



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

**Case Reference** : CHI/43UG/PHC/2022/0018

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

**Applicant** : Berkeley Leisure Group

**Representative** :

**Respondent** : Mr David John Mead

**Representative** :

**Type of Application** : Application for a determination of any question arising under the Mobile Homes act 1983

**Legal Officer** : Judge Tildesley OBE

**Date of Decision** : 23 February 2023  
Determined on the Papers

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**DECISION**

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## **The Application**

1. The Applicant seeks a determination that the Respondent has breached a term of the agreement made under the Mobile Homes Act 1983 (“1983 Act”) and has failed to remedy the breach within a reasonable time of the notice of breach being served upon him.
2. The Applicant is the site owner of a protected site at Penton Park Chertsey Surrey. The Respondent is the owner of a mobile stationed on 31 Albert Avenue, Penton Park, Chertsey Surrey by virtue of an agreement dated 20 April 1976 (‘the Agreement’) which was assigned to him on 17 May 1982.
3. The Application was received by the Tribunal on 23 September 2022. On 12 January 2023 the Tribunal directed that the Application would be heard on the papers unless a party objected within 28 days. No objections were received by the Tribunal. The Respondent was required to provide a statement of case by 2 February 2023. The Respondent failed to comply with the direction. On 9 February 2023 the Applicant supplied a hearing bundle.

## **The Findings**

4. The Tribunal’s findings are derived from the Applicant’s evidence which was not challenged by the Respondent.
5. By an application dated 23 July 2020 pursuant to section 4 of the Mobile Homes Act 1983 the Applicant sought a determination from the Tribunal as to whether the Respondent was in breach of his Agreement by not maintaining the pitch and exterior of his home. The Applicant sought an order from the Tribunal for the Respondent to remedy the breach.
6. On 16 November 2020 the Tribunal found that the pitch was not being maintained in a clean and tidy condition and that the Respondent was, therefore, in breach of his agreement with the Applicant.
7. The Tribunal ordered the Respondent to remedy the breach within 21 days of the decision as specified in correspondence from the Applicant namely that he should:
  - Cut any grass to an acceptable level, in keeping with other pitches
  - Trim/ cut back hedges and bushes
  - Remove any weeds/brambles/nettles
  - Remove any refuse/ unwanted items/black sacks
  - Remove any deadwood/garden waste
  - Clear and remove all items stored under the home
  - Clean the exterior of the home, including windows and frames and gable end to remove visible dirt and algae

8. In May 2021 the Park Manager observed that the Respondent was failing to maintain his pitch. On 26 May 2021 the Applicant received an email from Ms Christine Grieve who is the daughter of Mrs Joyce Grieve (neighbour to the Respondent and who resides at 33 Albert Avenue) outlining her concerns for her mother in respect of vermin, harmful plants, mental Health and a Fire Risk due to the condition of the pitch.
9. On 28 June 2021 the Applicant wrote to the Respondent reminding him of the Tribunal's decision dated 16 November 2020 and specifying the requirements to maintain the pitch to bring it in line with the amenity of the Park. The Respondent was asked to respond within seven days and remedy the breach with 28 days from receipt of the letter. The Respondent failed to respond to the letter dated 28 June 2021 and failed to carry out any works to the pitch or home.
10. On 3 November 2021 the Applicant visited the Respondent's home and the pitch observing that the pitch required urgent attention and that the home was showing signs of requiring some maintenance. On 10 November 2021 the Applicant wrote to the Respondent requesting him to arrange for the removal of weeds and any rubbish and to clean the exterior of the home. The Applicant advised the Respondent to contact the Penton Park Residents Association who may be able to help him. The Applicant requested a response from the Respondent within seven days from receipt of the letter, outlining the Respondent's proposal to improve the pitch. The Respondent did not respond and failed to carry out any works to the pitch or home.
11. On 6 December 2021 the Applicant served a Notice of Breach on the Respondent requiring him to arrange for the removal of weeds and any rubbish and to clean the exterior of the home within 35 days. The Respondent failed to comply with the Notice.
12. On 7 April 2022 the Applicant inspected the Respondent's pitch and found no improvement. The Applicant wrote to the Respondent on 26 May 2022 outlining its concerns and requested him to carry out the necessary works. The Respondent failed to respond and failed to carry out any works to the pitch or home.
13. On 29 June 2022 the Applicant conducted a further investigation of the Respondent's pitch and served a final Notice of Breach dated 11 July 2022 requiring the Respondent to remedy the breach by doing the following by 8 August 2022:
  - Remove all weeds and nettles and maintain any shrubs/plants that have become overgrown. Remove any rubbish or raw materials from the pitch.
  - Clean the exterior of the home, including windows and frames and gable ends to remove visible dirt and algae.

- The exterior panels on the home are rotten in places and delaminating allowing water ingress into the home. They need to be replaced or repaired if practical and economical to do so.
  - Cleaning and repainting the exterior of the home in accordance with Park Rules.
14. The Respondent failed to respond and failed to carry out the necessary works to the pitch and home.
15. The Applicant provided photographs of the home and pitch taken at various dates. The first one was dated 8 September 2015 which showed that the home was relatively clean and in average condition and that the pitch was tidy. The next series of photographs started at 10 November 2021, and then 20 April 2022, 29 June 2022, 6 September 2022, 8 September 2022, and 12 September 2022. The photographs showed a marked deterioration in the condition of pitch which was totally overgrown with what appeared to be nettles and shrubs. The Tribunal could not ascertain from the photographs the exact condition of the home. The Tribunal saw signs of delamination of the exterior panels near the entrance door, and saw discolouring of the exterior panels and window frames.
16. The Tribunal applies its findings to the terms of Mobile Home Agreement for the Respondent's pitch. The relevant terms are:

3(5) To keep the Mobile Home in a good and substantial state of repair and appearance and condition and to keep the exterior thereof clean and tidy PROVIDED ALWAYS that if the Occupier fails to comply with the terms of this Clause then the owner may give the Occupier notice in writing requiring the Occupier to comply with such terms within twenty-eight days then next following and if the Occupier shall not comply with this Clause and such notice within such period then upon the expiry thereof the Owner may enter upon the Plot and the Mobile Home and carry out such work as may be necessary and the cost of such work shall be payable by the Occupier to the Owner forthwith on demand.

3(6) To keep the Plot and all fences awnings door porches outbuildings and garden thereon in a neat and tidy condition and free from weeds PROVIDED ALWAYS that if the occupier fails to comply with the terms of this clause then the Owner may give the Occupier notice in writing requiring the Occupier to comply with such terms within 28 days then next following and if the Occupier shall not comply within such period and the cost of such work shall be payable by the Occupier to the owner on demand.

3(9) To comply with the Park Rules from time to time in force.

17. Section 2 of the 1983 Act requires that the terms specified in Part 1 of Schedule 1 to be implied in any Mobile Homes Act agreement notwithstanding any express term of the agreement. In this case the relevant implied terms are in line with express terms of the Agreement.
18. The relevant implied terms are found in paragraph 21 Chapter 2 schedule 1 namely:

“21 The Occupier shall -

  - (a) .....
  - (b) .....
  - (c) keep the mobile home in a sound state of repair;
  - (d) maintain –
    - (i) the outside of the mobile home, and
    - (ii) the pitch, including all fences and outbuildings belonging to, or enjoyed with, it and the mobile home,in a clean and tidy condition”.
19. The published Site Rules are applicable to the facts of this case. Rule 3 specifies that “Trees and Shrubs and other planting must not be permitted to grow to a size or shape to interfere with a neighbour’s pitch”. Rule 30 states that “Homeowners must maintain the outside of their park home in a clean and tidy condition”.

## **Decision**

20. The Tribunal is satisfied on the facts that since 2020 the Respondent has failed to keep the pitch in a clean and tidy condition with the result that the garden has become overgrown providing a haven for vermin and foxes, and that the Respondent has not maintained the mobile home which was showing signs of deterioration evidenced by the delamination and rotting of the exterior panels. The Respondent is, therefore, in breach of the express terms of the Agreement and the terms implied by statute which require the Respondent to keep the pitch in a clean and tidy condition; to maintain the outside of the mobile home and to keep it in a sound state of repair; and to comply with Site Rules.
21. The Tribunal holds on the facts found that the Respondent has been required on no less than three occasions to put matters right and remedy the breaches of the agreement. In this regard on 16 November 2020 the Tribunal ordered the Respondent to remedy the breaches within 21 days. On 6 December 2021 the Applicant served a Notice of Breach on the Respondent requiring him to remedy the breaches within 35 days. On 11 July 2022 the Applicant served a final Notice of Breach requiring the Respondent to remedy the breaches by 8 August 2022. The Respondent ignored and took no action in respect of the Tribunal Order and the Applicant’s two notices of breach.

22. The Tribunal concludes that the Respondent has breached the terms of the Agreement and has not complied with a Tribunal Order and two Notices of Breach to remedy his breaches of the Agreement.
23. The Tribunal does not have power to terminate the agreement. If the Applicant wishes to pursue termination a claim must be made to the Court.

## **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 written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend 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.