



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

Case Reference : CHI/00HB/PHR/2023/0001

Property : Riverside Drive Park, Frenchay Road,
Frenchay, Bristol BS16 2QZ

Applicant : Wyldecrest Parks (Management) Ltd

Representative : Mr Jon Payne
LSL Solicitors

Respondent : Bristol City Council

Representative : Mr Wadsley, counsel

Type of Application : Appeal under Section 7 of The Caravan
Sites and Control of Developments Act (as
amended) (“the Act”) with regard to
conditions attached to a site licence

Tribunal Member(s) : Judge D Whitney
Judge I Arrow
Mrs J Coupe FRICS

**Date and venue of
hearing** : 5th May 2023
North Somerset Magistrates Court

Date of Decision : 9th August 2023

DECISION

Background

1. On 23 December 2022 the Respondent issued a site licence with conditions in respect of the protected site at Riverside Drive Park, Frenchay Road, Frenchay, Bristol BS16 2QZ.
2. On 29 December 2022 the Applicant applied to appeal a decision by the Respondent to attach conditions to a site licence under section 7 of the Caravan Sites and Control of Development Act 1960. The Application was received by the Tribunal within the 28 day time limit.
3. The grounds of appeal were that the conditions attached to Licence number 4/22, issued on 23/12//2022 in particular conditions numbered (but not limited to) 1, 2, 3, 4, 5, 7 8, 9, 10, 1(ii), 1(iii), 7(ii), 8, 11(iv) and 12(iv) are unduly burdensome. The conditions are ultra vires and/or unnecessary and/or unreasonable and/or serve no useful purpose and/or place unreasonable costs on the Applicant and/or are not possible to be complied with and/or do not comply with the Model Standards or Section 5 of the Caravan Sites and Control of Developments Act 1960.
4. The Tribunal held a case management hearing on 22 March 2023 where directions were issued including providing for an inspection and hearing.
5. The directions were substantially complied with. The Tribunal was supplied with an electronic bundle running to 490 pdf pages. References within this decision to pages within the bundle will be in [].
6. The Applicant did not supply a skeleton argument but relied upon its reply. Copies of authorities it relied upon were provided. The Respondents provided a skeleton argument and authorities.

Inspection

7. The Tribunal inspected the site on the afternoon of the 4th May 2023. The panel attended together with Mr David Sunderland and Mr Adrian Hawes on behalf of the Applicant and Mr Mallinson on behalf of the Respondents.
8. The site can be found towards the end of Frenchay Road, immediately to the South of the River Frome. The site lies on the right hand side of the road and has two entranceways off the Frenchay Road although it is the one nearest to the River which is currently used to access the site.

9. On the day of the inspection the weather was dry and sunny. The inspection of the site took about 40 minutes in total.
10. We walked around the whole of the site as currently used for mobile homes. Many of the mobile homes were older style single units and at least two pitches no longer had a home upon them. It was clear that a home had been relatively recently removed and there was a certain amount of debris present upon these pitches. It was evident at the entrance to the site two new double mobile homes had been and were in the process of installation.
11. We were advised that all trees on the site were subject to Tree Preservation Orders. We observed and were shown fencing around the occupied part of the site which was marked on plan B by the blue line.
12. The site had originally been a quarry. This was apparent from the topography of the site with a substantial sheer cliff face behind what are currently known as pitches 11, 15, 17 and 18 on plan B. We assessed this as being up to 5m tall.
13. At the entrance way to the site was a bin store for large commercial waste bins. To the South of the site on the top of the "cliff" referred to in paragraph 13 above was an area of land which appeared to have had builders spoil spread across. This area backs on to the gardens of homes in Glenside Close.
14. We walked along the public footpath along the south bank of the River Frome. Whilst walking along we observed the local Fire Brigade undertaking rope retrieval rescue training. The area from the Northern edge of the occupied site marked by the blue line to the river sloped steeply down to the river. This part of the site was very heavily wooded and Mr Sunderland confirmed that the whole of the undeveloped North Eastern end of the site was of similar vegetation and topography.

Hearing

15. The hearing commenced the following day. The parties were afforded a period of approximately 45 mins to conduct negotiations to narrow the issues.
16. The hearing was recorded. As a result we set out a precis of the most pertinent parts of the hearing only.
17. Mr Payne represented the Applicant together with Mr Sunderland, witness for the Applicant. Mr Wadsley of counsel appeared for the Respondent local authority together with Mr Mallinson and Ms Tregale.
18. Mr Payne explained that certain conditions had been agreed as follows:

- Schd A 2: agreed [75]
 - Schd A 10: conceded to remain [77]
 - Schd B 1(b): amended wording agreed
19. Mr Payne stated that it was believed that the site had been in operation since 1951. The records are unclear. Various planning permissions and site licences exist and there are at least 3 licences of which the Applicant holds two. He suggested it was for the Local Authority to have properly retained all such records.
 20. Mr Payne referred to Licence 3/83 [125-128] which refers to 18 caravans. He stated the Council now agree the culmination of the planning permissions is that the site can accommodate no less than 18 mobile homes. He suggests it could be more. He confirmed it is conceded that the site is not capable of siting 35 mobile homes although theoretically possible for the site. The 35 was an indicative layout only.
 21. Mr Payne called Mr Sunderland. He was referred to his statement [19] and confirmed it was his signature [21]. He agreed it was true. He explained he is the Estates Director for Wyldecrest Parks (Management) Limited and has responsibility for legal and compliance issues including site licensing.
 22. He confirmed he made the application via the Government portal. A copy of the application is at [117-124] with two plans attached. The plan at [124] showed 35 homes could theoretically be sited and he requested a licence for the maximum number. Mr Sunderland accepted that realistically the site could only accommodate 26 or 27 homes in his opinion.
 23. He explained the Riverside Park is in the early stages of being redeveloped. He explained that the Applicant wants the park to be the pride of the area. As he understands all the renters on the site have now left and it is intended that the site will be owner occupiers.
 24. Mr Wadsley then cross examined Mr Sunderland.
 25. Mr Sunderland accepted that if there was a tree preservation order an application would be required to the council before work on a tree could be undertaken.
 26. The Tribunal then asked questions.
 27. Mr Sunderland said that the Applicant was generally looking to have double units in place although there may be some single units. He stated no homes are to be sited in the wooded area.

28. He explained he was not involved in the day to day development of the site. He understood the top area backing on to the houses at Glenside Drive has been levelled out and the entranceway opened out.
29. He explained that he was advised by his CAD Team that theoretically 35 units could be sited, subject to ensuring spacing.
30. Mr Payne then stated that the Applicant looked to rely upon the statement of Mr Preston [53] who was not in attendance and he invited the Tribunal to accept the contents of the same.
31. This concluded the Applicants evidence.
32. Mr Wadsley called Mr Mallinson. He is the Private Housing Manager for Bristol City Council. He has responsibility for private sector lettings and park homes.
33. Mr Mallinson confirmed his statement [222-234] was true.
34. Mr Mallinson confirmed that he believes the document 744/C [439] is the original planning application with the number being the planning reference given by Gloucester County Council.
35. At page [422] was a photocopy of a plan which he thinks relates to reference 1976P/67 and the accessway.
36. Mr Mallinson suggests these are significantly the same as the certificate of lawful use with differences being in the area of current plot 20. At page [379] was a copy of the plan showing the permitted area for mobile homes under the certificate of lawful use. Mr Mallinson explained he used this to link to the conditions on the licence [99].
37. Mr Mallinson explained he could not marry the 35 figure with the practicalities of the site. He had visited the site twice and noted the various changes of levels across the whole. He accepted it might be possible for a small increase in the number of units on the site to be achieved.
38. Mr Mallinson explained in respect of the green dotted line delineating the 3m boundary for mobile homes to be stationed [102] he had regard to the topography and practicalities of the site. He accepts currently certain homes are positioned within 3m but as and when people move this can be remedied.
39. Mr Mallinson explained he was not aware of the earlier permissions and licences when granting the licence subject to this appeal. It was only upon further enquiries that he discovered there were earlier permissions.

40. Mr Payne then cross examined Mr Mallinson.
41. Mr Mallinson explained they had provided all of the information they had now discovered.
42. He explained he felt in a difficult position over the numbers. He took the view the planning allowed 18 and could not see that 35 mobile homes on site were possible. He took the position the licence should be in line with the planning permission.
43. Mr Mallinson said he does not want to impose obligations that make it difficult for the site owners.
44. The Tribunal then questioned Mr Mallinson.
45. He explained the blue line is the site owner and the area licensed. He accepted it may be feasible to install a further 2 or 3 homes on the site.
46. Mr Wadsley then called Ms Tregale.
47. She confirmed her statement [106]116] was true and accurate.
48. She stated she was involved in the drafting of the licence.
49. Mr Payne cross examined. She explained she had been employed by the council since 2005. She had processed one other licence.
50. She accepted that the site could potentially accommodate more than 18 homes.
51. She was not aware of what rules existed in connection with sales of homes on Mobile Home sites.
52. She was questioned by the Tribunal.
53. She explained she had contacted the planning department and later the Bristol archives. She had not been able to find anything. Given there was a reference to Gloucester County Council she also went to their archive but could not find anything. She believed there was a mixture of owned and tenanted mobile homes.
54. Upon conclusion of her evidence the Tribunal adjourned for lunch.
55. Upon resumption Mr Wadsley made his submission.
56. Turning to the supersession of the licence he referred to Extreme Oyster v. Guildford Borough Council [2013] EWHC 2174 relied upon by the Applicant within their reply [74-95]. He referred to the Respondent's statement of case [96 & 97] and he referred to the Government Guidance which refers to "replacement" although Mr

Wadsley accepts that the Guidance is not binding. In his submission the Extreme Oyster case refers to a different scheme and is a technical issue. In his submission the licence now issued with conditions gives clarity to everyone.

57. He suggests it is correct that the licence is in line with the planning permission. In his submission the blue lined area shown on plan at [51] properly identifies the area for siting of mobile homes.
58. He accepted it might be possible to site further homes beyond the 18 proposed but proposed Condition 8 is the appropriate way for determining any increase.
59. Mr Payne then made his submissions.
60. Mr Payne submitted it was necessary to look at the number of units on the site you could have. The Council rely on the numbers allowed by the certificate of lawful use. It is for the local authority to calculate notwithstanding they are inexperienced. In his submission there is no need to impose a number as other conditions can regulate the site.
61. He submits all that is required for the plan is one highlighting the site as a whole edged red. He suggests the council has tried to amend the plan by imposing the blue edged land from the certificate of lawful use. He suggests that the plan at [64] could be for a site licence and this shows that whilst the area to the East of the site has not been used it has been associated with the site as a whole.
62. In respect of the line preventing siting of homes within 3m of the boundary in his view this is not necessary or appropriate given the site has been at the site for a very long time.
63. Mr Payne referred to the Extreme Oyster case. In his submission this supported that you can have more than one licence.
64. Turning to specific conditions in respect of Condition 8 this would be accepted in circumstances where the home is purchased back into the ownership of the Applicant.

Decision

65. We thank both parties for their helpful submissions and evidence. In reaching our decision we have considered all of the documents within the bundle, the evidence given at the hearings, submissions and various authorities. We have not referred specifically to all the authorities but have considered the same.

66. Post the hearing we had requested a copy of the Schedule recording the areas of agreement and the matters remaining in place. We attach a copy of that schedule. Where matters are agreed we accept those changes and we determine that the Licence should be amended to reflect the agreement as to the amended conditions.
67. We were invited to determine whether or not this new licence could supersede any earlier licences.
68. We record that it is less than clear as to what licences do exist. It is unfortunate that the records are far from clear but accept that this has been hindered by the change of local authorities having responsibility for the site.
69. We considered carefully the Extreme Oyster case. We are satisfied it may be distinguished on the basis that it relates to a different statutory regime and this is a particularly technical area. Each scheme must be looked at on its own merits. We prefer the submissions of Mr Wadlsey on this point and the Government Guidance that a new licence may supersede a previous one.
70. In our judgment this applies common sense to the licencing scheme for park homes. The intention is for all parties, local authority site owner and site occupiers to be clear as to what the terms of any site licence are. In our judgment whilst a local authority ought properly to have regard to any earlier licence and conditions in determining a new licence it is the latest licence which applies to the site.
71. We turn now to the issues.
72. Mr Payne suggests that no number of caravans allowed is required.
73. We were referred to LON/00R/PHS/2021/0001 Lakeview Park. This is a First-tier Tribunal decision and we record we are not bound by the same. Mr Wadsley suggested that a number is appropriate.
74. We are satisfied it is not unduly burdensome for a limit on the number of caravans on the site to be a condition of the licence. However we do find the current limit proposed to be unduly burdensome.
75. We understand the position adopted by the Council however we are not satisfied that the licence should simply mirror what the Respondent believes to be the planning position. It was accepted in evidence by Mr Mallinson that additional units could be sited. He referred to an additional 2 or 3 homes. Mr Sunderland accepted that the 35 figure originally proposed was unrealistic. We agree with his assessment.

76. Having inspected the site and having heard the evidence we accept that more homes could be sited within the caravan site. We find that the condition should be varied to provide that 23 homes may be sited and if varied in this way the condition will not be unduly burdensome upon the Applicant. We consider this to be the correct figure having regard to the oral evidence given and our own inspection of the site.
77. Next the Applicant objects to Schedule A condition 1. It suggests the plan should be that attached to the application and it is not for the local authority to impose amendments. Essentially for the purposes of this condition the Applicant objects to the “blue line” designating the area in which homes may be sited.
78. Again we have particular regard to our site inspection. The topography of this site is varied and affects how it may be used. The Eastern end of the site currently not used is densely wooded and slopes sharply down to the River Frome.
79. We have considered all the various planning and other licensing documents. In our judgment all of these must be considered. We are satisfied that it is not unreasonable or unduly burdensome for the licence to attach Condition 1 of Schedule A being the plan at [51]. This reflects the current use of the site and in our judgment it is appropriate to include this limitation within the current licence.
80. As set out above we find in respect of Schedule A condition 3 the number of caravans to be stationed on the site should not exceed 23.
81. We are satisfied that it is not unduly burdensome to impose condition 7 of Schedule A that Licence 3/83 is superseded.
82. In respect of Condition 8 the Applicant is prepared to concede that this should apply to any caravans which come back into its ownership. They disputed the condition not least given upon any sale of an existing unit they may not be able to comply. We accept the Applicants submission that as currently drafted the condition is unreasonably burdensome. We find that the condition should be varied to provide compliance in respect of existing caravans shall only be required as and when such caravans return to the ownership of the Applicant or an associated entity.
83. Condition 9 of Schedule A is objected to. The Applicant suggests other legislation affords protection and governs such matters. That is correct however we are not satisfied that the imposition of such a condition is of itself unduly burdensome and so we do not delete or vary such condition.
84. Condition 10 of Schedule A is objected to. We do not accept the Applicants objection. We are not satisfied that it is unduly

burdensome to expect the site licence holder to ensure any and all pitches within its control or supervision are kept tidy and waste materials are disposed of in a timely and appropriate manner.

85. Moving on to Schedule B and condition 1(ii) the Applicant objects to the imposition of a requirement that caravans should not be positioned within 3m of the boundary marked as a green dotted licence on plan B [51]. We are satisfied that there is sense in requiring what will be any new caravans to be sited on the raised area to the South of the site adjacent to the gardens of the houses in Glenside Drive should not be any closer than 3m to the boundary. This will ensure an appropriate degree of separation from adjoining land. However the green dotted line also runs alongside the boundary with Frenchay Road. This boundary currently has a substantial stone wall which is high, exceeding 6 feet at points. The site adjoins the public highway along this wall. As a result we are not satisfied that there is any need for this condition along that part of the site and to impose such a condition would be unduly burdensome. We vary the condition so that plan B does not contain a green dotted line along the boundary immediately adjacent to Frenchay Road.
86. In respect of condition 1(iii)(b) of Schedule B we were told by Mr Payne at the hearing this was agreed. This was not disputed by Mr Wadsley. However with the schedule provided after the hearing the Respondents suggest the amended wording is not agreed. Given we were told this was agreed at the hearing as recorded above and this was not disputed by counsel for the Respondent we find the condition should be varied to the wording proposed by the Applicant. In our judgement this wording is in any event clearer and more certain as to what is required to be supplied and in this way will help reduce any areas for dispute.
87. The two remaining conditions which are not agreed are Schedule B clause 11 (iv) and 12 (iv). The area in issue in both is the same being who should undertake or supervise works. Issue arises as to the particular form of words. The Applicant's representative in an email dated 1st June 2023 suggests a slightly amended form of words than that proposed by the Respondent. They seek to suggest that the works may also be supervised by a competent person.
88. We have considered carefully but consider the Respondents proposed amended words for this condition as set out in the attached Scott Schedule to be appropriate. We do not find these unduly burdensome. We prefer this wording since it provides that works can be undertaken by effectively anyone but only if supervised by a qualified contractor. A competent person could also undertake the works without supervision. The condition is reasonable and appropriate as it should be that the Applicant satisfied itself that a person is qualified or competent and if not requires appropriate supervision.

89. The above records our finds as to the licence and its conditions. We are satisfied that the variations agreed and as determined by us above should be made and to that extent the Applicants appeal is successful.

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
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.