



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

**Case Reference** : **CAM/42UD/PHC/2021/0008**  
**HMCTS** : **Paper**  
**Site** : **Bourne Park, Ipswich, Suffolk IP2 8LU**  
**Park Home Address** : **1, Bourne Park, Ipswich, Suffolk IP2 8LU**  
**Applicants** : **Mr Phil Kersey & Ms Catherine Kersey**  
**Respondents** : **Roger Skinner & Stephen Salter  
t/a Skinner Salter Partnership**  
**Type of Application** : **Application for Review or Permission to  
Appeal**  
**Tribunal** : **Judge JR Morris  
Mr G Smith MRICS, FAAV, REV**  
**Date of Original Decision:** **14<sup>th</sup> July 2022**  
**Date of Application** : **8<sup>th</sup> August 2022**  
**Date of Decision** : **20<sup>th</sup> September 2022**

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**DECISION**

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**Decision of the Tribunal**

1. The Tribunal has decided not to review its Original Decision and refuses permission to appeal to the Upper Tribunal because it is of the opinion that there is no realistic prospect of a successful appeal against its Original Decision.
2. 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 Applicants may make 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 permission to appeal. Where possible, you should send your application for permission to

appeal **by email** to [Lands@justice.gov.uk](mailto:Lands@justice.gov.uk), as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently.

3. Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).

**Reason for the Decision**

4. The reason for the decision is that the Tribunal had considered and taken into account all of the points now raised by the Applicants, when reaching its original decision.
5. The Tribunal's Original Decision was based on the evidence and submissions before it and the Applicants have not adduced any additional evidence or submitted any new legal arguments in support of the application for review or permission to appeal.
6. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that further application for permission to appeal is made), the Tribunal has set out its comments on the specific points raised by the applicant in the application for permission to appeal, in the Appendix attached.

**Judge J R Morris**

APPENDIX TO THE DECISION  
REFUSING PERMISSION TO APPEAL

For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the Tribunal records below its comments on the grounds of appeal. References in square brackets are to those paragraphs in the main body of the Tribunal's Original Decision (Decision).

**Original Application and Decision**

1. An Application dated 4<sup>th</sup> December 2021 was made by the Applicants for a determination of a question arising under the Mobile Homes Act 1983 or an agreement to which it relates under section 4 of the Mobile Homes Act 1983 as amended, as followings:
  - (1) Whether the site owner must cease charging for parking spaces which are not on the main car park and form part of the 27 spaces which are supposed to be provided for free;
  - (2) Whether the site owner is allowed to charge for any parking on the site;
  - (3) Whether the Site Owner must honour the decision of the site manager to allocate the Applicants the parking space marked 20 on the Site Plan provided.
  
2. In summary, the Applicants submitted that:
  - a) under the Site Licence parking should be free of charge;
  - b) the Respondents should be prohibited from charging for any parking on the Site;
  - c) Mr Brunning was the Site Manager who initially allocated them parking space No. 1 and subsequently allocated them Parking Space No 20.
  
3. In summary, the Respondents submitted that:
  - a) parking in the main car park was free with one space for each Park Home plus 4 visitor spaces in accordance in the Site Licence;
  - b) there was no prohibition in the Site Licence, written agreement or Site Rules which precluded the Respondents charging for additional parking spaces by separate agreement;
  - c) Mr Brunning was not the Site Manager and the previous owner of the Applicant's Park Home had parked in space No. 1
  
4. The Tribunal determined that:
  1. The Respondent Site Owners have met the conditions of the Site Licence in providing 26 Parking Spaces allocated to specific pitches and 4 visitor Parking Spaces in the Main Car Park. In addition, there are two spaces for office staff or contractors and a further 5 spaces identified as Internal Parking.
  2. There is no requirement to provide car parking free of charge nor is there a prohibition against charging for car parking in the Site Licence Conditions, the Written Agreement provided or the Site Rules.
  3. The Respondent Site Owners may charge for parking a vehicle under a separate additional agreement to the Written Agreement, negotiated with any Occupier. Any such separate additional agreement, must not derogate from the rights granted to other Occupiers.

4. Where an Occupier assigns his or her pitch on the sale of a Park Home, the assignee will have the benefit of the same rights that the assignor enjoyed, including any allocated Parking Space which was assigned as well. Even so, the assignee may still negotiate a separate additional agreement with the Site Owner for some benefit, such as parking for a monthly charge.
5. The assignment of Park Home 1 to the Applicants included Parking Space 1 as enjoyed by the assignee.

### **Grounds for Appeal and Tribunal's Response**

5. The Applicants made a number of statements as grounds for review or appeal which have been considered carefully by the Tribunal. The Applicants statements are set out in abbreviated form below and each of which is followed by the Tribunal's Response:

1. ***Applicants:***

The Tribunal had made its Decision before the hearing began and did not consider all the evidence of the Applicants whilst considering all the evidence of the Respondents.

***Tribunal:***

The Tribunal made its Decision based upon the written representations, the inspection and the evidence and submission presented at the hearing by both parties. It did not make its determination until after the hearing. The Tribunal determined the size and number of the parking spaces at the inspection [5] and [80].

2. ***Applicants:***

The Tribunal wrongly interpreted the wording of the site licence and did not take account of the present situation at the Site which is to provide parking free of charge.

***Tribunal:***

The Tribunal found the Site Licence states "Suitably surfaced parking spaces shall be provided to meet the requirements of residents and their visitors. The parking spaces shall be maintained and kept in repair." [9]

The Tribunal found that there were 26 Parking Spaces, one for each Park Home and 4 visitor Parking Spaces in the Main Car Park. [81]

In addition, there were two spaces adjacent the Office and a further 5 spaces beyond the Office. These formed the Internal parking for which there was a charge. [82]

The Tribunal found that taking into account the number of Park Homes and the size of the Site, the provision in the Main Car Park of one parking space for each Park Home plus four visitor spaces met the reasonable requirements of the residents and their visitors. [83]

The Site Licence could not require the Site Owner to provide free parking as this would be contrary to the principles of freedom of contract.

3. ***Applicants:***

The Tribunal's Decision is contrary to the government's policy of 'levelling up' which makes it clear the principle of holding landlords accountable for exploitation and that charging for parking in this instance exploitative.

4. ***Applicants:***

The Tribunal's Decision is contrary to council practice in that on a public road where the only parking is off road, residential parking is always free.

***Tribunal re 3 & 4:***

The Tribunal's Decision is based upon the legislation as applied to the Site Licence, the Written Agreement, the Site Rules and the evidence adduced and submission made by the parties. The Tribunal cannot base its decision upon central or local government policy except as expressed in legislation and as interpreted through case law and the rules of statutory interpretation.

5. ***Applicants:***

The Tribunal Decision is contrary to the decisions of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004.

***Tribunal:***

The Tribunal noted the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 which only stated that, in the absence of evidence to the contrary, the proposed new Park Rule to limit parking to one vehicle per pitch, with the parking of any additional vehicles (subject to availability) being by separate agreement and at an additional cost was not necessary [76] and [77]. The Tribunal Decision does not change that position. It only states that there is no requirement to provide car parking free of charge nor is there a prohibition against charging for car parking in the Site Licence Conditions, the Applicants' Written Agreement provided or the Site Rules [1] and [96]. The Respondent Site Owners may charge for parking a vehicle under a separate additional agreement to the Written Agreement negotiated with any Occupier, in accordance with the principles of freedom of contract; it cannot be part of the pitch fee as per the decision of Judge Edgington in case reference CAM/42UD/PHI/2018/0015 [67] and [71].

6. ***Applicants:***

The Tribunal's Decision does not take account of there being sufficient parking on the Site without having spaces for which there is a charge.

***Tribunal:***

From the Site Map provided, the Tribunal found that each Park Home was allocated a parking space but recognised that there appears to be some flexibility in this arrangement with those not having cars permitting those who have more than one to use their space [72]. The Tribunal's Decision does not alter this arrangement although there is nothing to prevent new Occupiers purchasing their Park Home and being granted their pitch directly from the Respondents entering additional and separate agreements to park their vehicles at a charge provided this does not impinge on the free of charge parking spaces which have been assigned by existing Occupiers. [73] and [74].

7. ***Applicants:***

The Respondents interfered with witnesses.

***Tribunal:***

No evidence was adduced that the Respondents interfered with witnesses.

8. ***Applicants:***

The Tribunal did not address the issue of parking space No.1 being contrary to the Site Rules by obstructing access to pathways and a park home entrance.

***Tribunal:***

The Tribunal stated at [80] that the space between Park Home 1 and Parking Space 1 was about 1 metre leaving 24 metres for 10 cars being 2.4 metres a space. This gives a 1 metre wide access to the pathway and Park Home 1.

9. ***Applicants:***

The Tribunal did not take account of the mismanagement of parking by the site owner and said the Applicants should have asked about the parking when they were considering whether or not to purchase their home.

***Tribunal:***

The Tribunal was critical of the Respondents not having formalised the parking arrangements earlier [75] and that the clear marking of the car parking spaces would reduce the likelihood of future disputes [87]. It cannot order the Respondent Site Owners to carry out works. The onus is always on prospective park home occupiers to satisfy themselves that the particular site is right for them before purchase.

10. ***Applicants:***

The Tribunal did not consider how the parking was to be arranged following the Decision.

***Tribunal:***

The Tribunal answered the questions put to it.

11. **Applicants:**  
The Tribunal's Decision enables the Respondents to charge for the parking spaces of the 7 homes which do not have cars.

**Tribunal:**

The parking spaces allocated to the 7 homes which do not have cars may be used by the Occupiers of those homes without charge for the use of a visitor or carer or, with their permission, by another Occupier as is currently the case [72]. The Tribunal's Decision does not alter this.

12. **Applicants:**  
The Tribunal did not take account of Mr Salter's letter which stated that the Applicants were to ask Mr Beard where they should park.

**Tribunal:**

The Tribunal found that Mr Beard was not the Site Manager and did not have the authority to allocate Parking Spaces. The Tribunal was satisfied that Mrs Millie had used the Parking Space identified at 1 on the Site Plan and by reason of the assignment the Applicants were able to enjoy the Parking Space [94].

6. In addition, the Applicants objected to the following paragraphs in the Decision which are set out in abbreviated form below and each of which is followed by the Tribunal's Response:

**Applicants:**

- a. The Tribunal's finding as to the number of spaces in the main car park is incorrect [1.5].
- b. The Tribunal was wrong to find there were 2 parking spaces for staff on the site [1.1].
- c. The Tribunal wrongly interpreted the site licence [1.2]
- d. The Tribunal did not take into account the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 which stated that a rule change should not be made to allow the Respondents to charge for parking a second car [1.3].
- e. The Tribunal stating the Respondents are allowed to charge under a separate agreement is contrary to the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 [1.4].
- f. The Tribunal did not take account of the fact that the Applicants were told to park along the fence which blocked the access [1.5].

**Tribunal:**

- a.& b. The Tribunal set out the basis of its findings as to the number of spaces in the car park at [5], [80], [81] and [82].
- c. The Tribunal stated its reasoning regarding the Site Licence interpretation at [83] and [84].
- d. & e. The Tribunal considered the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 at [76] and [77].
- f. The Tribunal took account of the access to the pathways and Park Home 1 at [80].

7. The Applicants objected to the following paragraphs in the Reasons:

g. [3] **Applicants:**

The Tribunal did not take account of the statement made by Miss Susan Mather. The Applicant alleged that the Respondents had interfered with witnesses.

**Tribunal:**

The Tribunal received a letter addressed to Mr Salter of the Respondents dated 14<sup>th</sup> June 2022 from Miss Susan Mather and Mr Kevin Davey stating “We are new to this Park with reflection we have decided to withdraw from this week’s FTT hearing: Salter and Skinner v Catherine and Phil Kersy”. The Tribunal treated this as a withdrawal of their witness evidence. The evidence was therefore not considered.

h. [9] **Applicants:**

The Tribunal did not take into account of its noting at the hearing that the map provided by the site owner was poor and the way the site owner has laid out the parking without parking lines has been the cause of the dispute.

**Tribunal**

The quality of the Site Map and the lack of parking lines did not affect the Tribunal’s Decision.

i [53] **Applicants:**

By not agreeing to read Ms Mather’s statement that she had been required to enter an agreement to pay for parking the Tribunal did not take account of the way in which the Respondents had sought to circumvent the decision of Judge Sinclair in case refence CAM/42UD/PHC/2020/0004.

**Tribunal:**

The Tribunal considered the evidence before it and made its Decision accordingly.

j. [59], k [61] and l [63] and [64] **Applicants:**

The Tribunal was wrong to give any credence to the Respondent’s claim that Mr Brunning and Mr Beard were not Site Managers and to consider that a moped, bike, car and boat were all vehicles.

**Tribunal:**

Whether or not Mr Brunning and Mr Beard were Site Managers would not have altered the Tribunal’s Decision that Mrs Millie had used the Parking Space identified at 1 on the Site Plan and by reason of the assignment the Applicants were able to enjoy the Parking Space free of charge. There was no evidence to suggest that she had any other additional Parking Space and therefore that is the only Parking Space to which they are entitled.



M. [67] and [68] n [71] **Applicants:**

The Tribunal has incorrectly interpreted the decision of Judge Edgington in case reference CAM/42UD/PHI/2018/0015 which said that the charging for parking spaces was only as a means of addressing the limited number of parking spaces on site.

**Tribunal:**

Each Tribunal answered the questions it was asked. The Tribunal was asked could a charge be made for parking to which it provided its answer.

o. [72], [73], [74] **Applicants:**

The Tribunal was wrong to criticise the present arrangement and to suggest that parking spaces might be paid for.

**Tribunal:**

The Tribunal did not criticise the current parking arrangements other than as to the lack of Site Plan and parking space marking [75] and [87].

p. [79] and [80], r [85] and [86], t [88] and [89] **Applicants:**

The Tribunal was wrong to make the findings it did regarding the number of parking spaces.

**Tribunal:**

The Tribunal set out the basis of its findings as to the number of spaces in the car park at [5], [80], [81] and [82].

u. [90] **Applicants:**

Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 would not have made a different decision if he had more evidence.

**Tribunal:**

It is a matter for conjecture what might be decided if the rule were proposed again but consultation would be required.

v [91] to [94] **Applicants:**

The Tribunal did not understand the level of responsibility undertaken by Mr Brunning and Mr beard. Additional points were also made which were not relevant or supported by evidence.

**Tribunal:**

The Tribunal found that even if Mr Brunning had been the Site Manager at one time he was no longer in that position. Mr Beard had provided a statement which made it clear that he was not the Site Manager [92]. The Tribunal finds that Mr Beard was not the Site Manager and did not have the authority to allocate Parking Spaces [94].

w [94] **Applicants:**

The position of car park space 1 is contrary to Site Rule 26.

***Tribunal:***

The Tribunal took account of the access to the pathways and Park Home 1 at [80].

x [95] ***Applicants:***

The points raised by the Applicants are in respect of matters subsequent to the Decision.

**Conclusion**

8. Having considered each of the grounds raised by the Applicants the Tribunal finds that it had considered and taken into account all of the points now raised by the Applicants, when reaching its Original Decision.
9. The Tribunal's Original Decision was based on the evidence before it and the Applicants have not adduced any additional evidence or submitted any legal arguments in support of the application for review or permission to appeal.

**Judge JR Morris**



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

**Case Reference** : **CAM/42UD/PHC/2021/0008**  
**HMCTS** : **Paper**  
**Site** : **Bourne Park, Ipswich, Suffolk IP2 8LU**  
**Park Home Address** : **1, Bourne Park, Ipswich, Suffolk IP2 8LU**  
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**DECISION**

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**Decision of the Tribunal**

1. The Tribunal has decided not to review its Original Decision and refuses permission to appeal to the Upper Tribunal because it is of the opinion that there is no realistic prospect of a successful appeal against its Original Decision.
2. 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 Applicants may make 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 permission to appeal. Where possible, you should send your application for permission to

appeal **by email** to [Lands@justice.gov.uk](mailto:Lands@justice.gov.uk), as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently.

3. Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).

### **Reason for the Decision**

4. The reason for the decision is that the Tribunal had considered and taken into account all of the points now raised by the Applicants, when reaching its original decision.
5. The Tribunal's Original Decision was based on the evidence and submissions before it and the Applicants have not adduced any additional evidence or submitted any new legal arguments in support of the application for review or permission to appeal.
6. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that further application for permission to appeal is made), the Tribunal has set out its comments on the specific points raised by the applicant in the application for permission to appeal, in the Appendix attached.

**Judge J R Morris**

APPENDIX TO THE DECISION  
REFUSING PERMISSION TO APPEAL

For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the Tribunal records below its comments on the grounds of appeal. References in square brackets are to those paragraphs in the main body of the Tribunal's Original Decision (Decision).

**Original Application and Decision**

1. An Application dated 4<sup>th</sup> December 2021 was made by the Applicants for a determination of a question arising under the Mobile Homes Act 1983 or an agreement to which it relates under section 4 of the Mobile Homes Act 1983 as amended, as followings:
  - (1) Whether the site owner must cease charging for parking spaces which are not on the main car park and form part of the 27 spaces which are supposed to be provided for free;
  - (2) Whether the site owner is allowed to charge for any parking on the site;
  - (3) Whether the Site Owner must honour the decision of the site manager to allocate the Applicants the parking space marked 20 on the Site Plan provided.
  
2. In summary, the Applicants submitted that:
  - a) under the Site Licence parking should be free of charge;
  - b) the Respondents should be prohibited from charging for any parking on the Site;
  - c) Mr Brunning was the Site Manager who initially allocated them parking space No. 1 and subsequently allocated them Parking Space No 20.
  
3. In summary, the Respondents submitted that:
  - a) parking in the main car park was free with one space for each Park Home plus 4 visitor spaces in accordance in the Site Licence;
  - b) there was no prohibition in the Site Licence, written agreement or Site Rules which precluded the Respondents charging for additional parking spaces by separate agreement;
  - c) Mr Brunning was not the Site Manager and the previous owner of the Applicant's Park Home had parked in space No. 1
  
4. The Tribunal determined that:
  1. The Respondent Site Owners have met the conditions of the Site Licence in providing 26 Parking Spaces allocated to specific pitches and 4 visitor Parking Spaces in the Main Car Park. In addition, there are two spaces for office staff or contractors and a further 5 spaces identified as Internal Parking.
  2. There is no requirement to provide car parking free of charge nor is there a prohibition against charging for car parking in the Site Licence Conditions, the Written Agreement provided or the Site Rules.
  3. The Respondent Site Owners may charge for parking a vehicle under a separate additional agreement to the Written Agreement, negotiated with any Occupier. Any such separate additional agreement, must not derogate from the rights granted to other Occupiers.

4. Where an Occupier assigns his or her pitch on the sale of a Park Home, the assignee will have the benefit of the same rights that the assignor enjoyed, including any allocated Parking Space which was assigned as well. Even so, the assignee may still negotiate a separate additional agreement with the Site Owner for some benefit, such as parking for a monthly charge.
5. The assignment of Park Home 1 to the Applicants included Parking Space 1 as enjoyed by the assignee.

### **Grounds for Appeal and Tribunal's Response**

5. The Applicants made a number of statements as grounds for review or appeal which have been considered carefully by the Tribunal. The Applicants statements are set out in abbreviated form below and each of which is followed by the Tribunal's Response:

1. ***Applicants:***

The Tribunal had made its Decision before the hearing began and did not consider all the evidence of the Applicants whilst considering all the evidence of the Respondents.

***Tribunal:***

The Tribunal made its Decision based upon the written representations, the inspection and the evidence and submission presented at the hearing by both parties. It did not make its determination until after the hearing. The Tribunal determined the size and number of the parking spaces at the inspection [5] and [80].

2. ***Applicants:***

The Tribunal wrongly interpreted the wording of the site licence and did not take account of the present situation at the Site which is to provide parking free of charge.

***Tribunal:***

The Tribunal found the Site Licence states "Suitably surfaced parking spaces shall be provided to meet the requirements of residents and their visitors. The parking spaces shall be maintained and kept in repair." [9]

The Tribunal found that there were 26 Parking Spaces, one for each Park Home and 4 visitor Parking Spaces in the Main Car Park. [81]

In addition, there were two spaces adjacent the Office and a further 5 spaces beyond the Office. These formed the Internal parking for which there was a charge. [82]

The Tribunal found that taking into account the number of Park Homes and the size of the Site, the provision in the Main Car Park of one parking space for each Park Home plus four visitor spaces met the reasonable requirements of the residents and their visitors. [83]

The Site Licence could not require the Site Owner to provide free parking as this would be contrary to the principles of freedom of contract.

3. ***Applicants:***

The Tribunal's Decision is contrary to the government's policy of 'levelling up' which makes it clear the principle of holding landlords accountable for exploitation and that charging for parking in this instance exploitative.

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The Tribunal's Decision is contrary to council practice in that on a public road where the only parking is off road, residential parking is always free.

***Tribunal re 3 & 4:***

The Tribunal's Decision is based upon the legislation as applied to the Site Licence, the Written Agreement, the Site Rules and the evidence adduced and submission made by the parties. The Tribunal cannot base its decision upon central or local government policy except as expressed in legislation and as interpreted through case law and the rules of statutory interpretation.

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The Tribunal's Decision does not take account of there being sufficient parking on the Site without having spaces for which there is a charge.

***Tribunal:***

From the Site Map provided, the Tribunal found that each Park Home was allocated a parking space but recognised that there appears to be some flexibility in this arrangement with those not having cars permitting those who have more than one to use their space [72]. The Tribunal's Decision does not alter this arrangement although there is nothing to prevent new Occupiers purchasing their Park Home and being granted their pitch directly from the Respondents entering additional and separate agreements to park their vehicles at a charge provided this does not impinge on the free of charge parking spaces which have been assigned by existing Occupiers. [73] and [74].

7. ***Applicants:***

The Respondents interfered with witnesses.

***Tribunal:***

No evidence was adduced that the Respondents interfered with witnesses.

8. ***Applicants:***

The Tribunal did not address the issue of parking space No.1 being contrary to the Site Rules by obstructing access to pathways and a park home entrance.

***Tribunal:***

The Tribunal stated at [80] that the space between Park Home 1 and Parking Space 1 was about 1 metre leaving 24 metres for 10 cars being 2.4 metres a space. This gives a 1 metre wide access to the pathway and Park Home 1.

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***Tribunal:***

The Tribunal was critical of the Respondents not having formalised the parking arrangements earlier [75] and that the clear marking of the car parking spaces would reduce the likelihood of future disputes [87]. It cannot order the Respondent Site Owners to carry out works. The onus is always on prospective park home occupiers to satisfy themselves that the particular site is right for them before purchase.

10. ***Applicants:***

The Tribunal did not consider how the parking was to be arranged following the Decision.

***Tribunal:***

The Tribunal answered the questions put to it.



11. **Applicants:**  
The Tribunal's Decision enables the Respondents to charge for the parking spaces of the 7 homes which do not have cars.

**Tribunal:**

The parking spaces allocated to the 7 homes which do not have cars may be used by the Occupiers of those homes without charge for the use of a visitor or carer or, with their permission, by another Occupier as is currently the case [72]. The Tribunal's Decision does not alter this.

12. **Applicants:**  
The Tribunal did not take account of Mr Salter's letter which stated that the Applicants were to ask Mr Beard where they should park.

**Tribunal:**

The Tribunal found that Mr Beard was not the Site Manager and did not have the authority to allocate Parking Spaces. The Tribunal was satisfied that Mrs Millie had used the Parking Space identified at 1 on the Site Plan and by reason of the assignment the Applicants were able to enjoy the Parking Space [94].

6. In addition, the Applicants objected to the following paragraphs in the Decision which are set out in abbreviated form below and each of which is followed by the Tribunal's Response:

**Applicants:**

- a. The Tribunal's finding as to the number of spaces in the main car park is incorrect [1.5].
- b. The Tribunal was wrong to find there were 2 parking spaces for staff on the site [1.1].
- c. The Tribunal wrongly interpreted the site licence [1.2]
- d. The Tribunal did not take into account the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 which stated that a rule change should not be made to allow the Respondents to charge for parking a second car [1.3].
- e. The Tribunal stating the Respondents are allowed to charge under a separate agreement is contrary to the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 [1.4].
- f. The Tribunal did not take account of the fact that the Applicants were told to park along the fence which blocked the access [1.5].

**Tribunal:**

- a.& b. The Tribunal set out the basis of its findings as to the number of spaces in the car park at [5], [80], [81] and [82].
- c. The Tribunal stated its reasoning regarding the Site Licence interpretation at [83] and [84].
- d. & e. The Tribunal considered the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 at [76] and [77].
- f. The Tribunal took account of the access to the pathways and Park Home 1 at [80].

7. The Applicants objected to the following paragraphs in the Reasons:

g. [3] **Applicants:**

The Tribunal did not take account of the statement made by Miss Susan Mather. The Applicant alleged that the Respondents had interfered with witnesses.

**Tribunal:**

The Tribunal received a letter addressed to Mr Salter of the Respondents dated 14<sup>th</sup> June 2022 from Miss Susan Mather and Mr Kevin Davey stating “We are new to this Park with reflection we have decided to withdraw from this week’s FTT hearing: Salter and Skinner v Catherine and Phil Kersy”. The Tribunal treated this as a withdrawal of their witness evidence. The evidence was therefore not considered.

h. [9] **Applicants:**

The Tribunal did not take into account of its noting at the hearing that the map provided by the site owner was poor and the way the site owner has laid out the parking without parking lines has been the cause of the dispute.

Tribunal

The quality of the Site Map and the lack of parking lines did not affect the Tribunal’s Decision.

i [53] **Applicants:**

By not agreeing to read Ms Mather’s statement that she had been required to enter an agreement to pay for parking the Tribunal did not take account of the way in which the Respondents had sought to circumvent the decision of Judge Sinclair in case refence CAM/42UD/PHC/2020/0004.

**Tribunal:**

The Tribunal considered the evidence before it and made its Decision accordingly.

j. [59], k [61] and l [63] and [64] **Applicants:**

The Tribunal was wrong to give any credence to the Respondent’s claim that Mr Brunning and Mr Beard were not Site Managers and to consider that a moped, bike, car and boat were all vehicles.

**Tribunal:**

Whether or not Mr Brunning and Mr Beard were Site Managers would not have altered the Tribunal’s Decision that Mrs Millie had used the Parking Space identified at 1 on the Site Plan and by reason of the assignment the Applicants were able to enjoy the Parking Space free of charge. There was no evidence to suggest that she had any other additional Parking Space and therefore that is the only Parking Space to which they are entitled.

M. [67] and [68] n [71] **Applicants:**

The Tribunal has incorrectly interpreted the decision of Judge Edgington in case reference CAM/42UD/PHI/2018/0015 which said that the charging for parking spaces was only as a means of addressing the limited number of parking spaces on site.

**Tribunal:**

Each Tribunal answered the questions it was asked. The Tribunal was asked could a charge be made for parking to which it provided its answer.

o. [72], [73], [74] **Applicants:**

The Tribunal was wrong to criticise the present arrangement and to suggest that parking spaces might be paid for.

**Tribunal:**

The Tribunal did not criticise the current parking arrangements other than as to the lack of Site Plan and parking space marking [75] and [87].

p. [79] and [80], r [85] and [86], t [88] and [89] **Applicants:**

The Tribunal was wrong to make the findings it did regarding the number of parking spaces.

**Tribunal:**

The Tribunal set out the basis of its findings as to the number of spaces in the car park at [5], [80], [81] and [82].

u. [90] **Applicants:**

Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 would not have made a different decision if he had more evidence.

**Tribunal:**

It is a matter for conjecture what might be decided if the rule were proposed again but consultation would be required.

v [91] to [94] **Applicants:**

The Tribunal did not understand the level of responsibility undertaken by Mr Brunning and Mr beard. Additional points were also made which were not relevant or supported by evidence.

**Tribunal:**

The Tribunal found that even if Mr Brunning had been the Site Manager at one time he was no longer in that position. Mr Beard had provided a statement which made it clear that he was not the Site Manager [92]. The Tribunal finds that Mr Beard was not the Site Manager and did not have the authority to allocate Parking Spaces [94].

w [94] **Applicants:**

The position of car park space 1 is contrary to Site Rule 26.

***Tribunal:***

The Tribunal took account of the access to the pathways and Park Home 1 at [80].

x [95] ***Applicants:***

The points raised by the Applicants are in respect of matters subsequent to the Decision.

**Conclusion**

8. Having considered each of the grounds raised by the Applicants the Tribunal finds that it had considered and taken into account all of the points now raised by the Applicants, when reaching its Original Decision.
9. The Tribunal's Original Decision was based on the evidence before it and the Applicants have not adduced any additional evidence or submitted any legal arguments in support of the application for review or permission to appeal.

**Judge JR Morris**



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

**Case Reference** : **CAM/42UD/PHC/2021/0008**  
**HMCTS** : **Paper**  
**Site** : **Bourne Park, Ipswich, Suffolk IP2 8LU**  
**Park Home Address** : **1, Bourne Park, Ipswich, Suffolk IP2 8LU**  
**Applicants** : **Mr Phil Kersey & Ms Catherine Kersey**  
**Respondents** : **Roger Skinner & Stephen Salter  
t/a Skinner Salter Partnership**  
**Type of Application** : **Application for Review or Permission to  
Appeal**  
**Tribunal** : **Judge JR Morris  
Mr G Smith MRICS, FAAV, REV**  
**Date of Original Decision:** **14<sup>th</sup> July 2022**  
**Date of Application** : **8<sup>th</sup> August 2022**  
**Date of Decision** : **20<sup>th</sup> September 2022**

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**DECISION**

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**Decision of the Tribunal**

1. The Tribunal has decided not to review its Original Decision and refuses permission to appeal to the Upper Tribunal because it is of the opinion that there is no realistic prospect of a successful appeal against its Original Decision.
2. 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 Applicants may make 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 permission to appeal. Where possible, you should send your application for permission to

appeal **by email** to [Lands@justice.gov.uk](mailto:Lands@justice.gov.uk), as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently.

3. Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).

**Reason for the Decision**

4. The reason for the decision is that the Tribunal had considered and taken into account all of the points now raised by the Applicants, when reaching its original decision.
5. The Tribunal's Original Decision was based on the evidence and submissions before it and the Applicants have not adduced any additional evidence or submitted any new legal arguments in support of the application for review or permission to appeal.
6. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that further application for permission to appeal is made), the Tribunal has set out its comments on the specific points raised by the applicant in the application for permission to appeal, in the Appendix attached.

**Judge J R Morris**

APPENDIX TO THE DECISION  
REFUSING PERMISSION TO APPEAL

For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the Tribunal records below its comments on the grounds of appeal. References in square brackets are to those paragraphs in the main body of the Tribunal's Original Decision (Decision).

**Original Application and Decision**

1. An Application dated 4<sup>th</sup> December 2021 was made by the Applicants for a determination of a question arising under the Mobile Homes Act 1983 or an agreement to which it relates under section 4 of the Mobile Homes Act 1983 as amended, as followings:
  - (1) Whether the site owner must cease charging for parking spaces which are not on the main car park and form part of the 27 spaces which are supposed to be provided for free;
  - (2) Whether the site owner is allowed to charge for any parking on the site;
  - (3) Whether the Site Owner must honour the decision of the site manager to allocate the Applicants the parking space marked 20 on the Site Plan provided.
  
2. In summary, the Applicants submitted that:
  - a) under the Site Licence parking should be free of charge;
  - b) the Respondents should be prohibited from charging for any parking on the Site;
  - c) Mr Brunning was the Site Manager who initially allocated them parking space No. 1 and subsequently allocated them Parking Space No 20.
  
3. In summary, the Respondents submitted that:
  - a) parking in the main car park was free with one space for each Park Home plus 4 visitor spaces in accordance in the Site Licence;
  - b) there was no prohibition in the Site Licence, written agreement or Site Rules which precluded the Respondents charging for additional parking spaces by separate agreement;
  - c) Mr Brunning was not the Site Manager and the previous owner of the Applicant's Park Home had parked in space No. 1
  
4. The Tribunal determined that:
  1. The Respondent Site Owners have met the conditions of the Site Licence in providing 26 Parking Spaces allocated to specific pitches and 4 visitor Parking Spaces in the Main Car Park. In addition, there are two spaces for office staff or contractors and a further 5 spaces identified as Internal Parking.
  2. There is no requirement to provide car parking free of charge nor is there a prohibition against charging for car parking in the Site Licence Conditions, the Written Agreement provided or the Site Rules.
  3. The Respondent Site Owners may charge for parking a vehicle under a separate additional agreement to the Written Agreement, negotiated with any Occupier. Any such separate additional agreement, must not derogate from the rights granted to other Occupiers.

4. Where an Occupier assigns his or her pitch on the sale of a Park Home, the assignee will have the benefit of the same rights that the assignor enjoyed, including any allocated Parking Space which was assigned as well. Even so, the assignee may still negotiate a separate additional agreement with the Site Owner for some benefit, such as parking for a monthly charge.
5. The assignment of Park Home 1 to the Applicants included Parking Space 1 as enjoyed by the assignee.

### **Grounds for Appeal and Tribunal's Response**

5. The Applicants made a number of statements as grounds for review or appeal which have been considered carefully by the Tribunal. The Applicants statements are set out in abbreviated form below and each of which is followed by the Tribunal's Response:

1. ***Applicants:***

The Tribunal had made its Decision before the hearing began and did not consider all the evidence of the Applicants whilst considering all the evidence of the Respondents.

***Tribunal:***

The Tribunal made its Decision based upon the written representations, the inspection and the evidence and submission presented at the hearing by both parties. It did not make its determination until after the hearing. The Tribunal determined the size and number of the parking spaces at the inspection [5] and [80].

2. ***Applicants:***

The Tribunal wrongly interpreted the wording of the site licence and did not take account of the present situation at the Site which is to provide parking free of charge.

***Tribunal:***

The Tribunal found the Site Licence states "Suitably surfaced parking spaces shall be provided to meet the requirements of residents and their visitors. The parking spaces shall be maintained and kept in repair." [9]

The Tribunal found that there were 26 Parking Spaces, one for each Park Home and 4 visitor Parking Spaces in the Main Car Park. [81]

In addition, there were two spaces adjacent the Office and a further 5 spaces beyond the Office. These formed the Internal parking for which there was a charge. [82]

The Tribunal found that taking into account the number of Park Homes and the size of the Site, the provision in the Main Car Park of one parking space for each Park Home plus four visitor spaces met the reasonable requirements of the residents and their visitors. [83]



The Site Licence could not require the Site Owner to provide free parking as this would be contrary to the principles of freedom of contract.

3. ***Applicants:***

The Tribunal's Decision is contrary to the government's policy of 'levelling up' which makes it clear the principle of holding landlords accountable for exploitation and that charging for parking in this instance exploitative.

4. ***Applicants:***

The Tribunal's Decision is contrary to council practice in that on a public road where the only parking is off road, residential parking is always free.

***Tribunal re 3 & 4:***

The Tribunal's Decision is based upon the legislation as applied to the Site Licence, the Written Agreement, the Site Rules and the evidence adduced and submission made by the parties. The Tribunal cannot base its decision upon central or local government policy except as expressed in legislation and as interpreted through case law and the rules of statutory interpretation.

5. ***Applicants:***

The Tribunal Decision is contrary to the decisions of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004.

***Tribunal:***

The Tribunal noted the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 which only stated that, in the absence of evidence to the contrary, the proposed new Park Rule to limit parking to one vehicle per pitch, with the parking of any additional vehicles (subject to availability) being by separate agreement and at an additional cost was not necessary [76] and [77]. The Tribunal Decision does not change that position. It only states that there is no requirement to provide car parking free of charge nor is there a prohibition against charging for car parking in the Site Licence Conditions, the Applicants' Written Agreement provided or the Site Rules [1] and [96]. The Respondent Site Owners may charge for parking a vehicle under a separate additional agreement to the Written Agreement negotiated with any Occupier, in accordance with the principles of freedom of contract; it cannot be part of the pitch fee as per the decision of Judge Edgington in case reference CAM/42UD/PHI/2018/0015 [67] and [71].

6. ***Applicants:***

The Tribunal's Decision does not take account of there being sufficient parking on the Site without having spaces for which there is a charge.

***Tribunal:***

From the Site Map provided, the Tribunal found that each Park Home was allocated a parking space but recognised that there appears to be some flexibility in this arrangement with those not having cars permitting those who have more than one to use their space [72]. The Tribunal's Decision does not alter this arrangement although there is nothing to prevent new Occupiers purchasing their Park Home and being granted their pitch directly from the Respondents entering additional and separate agreements to park their vehicles at a charge provided this does not impinge on the free of charge parking spaces which have been assigned by existing Occupiers. [73] and [74].

7. ***Applicants:***

The Respondents interfered with witnesses.

***Tribunal:***

No evidence was adduced that the Respondents interfered with witnesses.

8. ***Applicants:***

The Tribunal did not address the issue of parking space No.1 being contrary to the Site Rules by obstructing access to pathways and a park home entrance.

***Tribunal:***

The Tribunal stated at [80] that the space between Park Home 1 and Parking Space 1 was about 1 metre leaving 24 metres for 10 cars being 2.4 metres a space. This gives a 1 metre wide access to the pathway and Park Home 1.

9. ***Applicants:***

The Tribunal did not take account of the mismanagement of parking by the site owner and said the Applicants should have asked about the parking when they were considering whether or not to purchase their home.

***Tribunal:***

The Tribunal was critical of the Respondents not having formalised the parking arrangements earlier [75] and that the clear marking of the car parking spaces would reduce the likelihood of future disputes [87]. It cannot order the Respondent Site Owners to carry out works. The onus is always on prospective park home occupiers to satisfy themselves that the particular site is right for them before purchase.

10. ***Applicants:***

The Tribunal did not consider how the parking was to be arranged following the Decision.

***Tribunal:***

The Tribunal answered the questions put to it.

11. **Applicants:**  
The Tribunal's Decision enables the Respondents to charge for the parking spaces of the 7 homes which do not have cars.

**Tribunal:**

The parking spaces allocated to the 7 homes which do not have cars may be used by the Occupiers of those homes without charge for the use of a visitor or carer or, with their permission, by another Occupier as is currently the case [72]. The Tribunal's Decision does not alter this.

12. **Applicants:**  
The Tribunal did not take account of Mr Salter's letter which stated that the Applicants were to ask Mr Beard where they should park.

**Tribunal:**

The Tribunal found that Mr Beard was not the Site Manager and did not have the authority to allocate Parking Spaces. The Tribunal was satisfied that Mrs Millie had used the Parking Space identified at 1 on the Site Plan and by reason of the assignment the Applicants were able to enjoy the Parking Space [94].

6. In addition, the Applicants objected to the following paragraphs in the Decision which are set out in abbreviated form below and each of which is followed by the Tribunal's Response:

**Applicants:**

- a. The Tribunal's finding as to the number of spaces in the main car park is incorrect [1.5].
- b. The Tribunal was wrong to find there were 2 parking spaces for staff on the site [1.1].
- c. The Tribunal wrongly interpreted the site licence [1.2]
- d. The Tribunal did not take into account the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 which stated that a rule change should not be made to allow the Respondents to charge for parking a second car [1.3].
- e. The Tribunal stating the Respondents are allowed to charge under a separate agreement is contrary to the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 [1.4].
- f. The Tribunal did not take account of the fact that the Applicants were told to park along the fence which blocked the access [1.5].

**Tribunal:**

- a.& b. The Tribunal set out the basis of its findings as to the number of spaces in the car park at [5], [80], [81] and [82].
- c. The Tribunal stated its reasoning regarding the Site Licence interpretation at [83] and [84].
- d. & e. The Tribunal considered the decision of Judge Sinclair in case reference CAM/42UD/PHC/2020/0004 at [76] and [77].
- f. The Tribunal took account of the access to the pathways and Park Home 1 at [80].

7. The Applicants objected to the following paragraphs in the Reasons:

g. [3] **Applicants:**

The Tribunal did not take account of the statement made by Miss Susan Mather. The Applicant alleged that the Respondents had interfered with witnesses.

**Tribunal:**

The Tribunal received a letter addressed to Mr Salter of the Respondents dated 14<sup>th</sup> June 2022 from Miss Susan Mather and Mr Kevin Davey stating “We are new to this Park with reflection we have decided to withdraw from this week’s FTT hearing: Salter and Skinner v Catherine and Phil Kersy”. The Tribunal treated this as a withdrawal of their witness evidence. The evidence was therefore not considered.

h. [9] **Applicants:**

The Tribunal did not take into account of its noting at the hearing that the map provided by the site owner was poor and the way the site owner has laid out the parking without parking lines has been the cause of the dispute.

**Tribunal**

The quality of the Site Map and the lack of parking lines did not affect the Tribunal’s Decision.

i [53] **Applicants:**

By not agreeing to read Ms Mather’s statement that she had been required to enter an agreement to pay for parking the Tribunal did not take account of the way in which the Respondents had sought to circumvent the decision of Judge Sinclair in case refence CAM/42UD/PHC/2020/0004.

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j. [59], k [61] and l [63] and [64] **Applicants:**

The Tribunal was wrong to give any credence to the Respondent’s claim that Mr Brunning and Mr Beard were not Site Managers and to consider that a moped, bike, car and boat were all vehicles.

**Tribunal:**

Whether or not Mr Brunning and Mr Beard were Site Managers would not have altered the Tribunal’s Decision that Mrs Millie had used the Parking Space identified at 1 on the Site Plan and by reason of the assignment the Applicants were able to enjoy the Parking Space free of charge. There was no evidence to suggest that she had any other additional Parking Space and therefore that is the only Parking Space to which they are entitled.

M. [67] and [68] n [71] **Applicants:**

The Tribunal has incorrectly interpreted the decision of Judge Edgington in case reference CAM/42UD/PHI/2018/0015 which said that the charging for parking spaces was only as a means of addressing the limited number of parking spaces on site.

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Each Tribunal answered the questions it was asked. The Tribunal was asked could a charge be made for parking to which it provided its answer.

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**Tribunal:**

The Tribunal set out the basis of its findings as to the number of spaces in the car park at [5], [80], [81] and [82].

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Judge Sinclair in case refence CAM/42UD/PHC/2020/0004 would not have made a different decision if he had more evidence.

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It is a matter for conjecture what might be decided if the rule were proposed again but consultation would be required.

v [91] to [94] **Applicants:**

The Tribunal did not understand the level of responsibility undertaken by Mr Brunning and Mr beard. Additional points were also made which were not relevant or supported by evidence.

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The Tribunal found that even if Mr Brunning had been the Site Manager at one time he was no longer in that position. Mr Beard had provided a statement which made it clear that he was not the Site Manager [92]. The Tribunal finds that Mr Beard was not the Site Manager and did not have the authority to allocate Parking Spaces [94].

w [94] **Applicants:**

The position of car park space 1 is contrary to Site Rule 26.

***Tribunal:***

The Tribunal took account of the access to the pathways and Park Home 1 at [80].

x [95] ***Applicants:***

The points raised by the Applicants are in respect of matters subsequent to the Decision.

**Conclusion**

8. Having considered each of the grounds raised by the Applicants the Tribunal finds that it had considered and taken into account all of the points now raised by the Applicants, when reaching its Original Decision.
9. The Tribunal's Original Decision was based on the evidence before it and the Applicants have not adduced any additional evidence or submitted any legal arguments in support of the application for review or permission to appeal.

**Judge JR Morris**