedule 2).
- c) The application forms supplied no details of the directors of the Applicants and their role if any in relation to the management of the site (contrary to paragraph 3 of schedule 2).
- d) The Applicants provided with their applications no evidence of their legal estate or equitable interest in the respective sites. The Applicants purported to answer this question by stating: 'holder of site licence'. The Tribunal is satisfied that this did not amount to evidence of the Applicants' legal title. The Applicants have subsequently stated they are the leaseholders of their sites. They have still declined to provide a copy of the lease save the title and signatories page (contrary to paragraph 5 of schedule 2).
- e) The application forms did not identify any person that the Applicants had appointed or intended to appoint to be responsible for the day-to-day management of their sites. The Applicants' representative later asserted that the roles of management were exercised by officers of the company. The application forms, however, did not give details of the Applicants' officers and their respective roles. (contrary to paragraph 12 of schedule 2).
- f) The Applicants sought to rely on the forms filed with the application referring to Mr Best, Mr Hanif, Mr Busby, Mr Johnson, and Ms Senior to identify the persons responsible for the management of the respective sites. The forms did not state that the Applicants had appointed these persons to be involved in the management of the sites. Further the forms did not indicate the relevant officer of the company to whom these persons reported (contrary to paragraph 12 of schedule 2).

- g) The Applicants failed to provide information on how they would secure the proper management of their sites. The form completed by the Applicants simply asserted that they were able to secure proper management of the site and that they had sufficient competence to do so. The Tribunal does not consider “an assertion” of competence and of securing proper management sufficient to meet the requirement of information (contrary to paragraph 16 of schedule 2).
 - h) The application forms did not have a declaration made and signed by the Applicants’ director(s) that the information provided in the application was correct and completed to the best of Applicants’ knowledge and belief (contrary to paragraph 17 of schedule 2).
44. The Tribunal finds the following facts in relation to the Council’s dealings with the Applicants:
- a) On 17 June 2021, the Council’s Corporate Policy and Performance Committee adopted “The Fit and Proper Person Determination Policy and Fees Policy”. The Council published the policies on its website on 30 June 2021.
 - b) The Council’s Fit and Proper Person Determination Policy repeated the requirements in the 2020 Regulations about the information required for applications for Fit and Proper person assessments. The Policy specified its expectations for the evidence that the Council must consider when conducting a fit and proper assessment. The Policy required proposed managers to have sufficient experience or training in site management; the applicant was expected to have a robust management plan; and stipulated that the applicant should have evidence of the funds for the site readily available.
 - c) On 30 June 2021 Miss Giddings on behalf of the Council acknowledged receipt of the email attaching the five applications from the Applicants and referred Mr Sunderland to the Council’s website for more information and to the application form. On 30 June 2021 Mr Sunderland declined to complete the application form on the website on the ground that there was no requirement to complete a statutory or specific form. Mr Sunderland said that the requirement on the Applicants was to provide statutory information in accordance with schedule 2 of the 2020 Regulations which he said had been done.
 - d) On 26 August 2021 Miss Giddings considered the applications from the Applicants insufficient to make a fit and proper assessment, and asked Mr Sunderland as their representative to provide specific information as required by the 2020 Regulations. Mr Sunderland’s response of 1 September 2021

did not give the name of the person who made the declaration of truth on behalf of the Applicants. Further he supplied no evidence of the Applicants' legal title to their respective sites, and answered the questions on the management arrangements for the respective sites by what the "Group" could provide rather than on how the Applicants managed their respective sites. The Applicants' statement in reply referred to the Group as the "Wyldecrest" group.

- e) On 14 September 2021 Miss Giddings issued a Preliminary Decision for each application which complied with paragraph 3 of schedule 4 of the 2020 Regulations. Miss Giddings stated that the applications submitted did not comply with the requirements of the Fit and Proper Person Test and gave six reasons for her conclusion. Miss Giddings informed the Applicants that they had 28 days in which to make written representations.
- f) On 16 September 2021 Mr Sunderland gave the response on behalf of the Applicants. Mr Sunderland denied that the Applicants were required to pay a fee, and stated that there was no requirement for the Applicants to appoint a site manager. Mr Sunderland asserted that the Council must have accepted that the Applicants had a legal interest in the sites by granting the Applicants a site licence. Mr Sunderland said that the Council had not been specific about the information it required about the Applicants' ability to secure the proper management of their sites. Mr Sunderland insisted that the Council had already given consideration to the questions about funding and of the competence of the persons managing the sites when it considered the grant of the site licences to the Applicants.
- g) On 1 November 2021 Miss Giddings on behalf of the Council gave Notice of Final Refusal Decision to the Applicants. The Notice complied with the requirements of paragraph 5 of schedule 4 of the 2020 Regulations.
- h) Miss Giddings' reasons on behalf of the Council for refusing the Applications were compelling and justified by the Council's Determination Policy and the 2020 Regulations. At paragraphs 9 and 10 of her witness statement Miss Giddings said:

"The failure by the Applicant(s) to deal properly with the application has left the Council in a difficult position. Amongst other things the Applicant(s) has no assets or employees. Its officers are not apparently to be involved in the management of the site. The application refers to a number of other personnel of different companies, with job titles that do not signify management of this site. It is not

stated who is responsible for day to day management of the site. The Appellant has stated nothing about the management structure or funding arrangements for the site. It has not provided proper details of its legal or equitable interest in the site”.

Before making a determination on the application, the Council gave the Applicant(s) ample opportunity to rectify these omissions. The Applicant(s) did not, however, provide sufficient information for the Council to satisfy itself in accordance with its own public duty. It appears to have the attitude that it has run the site for many years, the Council was obliged to enter it on the Register of Fit and Proper Persons. If that were a sufficient criterion, one would not need Regulations at all”.

- i) The Applicants argued that Miss Giddings should have made her own enquiries of their legal titles to the respective sites by making HM Land Registry Searches, and of other local authorities which, according to Mr Sunderland, had granted similar Applications for sites in their areas. The Applicants also questioned what sort of information Miss Giddings required from them about securing the proper management of their sites. Miss Giddings’ stated that it was the Applicants’ responsibility to provide the information and that the Determination Policy had set out the Council’s expectations regarding the type of information required. Miss Giddings did not consider decisions made by other local authorities were relevant because each application had to be dealt with on a case by case basis. The Tribunal finds that Miss Giddings had acted in accordance with the Council’s Determination Policy and with the requirements of the 2020 Regulations in arriving at her decision to refuse the Applicants’ applications to be included in the Register of Fit and Proper persons.

Decision

45. The Tribunal is required to determine whether the Applicants are fit and proper persons to manage their respective sites. The Applicants, not the “Wyldecrest” Group, are the holders of the licences for their respective sites.”. The disputed applications for inclusion in the Register of Fit and Proper Persons are made on behalf of the five Applicants not “the Wyldecrest Group”. The question whether “the Wyldecrest Group” is a fit and proper person is not the issue before the Tribunal.
46. The question for the Tribunal is whether the five Applicants named in the applications are fit and proper persons. The question is not whether the respective sites have been properly run in the past by the “Wyldecrest” Group.

47. The Tribunal is obliged to decide the Applicants' fitness on the merits and circumstances of their applications. The fact that local authorities have approved other individual site licence holders that are part of the "Wyldecrest Group" as fit and proper persons has no evidential weight for these five Appeals.
48. The Applicants have the burden by way of evidence to demonstrate on the balance of probabilities that the Council's decisions to refuse their inclusion in the Register of Fit and Proper Person were wrong. The Tribunal concludes from its findings that the Applicants have adduced no evidence in support of their applications. The directors of the Applicants had provided no witness statements and were not called to give evidence at the hearing. The directors did not sign the declarations on their Applications to the Council for inclusion in the Register. The Applicants relied on the evidence of Mr Sunderland who was not a director and not an employee of the Applicants, and not involved in the day to day management of the respective sites. The Applicants have supplied copies of questionnaires on behalf of five individuals who, the Applicants say, are involved in the day to day management of the respective protected sites. The Applicants did not produce witness statements from the five individuals or call them to give evidence. Mr Sunderland signed the questionnaires giving details of the five individuals. The Applicants have had opportunities in their dealings with the Council and their engagement with Tribunal proceedings to support their applications with evidence but have not taken them up. The Tribunal is, therefore, satisfied that the Applicants have failed to discharge the evidential burden to demonstrate that the decisions taken by the Council to refuse their applications for inclusion in the Register of Fit and Proper Persons were wrong.
49. The 2020 Regulations imposed obligations upon the Applicants to provide specified information in their respective applications for inclusion in the Register and for the declaration of truth to be signed by one of their directors. The 2020 Regulations also required the Applicants to pay a fee with their applications. The Tribunal's findings at paragraph 42 above revealed significant non-compliance with the Regulations on the parts of the Applicants. Miss Giddings highlighted the failures to the Applicants in her request for further information dated 26 August 2021, and in her preliminary decision dated 14 September 2021. The Applicants chose not to address the defects in the information identified by Miss Giddings. The Tribunal considers the Applicants' explanations for their non-compliance with the Regulations were argumentative and without merit. The Tribunal found that the Applicants had stated nothing about the management structure or funding arrangements for their respective sites and had not supplied evidence of their legal or equitable interest in them. Given these circumstances the Tribunal determined that Miss Giddings had acted in accordance with the Council's Determination Policy and with the requirements of the 2020 Regulations in arriving at her decision to refuse the Applicants' applications to be included in the Register of Fit and Proper persons.

50. Mr Kolvin QC explained that the purpose of the 2020 Regulations was to supplement the system of licensing caravan sites by requiring holders of site licences to be also fit and proper persons to manage their sites. Miss Giddings stated that it was important that the person managing the site was not only identified but someone passed as fit and proper by the licensing authority. Miss Giddings added that in her experience where residents of mobile homes, who were often retired, of limited means and vulnerable, were not clear with whom they were dealing with because of confusion regarding the identity of the manager or the corporate entity behind the manager this can simply add to their sense of intimidation which can deter from pursuing their rights.
51. In these Appeals the Tribunal found that the Applicants were straw companies. They had no employees and no assets. Further the Applicants adduced no evidence of the day-to-day involvement of the directors in the running and management of the respective sites, no evidence of income received from their operations, and no evidence of agreements with third parties for the provision of services. In short, the Tribunal is satisfied that the Applicants were incapable of meeting the rigorous requirements of the 2020 Regulations to be included in the Register of Fit and Proper Persons to manage their respective sites. The evidence also showed that it was in fact the “Wyldecrest Group” which managed and ran the sites. It is not for the Tribunal to speculate as to the reasons why the “Wyldecrest Group” have straw companies as the holders of the licences for the respective sites but what is clear from the evidence is that such arrangements are not compatible with the Fit and Proper Person regime introduced by the 2020 Regulations.
52. The Tribunal concludes as follows:
 1. The Applicants have failed to discharge the evidential burden to demonstrate that the decisions taken by the Council to refuse their applications for inclusion in the Register of Fit and Proper Persons were wrong.
 2. There was significant non-compliance with the requirements of the 2020 Regulations on the parts of the Applicants.
 3. The Applicants’ explanations for their non-compliance with the 2020 Regulations were argumentative and without merit.
 4. Miss Giddings had acted in accordance with the Council’s Determination Policy and with the requirements of the 2020 Regulations in arriving at her decision to refuse the Applicants’ applications to be included in the Register of Fit and Proper persons.
 5. The Applicants were incapable of meeting the rigorous requirements of the 2020 Regulations to be included in the

Register of Fit and Proper Persons to manage their respective sites.

53. The *Hope and Glory* decisions established the legal principle that a Tribunal should only interfere with the decision of a regulatory body which Parliament had entrusted to make such decisions if it is satisfied that the decision is wrong. In these Appeals, the Tribunal is satisfied on its findings that the decisions of the Council to refuse the Applicants' applications to be included in the Register of Fit and Proper Persons were not wrong, and in fact they were right.
54. The Tribunal, therefore, dismisses the Appeals of The Willows General Management Limited, The Marigolds Management Limited, Aldingbourne Park Management Limited, Rustington Management Limited and The Beaches Management Limited and confirms the decisions of Arun District Council dated 1 November 2021 rejecting their applications to be included in the Register of Fit and Proper Persons to manage the specified relevant protected site in accordance with paragraph 9 of schedule 4 of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making application by email to rpsouthern@justice.gov.uk.
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 time 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